



Board of Behavioral Sciences

# Memo

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**To:** Board Members

**Date:** November 1, 2024

**From:** Steve Sodergren-Executive Officer

**Subject:** **Sunset Review Report**

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Attached for your review is the draft of the Board's 2025 Sunset Review report. This report is required to be submitted to the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions (Committee) by January 6<sup>th</sup>, 2025. This report will serve as the basis for a background paper and that Committee staff will prepare. The background paper may ask the Board to respond to additional questions in preparation for the Sunset Oversight hearings that will be announced in early 2025.

### **Recommendation**

Conduct an open discussion regarding the Sunset Report draft and direct staff to make any discussed changes and obtain final approval to submit from the Board Chairperson.

### **Attachments**

**Attachment A:** California Board of Behavioral Sciences Sunset Report 2025

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**The California Board of Behavioral Sciences  
BACKGROUND INFORMATION AND OVERVIEW OF  
THE CURRENT REGULATORY PROGRAM  
As of November 15, 2024**

**Section 1 –  
Background and Description of the Board and Regulated Profession**

***Provide a short explanation of the history and function of the board.<sup>1</sup> Describe the occupations/professions that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).***

**HISTORY AND FUNCTION OF THE BOARD**

The Board of Behavioral Science (BBS or Board) is responsible the regulatory oversight for over 142,000 licensees and registrants. The Board licenses and regulates Licensed Clinical Social Workers (LCSWs), Licensed Marriage and Family Therapists (LMFTs), Licensed Educational Psychologists (LEPs), and Licensed Professional Clinical Counselors (LPCCs). Additionally, the Board registers Associate Social Workers (ASWs), Associate Marriage and Family Therapists (AMFTs), and Associate Professional Clinical Counselors (APCCs). These registrants are required to be under supervision of a licensed professional.

Governor Earl Warren signed legislation on July 18, 1945, that created the Board of Social Work Examiners under the Department of Professional and Vocational Standards (renamed the Department of Consumer Affairs in 1970). California became the first state to register social workers. A 1962 California State Assembly investigation regarding the fraudulent practice of marriage counseling contributed to the 1963 creation of the *Marriage, Family, and Child Counselor Act*. Under this Act, the Board of Social Work Examiners received the responsibility of licensing and regulating marriage, family, and child counselors. Soon after the addition of marriage, family, and child counselors, the Board of Social Work Examiners was renamed the Social Worker and Marriage Counselor Qualifications Board.

The addition of Licensed Educational Psychologists in 1970 to the Board’s regulatory responsibilities inspired a new name, the Board of Behavioral Sciences Examiners. In 1997, the Board of Behavioral Sciences Examiners was officially renamed the Board of Behavioral Sciences. In 2010, a fourth mental health profession, Licensed Professional Clinical Counselor, was added to the Board’s regulatory responsibilities.

**PRACTICE ACTS DEFINED**

**Licensed Clinical Social Worker**

Statute defines the practice of social work as “a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, or groups; providing information and referral services; providing or arranging for the provision of social services; explaining or interpreting the psychosocial aspects in the situations of individuals, families,

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<sup>1</sup> The term “board” in this document refers to a board, bureau, commission, committee, council, department, division, program, or agency, as applicable. Please change the term “board” throughout this document to appropriately refer to the entity being reviewed.

or groups; helping communities to organize, to provide, or to improve social or health services; doing research related to social work; and the use, application, and integration of the coursework and experience required by Sections 4996.2 and 4996.23 ”

### **Licensed Marriage and Family Therapist**

Statute defines the practice of marriage and family therapy as “the application of psychotherapeutic and family systems theories, principles, and methods in the delivery of services to individuals, couples, or groups in order to assess, evaluate, and treat relational issues, emotional disorders, behavioral problems, mental illness, alcohol and substance use, and to modify intrapersonal and interpersonal behaviors.”

### **Licensed Educational Psychologist**

Statute defines the practice of education psychology as “performance of any of the following professional functions pertaining to academic learning processes or the educational system or both:

- Educational evaluation.
- Diagnosis of psychological disorders related to academic learning processes.
- Administration of diagnostic tests related to academic learning processes including tests of academic ability, learning patterns, achievement, motivation, and personality factors.
- Interpretation of diagnostic tests related to academic learning processes including tests of academic ability, learning patterns, achievement, motivation, and personality factors.
- Providing psychological counseling for individuals, groups, and families.
- Consultation with other educators and parents on issues of social development and behavioral and academic difficulties.
- Conducting psychoeducational assessments for the purposes of identifying special needs.
- Developing treatment programs and strategies to address problems of adjustment.
- Coordinating intervention strategies for management of individual crises.”

### **Licensed Professional Clinical Counselor**

Statute defines the practice of clinical counseling as “the application of counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems, and the use, application, and integration of the coursework and training required by Sections 4999.32 and 4999.33. “Professional clinical counseling” includes conducting assessments for the purpose of establishing counseling goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, change behavior, and make well-informed, rational decisions.”

### **Practice Acts Exemption**

All the Board’s Acts exempt certain individuals from licensure any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of their pastoral or professional duties, or to any person who is admitted to practice law in the state, or a physician and surgeon who provides counseling services as part of their professional practice. Additionally, the Act exempts unlicensed or unregistered employee or volunteer working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable.



## **MISSION, VISION, BOARD ADMINISTRATION**

To fulfill its mandates, the Board manages its resources to license individuals and help candidates, develops and administers licensure examinations and examination procedures consistent with prevailing standards for the validation and use of licensing and certification tests. It also enforces laws aimed at protecting the public from incompetent, unethical, or unprofessional practitioners, while providing education to consumers to enhance their understanding and awareness of their rights as a client.

The Board's mission is to protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practices. The vision of the Board is that all Californians are able to access the highest quality mental health services.

The following goals frame the Board's efforts:

1. Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.
2. Administer fair, valid, comprehensive, and relevant licensing examinations.
3. Protect the health and safety of consumers through the enforcement of laws.
4. Ensure the statutes, regulations, policies, and procedures strengthen the Board's mandates and mission.
5. Build an excellent organization through proper Board governance, effective leadership, and responsible management.
6. Engage stakeholders through continuous communication about the practice and regulation of the professions, and mental health care.

Current law provides for 13 Board members comprised of six licensees (2 licensed clinical social workers, 2 licensed marriage and family therapists, 1 licensed educational psychologist, 1 licensed professional clinical counselor) and seven public members. Each member of the Board is appointed for a term of four years. Eleven members are appointed by the governor and are subject to Senate confirmation. One public member is appointed by the Speaker of the Assembly, and one public member is appointed by the Senate Rules Committee.

A detailed list of Board procedures, membership and attendance may be found in the following attachments of Section 11:

- Attachment A – BBS Board Member Manual
- Attachment B 1a.-Attendance
- Attachment B 1b.-Board & Committee Member Rosters
- Attachment B 1c.-Board Member Biographies

### **1. Describe the make-up and functions of each of the board's committees.**

#### **BOARD COMMITTEES**

The Board has established the following committees:

##### **Policy & Advocacy Committee**

The Policy and Advocacy Committee is comprised of four Board members. The work of the committee is focused on:

- Proposed legislation and regulations.

- Legislative and regulatory changes that respond to emerging trends or concerns in the mental health profession.
- Legislation and regulatory changes or proposed legislation that may affect the Board's licensees and registrants.

### **Telehealth Committee**

The Telehealth Committee was established in January of 2021 and was comprised of four Board members. The Committee held its last meeting in December 2023. The work of the Telehealth Committee was focused on:

- Determining if any of the Board's statutes and regulations related to the practice of telehealth by its licensees and registrants need to be updated or clarified.
- Expanding the use of telehealth and supervision via videoconferencing.
- Reviewing emerging telehealth platforms.
- Temporary practice allowances for out of state practitioners.
- Licensee and consumer education about telehealth.

### **Licensing Committee**

The Licensing Committee was established in June of 2021 and was comprised of four Board members. The Committee held its last meeting on October 2023 and was renamed the Workforce Development Committee. This work of the Licensing Committee was focused on:

- Topics related to the pathways towards licensure.
- Statutes and regulations concerning examination and renewal.
- Statutes and regulations concerning requirement for licensure.

### **Workforce Development Committee**

The Workforce Development Committee was established in 2023 and took the place of the Licensing Committee and is comprised of four Board members. The work of the Workforce Development Committee is focused on:

- Workforce needs and increasing the mental health workforce in California.
- Identifying any unnecessary barrier to the pathway towards licensure
- Proposing legislative or regulatory amendments that would reduce barriers while maintaining public protection.
- Legislative and regulatory changes that would enable licensing candidates to gain early eligibility to licensure examinations.

### **Outreach & Education Committee**

The Outreach & Education Committee was established in 2024 and is comprised of four Board members. The work of the Outreach and Education Committee will focus on:

- Increase engagement with stakeholders.
- Enhancing consumer education.
- Extending the Board's outreach to more diverse population.
- Increasing engagement with schools.
- Increasing engagement at public events.
- Increasing stakeholder participation at Board meetings.

## **2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?**

The Board has not had cancel any meetings due to a lack of quorum.

### **3. Describe any major changes to the board since the last Sunset Review.**

#### **Change in Leadership**

Kim Madsen, the Executive Officer of the Board, retired and Steve Sodergren was appointed as the interim Executive Officer of the Board on December 21, 2020, and as permanent Executive Officer on March 3, 2021. Steve previously served as the Board's Assistant Executive Officer. In October of 2021, Marlon McManus was hired as the Board's Assistant Executive Officer. Marlon previously served as the Board's Consumer Complaint Manager.

#### **License Portability**

In 2019, the Board introduced a new portability pathway for licensure, as established by SB 679 (Bates, Chapter 380, Statutes of 2019), allowing licensees from other jurisdictions to obtain licensure through a more streamlined application process. To apply for a license under this pathway, the applicant must hold an unrestricted license, at the highest level of independent practice, in another U.S. jurisdiction for at least two years and meet certain education requirements. Additionally, the applicant must take and pass the California Board of Behavioral Sciences' Law and Ethics Examination and complete additional continuing education in specific coursework.

#### **Supervision Regulations**

The Board implemented regulatory changes designed to strengthen supervised experience requirements in ways that benefit and provide clarity to supervisors, agencies, and supervisees; to address issues that may arise during supervised experience; and, to reduce the problems sometimes encountered by supervisees in the process of applying for licensure. Changes included documentation for deceased or incapacitated supervisors, required documentation of supervised experience, placement by temporary staffing agencies, supervisor requirements, substitute supervisors, supervisor training, and the deletion of the LPCC assessment or treatment of couples and families.

#### **Registration & Licensing Unit Restructure**

To enhance efficiency, improve productivity, and allow for more effective staffing alignment, the Board restructured its Registration and Licensing units. Previously, one licensing manager oversaw the Board's four licensing programs, while the registrant manager managed a multidisciplinary unit that included cashiering and examinations. The addition of two managers reduced the span of responsibility for the licensing and registrant managers and enabled the creation of a standalone registration unit. Furthermore, the Board bolstered staffing by adding additional evaluator positions.

#### **Strategic Plan**

In collaboration with stakeholders, the Board developed the 2022-2026 Strategic Plan, focusing on reducing unnecessary barriers to licensure, supporting a culturally responsive workforce, increasing access through technology, and enhancing Board accountability. The ongoing effort to create an efficient, streamlined, and technologically friendly environment remains a priority. In September 2022, Governor Gavin Newsom issued Executive Order N-16-22, directing state agencies and departments to embed equity analysis and considerations into their policies and practices, including the strategic planning process. Reflecting this directive, the Board adopted an amended 2022-2026 Strategic Plan in May 2024. This updated plan reaffirms the Board's mission to "protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practices."

### **Population Increase**

Since the 2019 sunset review, the Board has experienced significant growth in its licensing population, which has increased by 22%, from 118,000 licensees and registrants to over 140,000. This growth can be attributed to the heightened focus on mental health services at both the state and national levels. Additionally, the introduction of the Board's portability pathway has led to a rise in out-of-state licensees applying for licensure.

### **Organizational Improvement Process Mapping**

Board staff collaborated with DCA's Organizational Improvement Office (OIO) to map the Board's current processes and to identify possible improvements. This included a review of the licensing application process and the enforcement complaint process. Over two dozen Board staff participated in OIO workshops that culminated in 75 current processes at the Board being mapped. The insights gained from this evaluation, along with the recommendations made by OIO, will be utilized by the Board in future seeking process improvement and appropriate staffing levels.

### **Technological Advancements**

Since 2019 the Board has established online applications for supervisor self-assessments, law and ethics re-examination, LMFT clinical re-examination, initial license, name changes, address changes, and license upgrades. Additionally, the Board entered a memorandum of understanding with DCA's Business Services Office—Records Imaging Services Unit to assist in the conversion and imaging of licensing records.

### **New Publications**

The Board released three new handbooks to assist applicants for licensed marriage and family therapist, licensed clinical social worker, and licensed professional clinical counselor positions. Each handbook provides an overview of the licensure process and tips to help applicants avoid common pitfalls. Additionally, the Board created a telehealth best practice document: one for telehealth therapy providers, one for tele-supervision providers, and one for consumers receiving telehealth therapy. The Board also drafted a consumer outreach document to explain its regulated professions to the public.

### **Social Media**

Since January 2020, the Board has significantly increased its use of social media to enhance outreach efforts. This includes more frequent posts and the introduction of live Facebook events called "Facebook Fridays." These events provide updates on the Board's operations and allow registrants and licensees to ask questions and receive immediate answers. The initiative has received positive feedback, and the Board's following has more than doubled, with Facebook followers increasing from approximately 5,000 in 2020 to 32,000 today.

### **Pathway to Licensure Videos**

Board staff partnered with the Department of Consumer Affairs (DCA) Office of Public Affairs to develop ten instructional videos for applicants. The topics include pathway to licensure, degree requirements for the different license types, tips for registrants, supervision overview, 90-day rule overview, and applicant conviction reporting.

### **Fee Change**

Pursuant to AB 3330 (Chapter 359, Statutes of 2020), the Board's fees for each of its license

type increased on January 1, 2021. A 2018 audit performed by CPS HR Consulting (CPS), an independent firm, found that during the previous four years, while revenues increased by almost 39 percent, expenditures increased by approximately 42 percent. This imbalance was attributed to many factors such as a steady increase in application volume and registrant/licensee population, as well as increasing costs over the years in areas such as staff salary, health insurance, Attorney General costs, and other overhead costs.

### **Telehealth Training**

The Governor recently signed AB 1759 (Chapter 520, Statutes of 2022). Under this new law, effective July 1, 2023, the Board will begin requiring both applicants for licensure and licensees to have completed a minimum of three hours of training or coursework in the provision of mental health services via telehealth, which must include law and ethics related to telehealth.

### **Law & Ethics Continuing Education for Registrants**

All registrants who renew their registration or whose registration expires on or after January 1, 2023, must take a minimum of 3 hours of continuing education (CE) coursework in California law and ethics during each renewal period to be eligible to renew their registration.

### **Video-supervision Allowances**

AB 1758, effective August 29, 2022, changed the law regarding supervision. It allows face-to-face direct supervisor contact between a supervisor and a supervisee in all settings to be either in-person, via two-way real-time videoconferencing, or a combination of both. Within 60 days of starting supervision, the supervisor must assess the appropriateness of using videoconferencing for supervision. This assessment must consider the supervisee's abilities, the preferences of both parties, and the privacy of their locations during supervision. The supervisor must document the assessment results, and if videoconferencing is deemed inappropriate, it must not be used.

## **LEGISLATION SPONSORED BY AND AFFECTING THE BOARD SINCE THE LAST SUNSET REVIEW**

Many legislative changes relevant to the Board of Behavioral Sciences' duties have been enacted since the last sunset review in 2019. The changes are listed in chronological order.

### **LEGISLATION (BOARD SPONSORED)**

#### **AB 3330 (Calderon, Chapter 359, Statutes of 2020) Department of Consumer Affairs: Boards: Licensees: Regulatory Fees**

The Board sponsored provisions of this bill that increased the Board's licensing, registration, and examination fees. The fee increases became effective on January 1, 2021.

#### **AB 690 (Arambula, Chapter 747, Statutes of 2021) Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors**

This bill reclassified all psychotherapy settings as either exempt or non-exempt from licensure and registration requirements, as defined. This bill also increased the maximum number of persons a supervising psychotherapist licensed under the Board may supervise from three persons to six persons.

**SB 801 (Archuleta, Chapter 647, Statutes of 2021) Healing Arts: Board of Behavioral Sciences: Board of Psychology: Licensees**

This bill was the sunset vehicle for the Board. It made several changes to improve the Board's licensing and administrative functions, including, among other things: extending the operations of the Board to January 1, 2026; making structural changes to conform the Board's denial of licensure authority with AB 2138 (Chiu, Chapter 995, Statutes of 2018); expanding the scope of telehealth providers; clarifying the scope of practice for Licensed Marriage and Family Therapists; updating the Board's patient notice requirements; adding "prognosis" as an acceptable term to the Board's practice act; making minor conforming alterations to the Board's statutory fee cap for Licensed Clinical Social Workers; and requiring Board applicants, registrants, and licensees to provide their e-mail to the Board so the Board can use e-mail as its primary means of communication.

**AB 1758 (Aguiar-Curry, Chapter 204, Statutes of 2022) Board of Behavioral Sciences: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Supervision of Applicants for Licensure via Videoconferencing**

This bill allowed required weekly supervision of pre-licensed supervisees to be conducted via two-way, real-time videoconferencing in all settings, if the supervisor makes an assessment that this is appropriate. This bill also required the sunset of these provisions in 2026. This bill was an urgency measure and took effect immediately upon signing.

**AB 1759 (Aguiar-Curry, Chapter 520, Statutes of 2022) Board of Behavioral Sciences: Licensees and Registrants: Marriage and Family Therapy, Educational Psychology, Clinical Social Work, and Professional Clinical Counseling**

This bill required Board applicants for licensure and current licensees to complete three hours of training or coursework related to providing mental health services via telehealth. This bill also requires Board registrants to complete a three-hour continuing education course each renewal cycle in California law and ethics. Additionally, the bill made amendments to clarify that associate clinical social workers, associate professional clinical counselors, and clinical counselor trainees may provide services with clients via telehealth.

**SB 1495 (Committee on Business, Professions and Economic Development, Chapter 511, Statutes of 2022) Professions and Vocations**

This was the omnibus bill for the Senate Committee on Business, Professions and Economic Development. The Board sponsored provisions of this bill to correct two minor reference errors in its practice acts.

**AB 232 (Aguiar-Curry, Chapter 640, Statutes of 2023) Temporary Practice Allowances**

This bill allows a 30-day temporary practice allowance to qualifying marriage and family therapists, clinical social workers, and professional clinical counselors licensed in another state whose client is visiting California, or is in the process of moving to California, if certain specified conditions are met.

**SB 887 (Committee on Business, Professions and Economic Development, Chapter 510, Statutes of 2023) Consumer Affairs**

This was the omnibus bill for the Senate Committee on Business, Professions and Economic Development. The Board sponsored two minor technical changes to its statutes. The first was to include marriage and family therapist trainees in the list of allowable LEP supervisees. The second was to affirmatively state in the law that the Board's online license lookup may be used to verify a license or registration.

**SB 1024 (Ochoa Bogh, Chapter 160, Statutes of 2024) Healing Arts: Board of Behavioral Sciences: Licensees and Registrants**

This bill, effective January 1, 2025, clarifies two of the Board's statutory requirements:

1. The requirement to physically display a license or registration; and
2. The allowable number of "supervisees" that a supervisor is permitted to oversee.

**SB 1526 (Senate Business, Professions and Economic Development Committee, Chapter 497, Statutes of 2024) Consumer Affairs (Omnibus Bill Proposal)**

This was the omnibus bill for the Senate Committee on Business, Professions and Economic Development. The Board sponsored one provision of this bill to make a minor, technical clarification related to continuing education.

**LEGISLATION (AFFECTING THE BOARD)**

**AB 1145 (Garcia, Chapter 180, Statutes of 2020): Child Abuse: Reportable Conduct**

This bill specified that voluntary acts of sodomy, oral copulation, and sexual penetration are not considered acts of sexual assault that must be reported by a mandated reporter as child abuse if there are no indicators of abuse, unless it is between a person age 21 or older and a minor under age 16.

**AB 2113 (Low, Chapter 186, Statutes Of 2020) Refugees, Asylees, And Special Immigrant Visa Holders: Professional Licensing: Initial Licensure Process**

This law requires boards and bureaus within the DCA to expedite the initial licensure process for an applicant who supplies satisfactory evidence that they are a refugee, have been granted asylum, or have a special immigrant visa, as specified. This law also allows boards and bureaus to assist these applicants during the initial licensure process. This law further specifies that persons applying for expedited licensure will still be required to meet all applicable statutory and regulatory licensure requirements.

**SB 878 (Jones, Chapter 131, Statutes Of 2020) Department Of Consumer Affairs: License: Application: Processing Time Frames**

Beginning July 1, 2021, this law requires each board and bureau within the DCA that issues licenses, to prominently display on their websites each quarter either the current average time frame for processing initial and renewal license applications, or the combined current average time frame for processing both initial and renewal license applications. This law will also require each board or bureau to quarterly post on their websites either the current average processing time frame for each licensing type administered by the program, or the combined current average time frame for processing all licensing types administered by the program.

**SB 1474 (Business, Professions And Economic Development Committee, Chapter 312, Statutes Of 2020) Business And Professions**

This law provides a one-year sunset extension for the following DCA programs that were undergoing the sunset review process prior to COVID-19: Board of Barbering and Cosmetology, Board of Behavioral Sciences, Board of Psychology, Board of Vocational Nursing and Psychiatric Technicians, Bureau for Private Postsecondary Education, Bureau of Real Estate Appraisers, California State Board of Pharmacy, Physician Assistant Board, Podiatric Medical Board of California, and the Veterinary Medical Board.

**AB 107 (Salas, Chapter 693, Statutes Of 2021) Licensure: Veterans And Military Spouses**

This bill, after July 1, 2023, requires most boards and bureaus within DCA to issue temporary licenses to military spouses meeting specified criteria within 30 days, including passing a background check if one is required for licensure. This bill also requires DCA and boards and bureaus to post license information for military spouses on their websites and requires DCA to submit an annual report on licensure of military members, veterans, and spouses.

**AB 133 (Committee on Budget, Chapter 143, Statutes of 2021) Health**

This bill requires healing arts boards under the Department of Consumer Affairs to request specified workforce demographic data from their licensees and registrants at the time of electronic license or registration renewal.

**AB 462 (Carrillo, Chapter 440, Statutes of 2021) Licensed Professional Clinical Counselor Act**

This bill removed existing requirements for licensed professional clinical counselors (LPCCs) to gain at least 150 hours of clinical experience in a hospital or community mental health setting. This bill also removed the existing requirement for LPCCs to complete specified additional education, supervised experience, and continuing education related to marriage and family therapy in order to treat couples or families.

**AB 468 (Friedman, Chapter 168, Statutes Of 2021) Emotional Support Animals**

This bill prohibits a health care practitioner from providing documentation relating to an individual's need for an emotional support dog that is not a service dog unless the health care practitioner complies with specified requirements. This bill also requires a written notice by a seller of emotional support animals, and associated certificates or equipment, that they do not have the same rights as service dogs. Individuals who violate the provisions of this bill may be charged with a misdemeanor.

**SB 607 (Min, Chapter 367, Statutes of 2021) Business and Professions**

This bill requires licensing boards under the Department of Consumer Affairs to waive the licensure application fee and initial license fee for an applicant with a current license in the same profession in another state who is a military spouse.

**SB 731 (Durazo, Chapter 814, Statutes of 2022) Criminal Records: Relief**

This bill, among other provisions, expands the types of arrest records that are eligible to be automatically sealed to include more types of felonies under specified circumstances. This bill also allows certain felony convictions that resulted in incarcerations to be automatically sealed as long as the individual has completed their sentence and has not been convicted of a new felony within four years. It also expands the date range for which arrests and convictions are eligible to be automatically sealed. These provisions became operative on July 1, 2023.

**SB 966 (Limon, Chapter 607, Statutes of 2022) Federally Qualified Health Centers and Rural Health Clinics: Visits**

This bill allows Medi-Cal reimbursement for covered mental health services provided by an associate clinical social worker or an associate marriage and family therapist who is under appropriate supervision and who is employed by a federally qualified health center or a rural health clinic.



**SB 1002 (Portantino, Chapter 609, Statutes of 2022) Workers' Compensation: Licensed Clinical Social Workers**

This bill added licensed clinical social workers as providers in the workers' compensation system.

**SB 1237 (Newman, Chapter 386, Statutes of 2022) Licenses: Military Service** This bill clarifies that military members on active duty with the California National Guard or members of the military on non-temporary assignments stationed outside California are eligible for a waiver of license renewal fees, continuing education requirements, and other license renewal requirements.

**AB 665 (Carrillo, Chapter 338, Statutes of 2023) Minors: Consent to Mental Health Services**

Beginning July 1, 2024, this bill made the requirements for a minor to consent to mental health treatment equal for both Medi-Cal recipients and non-Medi-Cal recipients.

**SB 143 (Committee on Budget and Fiscal Review, Chapter 196, Statutes of 2023) State Government**

This bill conforms state statutes with recent federal law enabling the portability of professional licenses for servicemembers and spouses if specified requirements are met. The federal law requires state licensing entities, for a military member or their spouse who relocates due to military orders for military service, to consider their license valid if it is a similar scope of practice if they provide specified information.

**SB 372 (Menjivar, Chapter 225, Statutes of 2023) Department of Consumer Affairs: Licensee and Registrant Records: Name and Gender Changes**

This bill requires a licensing board under the Department of Consumer Affairs to update its records, including any records contained in its online license verification system, to include a licensee or registrant's updated legal name or gender, and make the former name and gender confidential, when that licensee or registrant provides government-issued documentation that their legal name or gender has been changed.

**SB 525 (Durazo, Chapter 890, Statutes of 2023) Minimum Wage: Health Care Workers**

This bill sets a multi-tiered statewide minimum wage for health care workers employed by covered healthcare facilities.

**SB 544 (Laird, Chapter 216, Statutes of 2023) Bagley-Keene Open Meeting Act: Teleconferencing**

This bill modernizes the Bagley-Keene Open Meeting Act requirements to allow for new options for remote participation for some Board members under specified circumstances.

**PENDING REGULATIONS**

The following changes to title 16 of Division 18 of the CCR have been proposed, are in various stages of the regulatory process as follows:

**Disciplinary Guidelines: Amend title 16, CCR 1888**

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:

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

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

**Unprofessional Conduct: Amend title 16, CCR 1845, 1858, 1881, 1886.30 and 1886.40**

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.

Status: Public Comment Period Ended March 25, 2024; Comment Received; Modified Text Proposed

**Telehealth Standards of Practice: Amend title 16, CCR 1815.5**

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.

Status: Approved by the Board at its March 1, 2024, meeting.

**4. Describe any major studies conducted by the board.**

**2021 Telehealth and Supervision via Videoconferencing Surveys for Students, Associates, Supervisors, and Schools**

In 2021, the Board conducted four separate surveys to obtain feedback about student and associate experiences with providing services to clients via telehealth, supervision of applicants who are providing telehealth services, providing supervision via videoconferencing, and gathering topics related to telehealth where training may be needed. The surveys included:

- Supervisor survey: This survey was designed for supervisors of students and associates pursuing LMFT, LPCC or LCSW licensure. 1,938 completed surveys were received.
- Trainee and associate survey: separate surveys were created, one for students currently enrolled in a LCSW, LMFT and/or LPCC program, and one designed for associates. 784 completed surveys were received from students, and 2,523 from associates.
- School survey: This survey was sent via email to the program's director at each school

with a California LCSW, LMFT and/or LPCC program. The survey was also sent via the methods listed above. 188 completed surveys were received.

The results of the survey can be found in Section 11, Attachment C 1a. Telehealth & Supervision Survey 2021

### **2023 Online-Only Therapy Platform Survey**

As part of the Telehealth Committee's work, the Board conducted a survey to assess whether the use of online therapy platforms presents any new public protection concerns that require the Board's attention. The survey targeted licensees and registrants with experience working on these platforms, aiming to gather detailed information about their experiences.

The survey was open from April 10 through May 15, 2023. The survey received over 1,700 responses.

The results of the survey can be found in Section 11, Attachment C 1b. Online-Only Therapy Platforms Study 2023

### **2024 Pathway to Licensure Survey**

This survey was developed to seek input from Board registrants and licensees about barriers that they are facing, or may have faced, during the pathway to licensure. The survey consisted of thirty questions organized into three thematic segments that relate to the major milestones of the licensure pathway: education experience, supervision experience, examination experience.

For each major milestone, the survey asked for details about a participant's experience, how effective this experience was in preparing them for the next licensure milestone, and to what extent certain factors may have presented a barrier in obtaining that milestone. Also, the survey allowed for participants to include comments and additional information for each milestone. The survey closed on April 9, 2024, and resulted in 3,170 complete responses.

The results of the survey can be found in Section 11, Attachment C 1c. Pathway to Licensure Survey 2024

## **5. *List the status of all national associations to which the board belongs.***

The Board is a current member of the Association of Marriage and Family Therapy Regulatory Board (AMFTRB), the American Association of State Counseling Boards (AASCB), National Board of Certified Counselors (NBCC), and the Association of Social Work Boards (ASWB). The Board's membership in each of these associations includes voting privileges. The Board is also a member of the Council on Licensure, Enforcement, and Regulation (CLEAR). This membership does not include any voting privileges. Rather, the membership allows the Board to access resources and information relating to regulatory agencies and licensure examinations.

Since the Board's 2019 Sunset Review, Board representatives were approved to attend the following professional association meetings:

- ASWB Annual Meeting of the Delegate Assembly – 2020 (Virtual), 2021 (Virtual), 2022 (Virtual), 2023 (Tennessee), 2024 (San Diego)
- AASCB Annual Meeting – 2020(Virtual), 2021 (Virtual), 2022 (Virtual), 2024 (Arizona)

- NBCC Counseling Regulatory Board Summit – 2022 (Pennsylvania)
- The Board’s executive officer participated on the following national professional association committees:
- AASCB-AI Committee 2024 (Virtual)
- AMFTRB Annual Meeting – 2024 (Baltimore)

## **NATIONAL EXAMINATION ACTIVITY**

The Board uses two national examinations for licensure in California. The National Board of Certified Counselor’s (NBCC) National Counselor Mental Health Clinical Examination (NCMHCE) for LPCC licensure and the Association of Social Work Boards (ASWB) national examination for LCSW licensure.

The Board continues to evaluate all applications for the licensure examination to confirm that the candidate satisfies the statutory requirements for licensure. Once a candidate is deemed eligible for the licensure examination, the candidate’s eligibility is transmitted to the testing vendor, allowing the candidate to schedule their examination.

Examination development, scoring, and analysis involve the participation of subject matter experts (licensees). Each national examination adheres to the same five-year to seven-year standard for conducting an occupational analysis (practice analysis). Like the Board’s examination development process, the national examinations use the occupational analysis results to develop questions for the national examination. California licensees participate in the occupational analysis for both national examinations.

The Board partners with the NBCC and ASWB to recruit California subject matter experts (SME) to participate in the development of the national examination. The California SMEs serve as item writers (examination questions); participate in workshops to review the items; and establish a pass score for each version of the examination.

The Board is currently considering adopting the National Exam provided by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). In its May 2024 meeting, the Board voted to initiate the process of pursuing legislation or regulations to formally accept the AMFTRB National Exam, contingent on meeting certain conditions. The Board has directed staff to complete the following steps before seeking final approval for the regulatory or legislative amendments required to adopt the AMFTRB National Exam:

- Collaborate with legal counsel to draft the necessary legislative or regulatory language to accept the AMFTRB National Exam for licensure.
- Work with AMFTRB to address concerns related to examination content and measurement scope.
- Ensure accessibility for all candidates by collaborating with AMFTRB to mitigate any adverse effects on exam candidates during the transition to the AMFTRB National Exam.

**Fiscal Issues**

**6. Is the board’s fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.**

The Board is self-supporting, special fund agency that obtains its revenue primarily from licensing and renewal fees. The Board does not receive any general fund revenue. The Legislature determines the Board’s annual budget, and the Board’s expenses cannot exceed authorized expenditures. Any unspent funds are allocated to the Board’s reserve fund, which at the end of FY 2023-24 was the Board’s reserve fund, which at the end of FY 2023-24 was \$13,968,000, equivalent to 11months in reserve. The Board estimates fiscal year 2024-25 reserve balance to be approximately \$19,575,000 equaling 15.1 months in reserve.

**7. Using Table 2. Fund Condition, describe the board’s current reserve level, spending, and if a statutory reserve level exists.**

<b>Table 2. Fund Condition (dollars in thousands)</b>						
	<b>FY 2020-21</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>FY 2023-24*</b>	<b>FY 2024-25**</b>	<b>FY 2025-26**</b>
Beginning Balance <sup>1</sup>	\$3,597	\$6,195	\$11,194	\$18,461	\$15,971	\$21,590
Revenues and Transfers	\$13,041	\$17,422*	\$20,422	\$21,064	\$20,914	\$20,855
<b>Total Resources</b>	\$16,638	\$23,617	\$31,616	\$39,525	\$36,885	\$42,445
Budget Authority	\$12,046	\$13,132	\$13,593	\$14,148	\$14,300	\$14,307
Expenditures <sup>2</sup>	\$11,102	\$12,569	\$13,155	\$13,554	\$15,295	\$15,566
Loans to General Fund	\$0	\$0	\$0	-\$10,000	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$0	\$0
<b>Fund Balance</b>	\$5,536	\$11,048	\$18,461	\$15,971	\$21,590	\$26,879
<b>Months in Reserve</b>	5.3	10.1	14.7	12.5	16.6	20.1

<sup>1</sup>Actuals include prior year adjustments.

<sup>2</sup>Expenditures include reimbursements and direct draws to the fund.

\*Includes EO transfer to GF (AB 84)

\*\*Estimate

**8. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.**

The most recent fee change for the Board was initiated by Assembly Bill 3330, which was passed in 2020. This law increased various licensure fees for all license types effective January 1, 2021. The fee adjustment was necessary to address the rising operational costs the Board was facing, including increased application volumes, staff salaries, and general overhead expense. It was the first increase in the Board's fee structure in over 20 years. Since the fee increase the Board has recognized an increasing reserve. Although there is no statutory minimum reserve level, existing law prohibits the Board from accumulating more than 24 months in reserve. Future Budget Change Proposals to augment staffing or to support operational functions may assist in reducing the reserve.

**9. Describe the history of general fund loans. When were the loans made? When have payments been made to the board? Has interest been paid? What is the remaining balance?**

In 2020 the board received a final payment for general loan funds for three loans totaling \$12.3 million dollars. In 2024, the made Board made a general loan fund of \$10.0 dollars. The loan is expected to be repaid in a future year when if the Board's budget demonstrates a need for the moneys or there is no longer a need for the moneys in the General Fund.

**10. Using Table 3, Expenditures by Program Component, describe the amounts and percentages of expenditures by program component. Provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.**

<b>Table 3. Expenditures by Program Component (list dollars in thousands)</b>								
	FY 2020-21		FY 2021-22		FY 2022-23		FY 2023-24	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$1,791	\$1,783	\$2,130	\$1,248	\$2,187	\$1,201	\$2,252	\$1,227
Examination	\$534	\$591	\$635	\$1,414	\$777	\$1,503	\$733	\$1,436
Licensing	\$1,677	\$372	\$1,995	\$142	\$2,041	\$218	\$2,513	\$267
Administration <sup>1</sup>	\$1,118	\$219	\$1,321	\$84	\$1,504	\$146	\$1,505	\$144
DCA Pro Rata		\$2,262		\$2,608		\$2,553	\$0	\$2,527
Diversion	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>TOTALS</b>	\$5,120	\$5,227	\$6,081	\$5,496	\$6,509	\$5,621	\$7,003	\$5,601

<sup>1</sup>Administration includes costs for executive staff, board, administrative support, and fiscal services.

**11. Describe the amount the board has spent on business modernization, including contributions to the BreEZe program, which should be described separately.**

The Board spent the following on the BreEZe program:

- FY 2020/21 \$414,909

- FY 2021/22 \$395,293
- FY 2022/23 \$320,000
- FY 2023/24 \$297,000

**12. Describe license renewal cycles and the history of fee changes over the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citations) for each fee charged by the board.**

Pursuant to AB 3330 (Chapter 359, Statutes 2020), the Board initiated a fee change that was effective on January 1, 2021. Before that, the Board had not increased its fees in over 20 years. The Board's fees were keeping pace with costs quite well until approximately 2009 or 2010, when the Great Recession hit. The Board is a "special fund" state program, which means its fee revenue goes directly to supporting its operations (no other state funds from other areas are used). When the recession hit, the Board had a reserve fund, and the state borrowed money from the Board's reserve to fund the state's general fund (the general fund funds state programs which do not necessarily generate revenue on their own).

Between approximately 2012 and 2017, it became apparent that the Board was becoming structurally imbalanced with regards to its fee income versus operating costs. However, special fund programs are not permitted to pursue fee increases until their general fund loans have been repaid. The Board's general fund loan was not completely repaid until Fiscal Year 2018-2019. Therefore, the Board pursued the fee increase to correct the structural imbalance as soon as it was able to.

In 2018, the Board contracted with CPS HR Consulting (CPS), an independent firm, to provide performance auditing and consulting services. CPS conducted a review of the Board's fee structure and staff workload to determine if fee levels were appropriate for the recovery of the actual cost of conducting its programs. The report reviewed 25 main fees that represent approximately 90 percent of the Board's fee revenue: applications for registrations, licenses, examination, and renewals. It found that during the previous four years, while revenues increased by almost 39 percent, expenditures increased by approximately 42 percent. This means that there is a structural imbalance: licensing fees are no longer sufficient to recover operating costs. The imbalance was due to factors such as a steady increase in application volume and registrant/licensee population, as well as increasing costs over the years in areas such as staff salary, health insurance, Attorney General costs, and other overhead costs. Therefore, the Board must increase its licensing, registration, and examination fees in order to remain solvent.

The fee changes were as follows:

<b>Fee Type</b>	<b>Previous Fee</b>	<b>New Fee Effective 1/1/2021</b>
Associate Registration (AMFT, ASW)	\$75	\$150
Associate Registration (APCC)	\$100	\$150
Associate Renewal (AMFT, ASW)	\$75	\$150
Associate Renewal (APCC)	\$100	\$150
Application for Licensure (LMFT, LCSW, LEP)	\$100	\$250
Application for Licensure (LPCC)	\$180	\$250
Law & Ethics Exam (LMFT, LCSW, LPCC)	\$100	\$150
Clinical Exam (LMFT)	\$100	\$250
Written Exam (LEP)	\$100	\$250
Initial License Issuance (LMFT)	\$130	\$200

Initial License Issuance (LCSW)	\$100	\$200
Initial License Issuance (LPCC)	\$200	\$200
Initial License Issuance (LEP)	\$80	\$200
License Renewal (LMFT)	\$130	\$200
License Renewal (LCSW)	\$100	\$200
License Renewal (LPCC)	\$175	\$200
License Renewal (LEP)	\$80	\$200

<b>Table 4. Fee Schedule and Revenue (list revenue dollars in thousands)</b>							
<b>Fee</b>	<b>Current Fee Amount</b>	<b>Statutory Limit</b>	<b>FY 2020-21 Revenue</b>	<b>FY 2021-22 Revenue</b>	<b>FY 2022-23 Revenue</b>	<b>FY 2023-24 Revenue</b>	<b>% of Total Revenue</b>
0773 Active Delinq Ren - LPCC	\$100	Various	\$4	\$5	\$6	\$7	0.0%
0773 Inactive Delinq Ren -LCSW	\$50	Various	\$8	\$8	\$7	\$8	0.0%
0773 Inactive Delinq Ren -LMFT	\$50	Various	\$18	\$14	\$13	\$12	0.1%
0773 Inactive Delinq Ren - LEP	\$50	Various	\$1	\$1	\$1	\$1	0.0%
0773 Active Delinq Ren - LCSW	\$100	Various	\$34	\$39	\$44	\$46	0.2%
0773 Active Delinq Ren - LEP	\$100	Various	\$7	\$10	\$9	\$9	0.0%
0773 Active Delinq Ren - LMFT	\$100	Various	\$77	\$95	\$99	\$93	0.5%
0773 Inactive Delinq - LPCC	\$50	Various	\$0	\$1	\$0	\$1	0.0%
0773 Cite & Fines	Various	Various	\$46	\$23	\$23	\$24	0.2%
0773 Duplicate Doc	\$20	Various	\$82	\$81	\$84	\$86	0.5%
0773 Certification Fee	\$25	Various	\$65	\$81	\$77	\$75	0.4%
Ftb Cite Fine Collection	Various	Various	\$0	\$9	\$3	\$1	0.0%
0773 Evaluation App - LMFT	\$250	\$500	\$411	\$538	\$665	\$732	3.2%
0773 Evaluation App - LEP	\$250	\$500	\$21	\$33	\$49	\$46	0.2%
0773 Evaluation App - LCSW	\$250	\$500	\$456	\$737	\$784	\$791	3.8%
0773 Exam Written Lep	\$250	\$500	\$28	\$44	\$63	\$64	0.3%
0773 Associate App - AMFT	\$150	\$300	\$406	\$611	\$680	\$733	3.4%
0773 Associate App - ASW	\$150	\$300	\$452	\$654	\$661	\$716	3.4%
0773 Associate App - APCC	\$150	\$300	\$181	\$233	\$262	\$295	1.3%
0773 Initial License - LPCC	\$200	\$400	\$90	\$116	\$145	\$184	0.7%
0773 Evaluation App - LPCC	\$250	\$500	\$144	\$208	\$240	\$248	1.2%
0773 Initial License - LMFT	\$200	\$400	\$502	\$559	\$481	\$518	2.8%



<b>0773 Initial License - LCSW</b>	\$200	\$400	\$426	\$480	\$554	\$539	2.8%
<b>0773 Initial License - LEP</b>	\$200	\$400	\$16	\$22	\$23	\$39	0.1%
<b>0773 Law &amp; Ethics Exam - LPCC</b>	\$150	\$300	\$192	\$262	\$312	\$347	1.5%
<b>0773 Law &amp; Ethics Exam - LMFT</b>	\$150	\$300	\$485	\$630	\$725	\$803	3.6%
<b>0773 Clinical Exam - LMFT</b>	\$250	\$500	\$636	\$878	\$962	\$992	4.8%
<b>0773 Law &amp; Ethics Exam - LCSW</b>	\$150	\$300	\$534	\$710	\$845	\$924	4.2%
<b>Refunded Reimbursements</b>	Various	Various	\$0	\$0	(\$5)	(\$18)	0.0%
<b>Suspended Revenue</b>	Various	Various	\$18	\$15	\$9	\$15	0.1%
<b>Prior Year Revenue Adjustment</b>	Various	Various	(\$76)	(\$85)	(\$70)	(\$75)	-0.4%
<b>Investment Income - Surplus Money Investments</b>	Various	Various	\$31	\$44	\$406	\$704	1.6%
<b>Escheat Unclaimed Checks, Warrants, Bonds, and Coupons</b>	Various	Various	\$2	\$1	\$1	\$0	0.0%
<b>Canceled Warrants Revenue</b>	Various	Various	\$13	\$18	\$29	\$24	0.1%
<b>Escheat Unclaimed Property</b>	Various	Various	\$0	\$0	\$0	\$1	0.0%
<b>Misc Revenue</b>	Various	Various	\$1	\$1	(\$2)	\$0	0.0%
<b>Dishonored Check Fee</b>	Various	Various	\$3	\$2	\$3	\$4	0.0%
<b>Misc Revenue Ftb Collection</b>	Various	Various	\$0	\$0	\$1	\$0	0.0%
<b>Settlements and Judgments - Other</b>	Various	Various	\$1	\$0	\$0	\$0	0.0%
<b>0773 Retired License - LMFT</b>	\$40	Various	\$4	\$6	\$5	\$5	0.0%
<b>0773 Retired License - LCSW</b>	\$40	Various	\$2	\$3	\$3	\$3	0.0%
<b>0773 Assoc Renewal - APCC</b>	\$150	\$300	\$302	\$461	\$495	\$549	2.5%
<b>0773 Active Renewal - LPCC</b>	\$200	\$400	\$150	\$226	\$248	\$326	1.3%
<b>0773 Inactive Renewal - LPCC</b>	\$100	Various	\$6	\$10	\$7	\$11	0.0%
<b>0773 Inactive To Active Lmft</b>	\$100	Various	\$10	\$12	\$12	\$13	0.1%
<b>0773 Inactive To Active Lcsw</b>	\$100	Various	\$5	\$5	\$8	\$6	0.0%
<b>0773 Inactive To Active Lep</b>	\$100	Various	\$0	\$1	\$1	\$1	0.0%
<b>0773 Inactive To Active Lpcc</b>	\$100	Various	\$1	\$1	\$1	\$0	0.0%
<b>0773 Retired to Active - LCSW</b>	\$200	Various	\$0	\$1	\$1	\$0	0.0%

0773 Retired to Active - LMFT	\$200	Various	\$0	\$1	\$1	\$1	0.0%
0773 Assoc Renewal - AMFT	\$150	\$300	\$1,016	\$1,536	\$1,560	\$1,738	8.1%
0773 Assoc Renewal - ASW	\$150	\$300	\$1,007	\$1,725	\$1,818	\$1,951	9.0%
0773 Active Renewal - LMFT	\$200	\$400	\$3,050	\$3,767	\$4,444	\$4,137	21.3%
0773 Active Renewal - LCSW	\$200	\$400	\$1,781	\$2,445	\$3,080	\$2,806	14.0%
0773 Active Renewal - LEP	\$200	\$400	\$82	\$134	\$142	\$142	0.7%
0773 Inactive Renewal - LMFT	\$100	Various	\$155	\$197	\$202	\$185	1.0%
0773 Inactive Renewal - LCSW	\$100	Various	\$82	\$118	\$120	\$115	0.6%
0773 Inactive Renewal - LEP	\$100	Various	\$10	\$15	\$16	\$14	0.1%
Refunds	Various	Various	\$1	\$1	\$1	\$0	0.0%
0773 Oshp Behavioral Sciences	\$20	Various	\$63	\$142	\$67	\$72	0.5%
<b>Total Revenue</b>			\$13,042	\$17,885	\$20,421	\$21,064	\$72,412

**13. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.**

Table 5. Budget Change Proposals (BCPs)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested	# Staff Approved	\$ Requested	\$ Approved	\$ Requested	\$ Approved
1111-034-BCP-2020-GB	2020/21	Facilities Operations Funding Augmentation					\$189,000	\$189,000
1111-037-BCP-2020-GB	2020-21	BreEZe System Maintenance and Credit Card Funding					\$616,000	\$616,000
1111-038-BCP-2020-GB	2020-21	Board and Bureau Workload - Regulatory Staff Augmentation	1.0 AGPA	1.0 AGPA	\$120,000	\$120,000	\$25,000	\$25,000
1111-079-BCP-2022-GB	2022-23	BreEZe System Maintenance and Credit Card Funding					\$593,000	\$593,000
1111-023-BCP-2023-GB	2023-24	Office of Administrative Hearings – Budget Augmentation					\$153,000	\$153,000
1111-025-BCP-2024-GB	2024-25	BreEZe System Maintenance and Credit Card Funding					\$722,000	\$722,000

## STAFF

Board operations are overseen by an Executive Officer (EO) and Assistant Executive Officer (AEO). Steve Sodergren was appointed as the interim Executive Officer of the Board on December 21, 2020, and as permanent Executive Officer on March 3, 2021. Steve previously served as the Board's Assistant Executive Officer. In October of 2021, Marlon McManus was hired as the Board's Assistant Executive Officer. Marlon previously served as the Board's Consumer Complaint Manager. The Board currently has 65.5 authorized positions. The oversight of Board staff is organized into seven distinct units: Administration, Cashiering and Examinations, Registration, Licensing, Criminal Conviction, Consumer Complaint, and Discipline and Probation.

### **14. Describe any board staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.**

Over the past four years, the Board has maintained an average vacancy rate of approximately 14 percent across its positions, largely due to retirements and staff transitions to other state agencies or higher classifications within the Board. Notably, critical management positions have become vacant primarily because of retirements.

The Board has implemented significant restructuring efforts designed to improve operational efficiency, increase management effectiveness, assist with employee retention, support the career growth of Board staff, and ultimately enhance the Board's ability to serve its constituents. The Board's restructuring efforts include:

- A restructure of the Board's Registration, Examination, and Cashiering Unit (REC). This unit was split into two distinct units: the Registration Unit and the Examination & Cashiering Unit. This change necessitated the creation of a new managerial position for the Registration Unit, achieved by upgrading an Office Assistant (OA) position that was being underutilized in the Administrative Unit to a Staff Services Manager I (SSMI) position. The Board also created two Associate Evaluator positions for the Registration Unit, by reclassifying a vacant Management Services Technician (MST) position to a Staff Services Analyst (SSA), and by redirecting a vacant SSA position from the Criminal Conviction Unit. The additional manager allowed the Board to establish a unit that is solely focused on the review and approval of registrant applications. The Associate Evaluator positions ensures the Registration Unit will have staff available to independently evaluate, research, analyze, interpret and apply statutes and regulations in addition to creating a career path for first-level associate evaluators.
- A restructure to the Board's Licensing Unit. Previously, the Licensing Manager oversaw activities for all four license types (LMFT, LCSW, LPCC, and LEP). The restructure consisted of adding a second Licensing Manager and assigning each manager to oversee two license types. To necessitate the creation of a new managerial position, the Board reclassified an Associate Governmental Program Analyst (AGPA) position to a SSMI position.
- Reclassified an AGPA position in the Administration Unit to a SSMI Specialist that serves as the Legislative Manager for the Board. Reclassified an AGPA position in the Administration Unit to a SSMI Specialist that serves as the Regulation Manager for the Board. The reclassifications of the positions allow the Board to remain competitive with qualified applicants when factoring similar duties and salary, as comparable positions throughout state service are at the SSMI Specialist classification.

- Established a Limited Term SSA position in the Licensing Unit. The Limited Term SSA is responsible for evaluating LMFT applications for licensure.
- Established a Limited Term MST position in the Registration Unit. The Limited Term MST is responsible for evaluating ASW registration applications.
- Established a Limited Term AGPA position in the Administration Unit, responsible for special projects and research for the Board.

In response to extended processing times affecting both the LMFT and LCSW units, management initiated cross-training for the two LPCC analysts. This training covers both the LMFT and LCSW clinical exam applications, enabling a flexible workforce that can be dynamically allocated based on workload demands.

**15. Describe the board's staff development efforts and total spent annually on staff development (cf., Section 11, Attachment D).**

The Board continually encourages and promotes staff development. These efforts include courses through DCA SOLID Training and Planning Solutions; group activities to promote awareness at quarterly staff meetings; providing informational sessions related to upward mobility; and meeting individually with staff members to develop their skills.

Since the last sunset review, the Board has averaged nearly \$3,000 annually on staff training. Many of the training courses staff elects to attend are offered through DCA SOLID training, which is funded through the Board's pro rata. However, staff is not limited to courses through DCA SOLID training and may select other training courses through various vendors.

Board staff participated in three diversity, equity, and inclusion trainings facilitated by DCA's SOLID Training and Planning Solutions to help create a culture of awareness of implicit bias and how it may impact the decision-making process. In addition, Board staff learned to navigate the diversity in communication preferences by discovering the strengths, values, and needs of individuals.

The Board has incorporated inclusive hiring principles when recruiting for vacant positions. This includes encouraging all hiring managers, and panel members to take DEI-related trainings, assembling a diverse interview panel, and development of the interview questions and rating criteria. Executive Staff developed hiring process procedures and a new employee onboarding checklist for Board management.

## Section 3-Licensing Program

The Board oversees the licensing, regulation, and professional practice of various mental health professionals in California. The licensure structure under the Board includes several categories of mental health professionals, divided into two specific groups:

- Registered Associates: individuals seeking associate registration must first demonstrate that they have obtained a qualifying master's degree. A registration allows them to work under supervision while accumulating the required supervised experience hours for full licensure. During their registration, associates must take the California Law & Ethics Examination each renewal period until they pass. Associate registrations are valid for five renewal periods and will expire six years from the original issuance date. If an individual has not completed the

necessary supervised experience hours or met licensure requirements within this timeframe, they may apply for a subsequent registration. This additional registration permits them to continue working under supervision and collecting hours but prohibits them from providing services in a private practice or a professional corporation.

- Licensed Individuals: these individuals have completed all education, supervised experience, and examination requirements and are licensed to practice independently. They include Licensed Clinical Social Workers (LCSWs), Licensed Marriage and Family Therapists (LMFTs), Licensed Professional Clinical Counselors (LPCCs), and Licensed Educational Psychologists (LEPs).

The Board's licensee and registrant population currently totals approximately 148,000 individuals, with marriage and family therapists representing the largest segment. The registrant population, consisting of individuals practicing under the supervision of a licensed professional, includes AMFTs (16,945), ASWs (19,574), and APCCs (7,248). The population of licensed individuals, who can practice independently, includes LMFTs (55,002), LCSWs (39,425), LPCCs (4,862), and LEPs (2,280). The Board oversees the highest number of marriage and family therapists and clinical social workers of any jurisdiction in the world. Since the Board last sunset review, the population has grown by 23 percent with an average growth rate of 5 percent per year.

<b>Table 6. Licensee Population</b>						
		<b>FY 2019/20</b>	<b>FY 2020/21</b>	<b>FY 2021/22</b>	<b>FY 2022/23</b>	<b>FY 2023/24</b>
<b>Associate Marriage and Family Therapists</b>	Active	12,844	12,413	12,502	13,497	15,042
	Delinquent	3,074	2,435	2,176	2,054	1,903
<b>Associate Social Worker</b>	Active	12,980	13,564	14,170	15,245	16,517
	Delinquent	3,489	3,048	3,146	3,236	3,057
<b>Associate Professional Clinical Counselor</b>	Active	3,269	3,926	4,210	4,601	5,112
	Delinquent	1,590	1,698	1,894	2,072	2,136
<b>Licensed Marriage and Family Therapist</b>	Active	40,696	43,039	44,828	46,281	47,978
	Delinquent	3,055	3,537	3,233	3,349	3,378
	Inactive	4,098	3,832	3,743	3,732	3,646
	Retired	1,401	1,501	1,634	1,768	1,888
<b>Licensed Clinical Social Worker</b>	Active	26,810	29,252	30,863	33,014	35,062
	Delinquent	1,860	2,088	1,895	1,991	2,136
	Inactive	2,289	2,204	2,254	2,230	2,227
	Retired	772	826	893	964	1,025
<b>Licensed Professional Clinical Counselor</b>	Active	2,067	2,541	3,025	3,730	4,534
	Delinquent	73	79	89	105	146
	Inactive	136	138	152	158	182
	Retired	4	6	6	8	9
<b>Licensed Educational Psychologist</b>	Active	1,445	1,502	1,530	1,572	1,702
	Delinquent	274	325	321	319	299
	Inactive	366	307	304	294	279
	Retired	109	116	119	122	133
<b>Temporary Military Spouse Provisional Associate Social Worker</b>	Active	N/A	N/A	N/A	N/A	5
<b>Temporary Military Spouse Provisional Licenses Clinical Social</b>	Active	N/A	N/A	N/A	N/A	2

<b>Worker</b>						
<b>30 Temporary Allowance</b>	Active	N/A	N/A	N/A	N/A	225
		120,415	125,928	130,335	137,480	148,648

### **Educational Requirements**

California law requires LMFTs, LCSWs, LPCCs, and LEPs to hold a master’s or doctoral degree. Specific requirements for each license are as follows:

- **LMFTs** must hold a master’s or doctoral degree in marriage, family, and child counseling; marital and family therapy; psychology; clinical psychology; counseling psychology; or counseling with an emphasis on marriage, family, and child counseling or marriage and family therapy. The degree must be from an accredited or approved institution. If the applicant’s graduate study began before August 2012 and was completed before December 31, 2018, it must contain 48 semester units or 72 quarter units of required instruction. If the applicant’s graduate study began after August 1, 2012, or was completed after December 31, 2018, it must contain 60 semester units or 90 quarter units of required instruction.
- **LCSWs** must hold a master’s degree in social work (MSW) from a program accredited by the Council on Social Work Education (CSWE).
- **LPCCs** must possess a master’s or doctoral degree in counseling or psychotherapy, with coursework covering specific areas such as counseling and psychotherapy, professional ethics, assessment, diagnosis, and research. The degree must be from a program accredited by an accrediting agency recognized by USDE, or BPPE approved.
- **LEPs** must hold a master’s degree in psychology, educational psychology, school psychology, counseling and guidance, or an equivalent degree approved by the Board. They must also complete 60 semester or 90 quarter units of postgraduate coursework in pupil personnel services from a Board-approved educational institution.

### **Experience Requirements**

Before being licensed as an LMFT, LCSW, LPCC, or LEP, applicants must complete the required supervised work experience, in addition to the educational requirements. The method of completing these hours varies according to the specific profession.

- **LMFT:** LMFT applicants can earn experience as both a trainee (before earning the degree) and an associate registered with the Board (after earning the degree). At least 3,000 hours of supervised experience over at least 104 weeks are required. No more than 1,300 hours may be completed prior to earning the degree, and at least 1,700 post-degree hours must be completed as a registered associate.
- **LCSW:** LCSW applicants may only begin earning supervised experience after completing their degree and registering as an Associate Clinical Social Worker (ASW) with the Board. A minimum of 3,000 hours of supervised experience must be completed over at least 104 weeks. At least 1,700 hours must be completed under the supervision of an LCSW, and the remaining 1,300 hours can be supervised by another licensed mental health professional acceptable to the Board. The 3,000 hours must include at least 2,000 hours of clinical psychosocial diagnosis, assessment, and treatment (including psychotherapy or counseling), with no more than 1,000 hours in client-centered advocacy, consultation, evaluation, and research.
- **LPCC:** LPCC applicants must complete at least 3,000 hours of post-degree supervised experience over a minimum of 104 weeks. Experience must include at least 1,750 hours of direct counseling with individuals or groups. The remaining hours may consist of non-clinical work such as client-centered advocacy, administering and evaluating psychological tests, or

writing clinical reports or progress notes. Supervision must be provided by an LPCC or another licensed mental health professional acceptable to the Board.

- **LEP:** LEP applicants are not required to register with the Board while gaining experience. They must have at least two years of full-time experience as a credentialed school psychologist in public schools or equivalent experience in private or parochial schools. Applicants must also complete either one year of supervised professional experience in a school psychology program or an additional year of full-time experience as a credentialed school psychologist in public schools under the direction of a licensed educational psychologist or a licensed psychologist.

### **Reciprocity**

Currently, the Board does not have reciprocity with any other state licensing board. However, it has three options for those coming from elsewhere:

### **Regular Out-of-State Pathway to Licensure**

A person from another state seeking licensure as an LMFT, LCSW, LEP, or LPCC in California following this pathway to licensure is required to demonstrate compliance with all California licensing requirements, pass the required licensing examinations and apply for licensure. The statutory requirements for out-of-state or out-of-country applicants are as follows:

- **LMFT:** an applicant who holds a valid registration or license issued by a board of marriage counselor examiners, board of marriage and family therapists, or a corresponding authority from any state or country, provided that certain requirements are met. The applicant's education must be substantially equivalent to California's standards. If the applicant obtained their degree from an institution outside the United States, they must provide a comprehensive evaluation of the degree conducted by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) and supply any other documentation required by the Board. The applicant's supervised experience must also be substantially equivalent to the requirements set by the Board, with consideration given to experience obtained outside California within the six years immediately preceding the date the applicant obtained their license in another state or country. Additionally, the applicant must complete any required additional coursework, be at least 18 years of age, and pass the necessary examinations for licensure.
- **LCSW:** an applicant who, at the time of application, holds a valid, active clinical social work registration or license from a board of clinical social work examiners or a corresponding authority in any state, provided they pass the required licensing examinations, pay the necessary fees, and meet the following criteria. The applicant must have a master's degree from an accredited school of social work and be at least 21 years of age. Experience gained outside of California will be accepted toward licensure if it is deemed substantially equivalent to California's requirements. The applicant must also complete any required additional coursework. For applicants trained outside the United States, they must demonstrate that their Master of Social Work degree is equivalent to one issued by a school or department of social work accredited by the Commission on Accreditation of the Council on Social Work Education. Finally, the applicant must pass all examinations required for licensure.
- **LEP:** The applicant must possess, at a minimum, a master's degree in psychology, educational psychology, school psychology, counseling and guidance, or a degree deemed equivalent. This degree must be obtained from an educational institution accredited by one of the recognized accrediting bodies, such as the Western Association of Schools and Colleges or other similar regional associations. If the applicant's degree was earned outside the United

States, it must be evaluated by the Credentials Evaluation Service of the International Education Research Foundation, Inc., to determine equivalency to the required degrees. Additionally, the applicant must be at least 18 years old and have successfully completed 60 semester hours of postgraduate work in pupil personnel services. The applicant must also have two years of full-time experience, or the equivalent, as a credentialed school psychologist in a public school, as well as one year of supervised professional experience in an accredited school psychology program or equivalent experience as a school psychologist under the supervision of a Licensed Educational Psychologist or Licensed Psychologist. Finally, the applicant must pass the required examination to obtain a license.

- **LPCC:** an applicant who, at the time of application, holds a valid registration or license as a professional clinical counselor, or another counseling license allowing independent clinical mental health services, from another jurisdiction, provided certain requirements are met. The applicant's master's degree must be in counseling or psychotherapy and be deemed substantially equivalent to California's educational standards. Experience gained outside California will be accepted if it meets substantially equivalent requirements. The applicant must also complete any additional coursework required by the Board. If the applicant's degree was earned from an institution outside the United States, they must provide evidence that their degree is equivalent to one from an accredited institution in the U.S. This evaluation must be done by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), along with any other documentation the Board requires. Finally, the applicant must pass the required examinations to obtain licensure.

### **Streamlined "Licensure by Credential" Pathway to Licensure**

The passage of Senate Bill 679 (Bates, Chapter 380, Statutes of 2019) significantly streamlined the licensure process for an LMFT, LCSW, or LPCC applicant licensed in another state to improve license portability between states. The bill, effective January 1, 2020, eliminated many of the existing education and experience requirements in law for qualifying out-of-state applicants. To qualify, they must meet all of the following conditions:

- The applicant already holds a license in another United States jurisdiction that is the same license type as the one they are applying for in California. The existing license must permit them to practice their profession in the other jurisdiction at the highest level for independent clinical practice.
- The applicant's license in the other jurisdiction must be, and must have been current, active, and unrestricted for at least two years immediately before the date the Board of Behavioral Sciences (Board) receives the application.
- They must disclose any past restrictions or disciplinary action on their license to the Board.
- The qualifying degree was a master's or doctoral degree that was obtained from an accredited or approved educational institution.
- They comply Board's fingerprint requirement.
- They complete certain California-specific coursework (a 12-hour California law and ethics course, a 15-hour course in California cultures, and a 7-hour course in California specific training in child abuse assessment and reporting.)
- They pass the Board's California Law and Ethics examination

### **Temporary Practice Allowance**

Effective January 1, 2024, LMFTs, LCSWs, and LPCCs who are equivalently licensed in another U.S. state who do not wish to pursue full California licensure, but who have an existing client who is traveling in California who they wish to provide temporary services to, have the option to request a



free temporary practice allowance from the Board. A temporary practice allowance may only be requested one time per calendar year, and it is valid for 30 consecutive days. To qualify, all the following requirements must be met:

- They must hold a license as either a marriage and family therapist, professional clinical counselor, or clinical social worker in another jurisdiction of the United States. That license must permit practice at the highest level for independent clinical practice in that jurisdiction.
- The license must be current, active, and unrestricted.
- They must never have held a license that was suspended or revoked by the California Board of Behavioral Sciences.
- They client must be located in California during the time for which they are seeking to provide care. The client must also be a current client, and there must already be an established, ongoing client-provider relationship with that person.
- They must inform the client that they are not licensed in California, and that the services provided to them while they are located in California are for a limited time.
- They must provide the client with the California Board of Behavioral Sciences’ website address ([www.bbs.ca.gov](http://www.bbs.ca.gov)).
- They must inform the client of the jurisdiction in which they hold a license and provide them with the type of license held and license number.
- They must provide the Board with specified identifying information, contact information, information about the license held, and the date on which the temporary practice will begin.
- If issued a temporary practice allowance, they are deemed to have agreed to be practicing under the Board’s jurisdiction and are bound by the laws of the State of California.

**16. What are the board’s performance targets/expectations for its licensing program? Is the board meeting those expectations? If not, what is the board doing to improve performance?**

The Board’s performance targets, as outlined in the California Business and Professions Code, Section 1805.1, is to process registration application with 30 business days and licensure applications within 60 business days from receipt by the Board.

APPLICATION	PROCESSING TIMES (BUSINESS DAYS)
AMFT, ASW, APCC Registration Applications	30 Days
LMFT, LCSW, LPCC, LEP Licensure Applications	60 Days
Initial License Issuance	30 Days

**17. Describe any increase or decrease in the board’s average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the board to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?**

Over the past five years, application volumes have steadily increased, a trend expected to continue. AMFT, ASW, and APCC registration applications have shown a consistent upward trajectory. Since FY 2019/20, registration application volumes have risen by approximately 30%, increasing from 8,941 to 11,576. While the volumes for LMFT, LCSW, LPCC, and LEP licensure applications have fluctuated, the average number of applications received over the past five years increased by about 3%, from 5,465 to 6,433.

The Board has been unable to consistently meet its processing goals. Registration applications tend to follow a cyclical pattern aligned with the graduation season. The average processing time for registration applications is approximately 51 business days, though there have been periods when processing times exceeded 90 business days. While the Board has successfully maintained processing times for LPCC and LEP licenses, the high volume of LMFT and LCSW applications has consistently led to delays. Over the past five years, the average processing time has been 99 business days for LMFTs and 89 business days for LCSWs, exceeding the expected timelines.

The California Board has implemented several measures to address application backlogs and improve processing times. Some of the key actions that have been taken include:

- Creation of a new managerial position solely responsible for the registration unit.
- Creation of two associate evaluator positions for the Registration Unit
- Restructuring the Board’s Licensing Unit. The restructure consisted of adding a second Licensing Manager and assigning each manager to oversee two license types.
- Established a Limited Term SSA position in the Licensing Unit. The Limited Term SSA is responsible for evaluating LMFT applications for licensure.
- Established a Limited Term MST position in the Registration Unit. The Limited Term MST is responsible for evaluating ASW registration applications.
- Board staff collaborated with DCA’s Organizational Improvement Office (OIO) to map 75 current processes, including licensing applications and enforcement complaints, through workshops involving over two dozen staff, with the insights and recommendations gained being used to improve processes and assess staffing needs.
- Creation of a manual evaluation sheet to calculate and review supervised hours to streamline the application review process.

Additionally, the Board is in the final stages of implementing an online registration application process and is researching possible solutions that will allow Board registrants to track and submit their hours electronically to the Board.

<b>Table 7a. Licensing Data by Type</b>							
<b>Licensed Marriage and Family Therapist (LMFT)</b>		<b>Received</b>	<b>Approved/Issued</b>	<b>Closed</b>	<b>Pending Total (Close of FY)</b>	<b>Application Process Times</b>	
						<b>Complete Apps*</b>	<b>Incomplete Apps*</b>
<b>FY 2019/2020</b>	<b>AMFT Initial Registration</b>	2,851	2,705	N/A	455	51	87
	<b>AMFT Subsequent Registration</b>	743	639	N/A	164	26	70
	<b>LMFT Clinical Exam</b>	3,013	3,057	N/A	1,029	118	185

	LMFT Initial License	786	111	N/A	675	10	0
	LMFT Upgrade	2,327	2,219	N/A	108	11	0
	AMFT Renewal	11,750	10,673	N/A	1,077	13	N/A
	LMFT Renewal	21,296	20,190	N/A	1,106	3	N/A
FY 2020/2021	AMFT Initial Registration	3,249	3,009	N/A	493	41	71
	AMFT Subsequent Registration	780	688	N/A	137	45	116
	LMFT Clinical Exam	3,324	2,691	N/A	1,418	89	137
	LMFT Initial License	486	143	N/A	344	7	144
	LMFT Upgrade	3,217	3,302	N/A	-85	11	N/A
	AMFT Renewal	11,334	10,360	N/A	974	7	N/A
	LMFT Renewal	22,473	21,459	N/A	1,014	2	N/A
FY 2021/2022	AMFT Initial Registration	3,466	3,389	N/A	202	51	58
	AMFT Subsequent Registration	688	603	N/A	103	50	127
	LMFT Clinical Exam	2,209	2,668	N/A	269	95	188
	LMFT Initial License	20	22	N/A	-1	13	69
	LMFT Upgrade	2,906	2,758	N/A	148	8	N/A
	AMFT Renewal	11,311	9,954	N/A	1,357	7	N/A
	LMFT Renewal	22,586	21,550	N/A	1,036	2	N/A
FY 2022/2023	AMFT Initial Registration	4,057	3,761	N/A	846	63	84
	AMFT Subsequent Registration	623	575	N/A	106	39	92
	LMFT Clinical Exam	2,736	2,197	N/A	1,328	84	134
	LMFT Initial License	45	41	N/A	4	18	N/A
	LMFT Upgrade	2,503	2,366	N/A	137	6	N/A
	AMFT Renewal	11,360	10,248	N/A	1,112	12	N/A
	LMFT Renewal	24,641	23,585	N/A	783	1	N/A
FY 2023/2024	AMFT Initial Registration	4,265	4,336	N/A	644	64	82
	AMFT Subsequent Registration	628	581	N/A	96	24	162
	LMFT Clinical Exam	2,932	2,671	N/A	1,200	112	159
	LMFT Initial License	52	50	N/A	2	22	N/A
	LMFT Upgrade	2,665	2,552	N/A	113	5	N/A
	AMFT Renewal	13,244	11,489	N/A	1,755	7	N/A
	LMFT Renewal	25,421	22,918	N/A	2,503	2	N/A

Table 7a. Licensing Data by Type							
Licensed Clinical Social Worker (LCSW)		Received	Approved/Issued	Closed	Pending Total (Close of FY)	Application Process Times	
						Complete Apps*	Incomplete Apps*
FY 2019/2020	ASW Initial Registration	3,423	3,082	N/A	636	26	60
	ASW Subsequent Registration	593	498	N/A	136	32	71
	LCSW Clinical Exam	2,234	1,936	N/A	938	102	167

	LCSW Initial License	699	179	N/A	520	16	0
	LCSW Upgrade	1,752	1,652	N/A	100	13	0
	ASW Renewal	11,486	10,450	N/A	1,036	16	N/A
	LCSW Renewal	13,372	12,746	N/A	626	3	N/A
FY 2020/2021	ASW Initial Registration	3,752	3,588	N/A	637	51	71
	ASW Subsequent Registration	691	607	N/A	122	46	69
	LCSW Clinical Exam	2,665	2,939	N/A	563	75	140
	LCSW Initial License	615	293	N/A	322	24	N/A
	LCSW Upgrade	2,834	2,551	N/A	283	14	N/A
	ASW Renewal	11,833	10,920	N/A	913	9	N/A
	LCSW Renewal	14,752	14,123	N/A	629	2	N/A
FY 2021/2022	ASW Initial Registration	3,692	3,564	N/A	722	51	67
	ASW Subsequent Registration	723	618	N/A	154	36	75
	LCSW Clinical Exam	2,644	2,514	N/A	698	91	143
	LCSW Initial License	266	263	N/A	5	17	237
	LCSW Upgrade	2,285	2,119	N/A	166	12	N/A
	ASW Renewal	12,573	10,996	N/A	1,577	10	N/A
	LCSW Renewal	14,534	13,929	N/A	605	2	N/A
FY 2022/2023	ASW Initial Registration	4,019	4,016	N/A	613	60	77
	ASW Subsequent Registration	661	592	N/A	129	40	83
	LCSW Clinical Exam	2,798	2,488	N/A	879	79	133
	LCSW Initial License	396	387	N/A	11	15	45
	LCSW Upgrade	2,559	2,328	N/A	231	9	N/A
	ASW Renewal	12,933	11,617	N/A	1,316	12	N/A
	LCSW Renewal	16,986	16,311	N/A	675	1	N/A
FY 2023/2024	ASW Initial Registration	3,914	3,994	N/A	484	55	61
	ASW Subsequent Registration	815	771	N/A	85	31	82
	LCSW Clinical Exam	2,815	2,839	N/A	794	99	142
	LCSW Initial License	435	436	N/A	-1	16	N/A
	LCSW Upgrade	2,427	2,304	N/A	123	9	N/A
	ASW Renewal	15,200	13,144	N/A	2,056	10	N/A
	LCSW Renewal	17,001	15,429	N/A	1,572	1	N/A

Table 7a. Licensing Data by Type							
Licensed Professional Clinical Counselor (LPCC)		Received	Approved/Issued	Closed	Pending Total (Close of FY)	Application Process Times	
						Complete Apps*	Incomplete Apps*
FY 2019/2020	APCC Initial Registration	1,282	1,095	N/A	497	22	105
	APCC Subsequent Registration	49	40	N/A	9	11	0
	LPCC Clinical Exam	411	333	N/A	207	20	92

	LPCC Initial License	149	73	N/A	76	14	0
	LPCC Upgrade	276	257	N/A	20	31	90
	APCC Renewal	2,810	2,360	N/A	450	17	N/A
	LPCC Renewal	1,013	984	N/A	29	1	N/A
FY 2020/2021	APCC Initial Registration	1,507	1,305	N/A	429	55	135
	APCC Subsequent Registration	62	59	N/A	3	25	N/A
	LPCC Clinical Exam	480	386	N/A	272	31	104
	LPCC Initial License	186	140	N/A	46	19	N/A
	LPCC Upgrade	387	304	N/A	83	36	N/A
	APCC Renewal	3,213	2,803	N/A	410	12	N/A
	LPCC Renewal	896	876	N/A	20	1	N/A
FY 2021/2022	APCC Initial Registration	1,479	1,318	N/A	350	54	127
	APCC Subsequent Registration	85	81	N/A	6	32	95
	LPCC Clinical Exam	585	505	N/A	300	37	113
	LPCC Initial License	196	199	N/A	-3	18	N/A
	LPCC Upgrade	408	379	N/A	29	29	N/A
	APCC Renewal	3,794	2,989	N/A	805	10	N/A
	LPCC Renewal	1,342	1,299	N/A	43	1	N/A
FY 2022/2023	APCC Initial Registration	1,761	1,563	N/A	736	62	108
	APCC Subsequent Registration	113	98	N/A	17	22	65
	LPCC Clinical Exam	685	661	N/A	318	45	116
	LPCC Initial License	244	240	N/A	4	13	N/A
	LPCC Upgrade	528	479	N/A	49	30	N/A
	APCC Renewal	3,982	3,180	N/A	802	12	N/A
	LPCC Renewal	1,344	1,309	N/A	35	1	N/A
FY 2023/2024	APCC Initial Registration	1,873	1,716	N/A	706	63	100
	APCC Subsequent Registration	81	78	N/A	5	36	226
	LPCC Clinical Exam	701	732	N/A	320	33	96
	LPCC Initial License	277	273	N/A	4	15	N/A
	LPCC Upgrade	689	633	N/A	56	30	N/A
	APCC Renewal	4,598	3,601	N/A	988	10	N/A
	LPCC Renewal	1,935	1,808	N/A	127	1	N/A

Table 7a. Licensing Data by Type							
Licensed Educational Psychologist (LEP)		Received	Approved/Issued	Closed	Pending Total (Close of FY)	Application Process Times	
						Complete Apps*	Incomplete Apps*
FY 2019/2020	LEP Exam	156	139	N/A	49	28	87
	LEP Initial License	149	104	N/A	45	14	0
	LEP Renewal	917	816	N/A	101	4	N/A
FY 2020/2021	LEP Exam	161	155	N/A	46	39	109
	LEP Initial License	218	119	N/A	99	26	N/A

	<b>LEP Renewal</b>	926	839	N/A	87	3	N/A
<b>FY 2021/2022</b>	<b>LEP Exam</b>	135	136	N/A	20	39	80
	<b>LEP Initial License</b>	193	100	N/A	93	18	N/A
	<b>LEP Renewal</b>	907	821	N/A	86	2	N/A
<b>FY 2022/2023</b>	<b>LEP Exam</b>	227	189	N/A	67	36	58
	<b>LEP Initial License</b>	189	117	N/A	72	19	N/A
	<b>LEP Renewal</b>	948	863	N/A	85	2	N/A
<b>FY 2023/2024</b>	<b>LEP Exam</b>	166	191	N/A	17	40	95
	<b>LEP Initial License</b>	258	182	N/A	76	11	N/A
	<b>LEP Renewal</b>	991	836	N/A	155	1	N/A

**18. How many licenses or registrations has the board denied over the past four years based on criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC § 480? Please provide a breakdown of each instance of denial and the acts the board determined were substantially related.**

<b>Table 7b. License Denial</b>				
	<b>FY 2020/21</b>	<b>FY 2021/22</b>	<b>FY 2022/23</b>	<b>FY 2023/24</b>
<b>License Applications Denied (no hearing requested)</b>	22	11	10	16
<b>SOIs Filed</b>	19	9	25	36
<b>Average Days to File SOI (from request for hearing to SOI filed)</b>	TBD	TBD	TBD	TBD
<b>SOIs Declined</b>	2	0	1	2
<b>SOIs Withdrawn</b>	2	1	5	9
<b>SOIs Dismissed (license granted)</b>	3	1	4	1
<b>License Issued with Probation / Probationary License Issued</b>	8	7	15	12
<b>Average Days to Complete (from SOI filing to outcome)</b>	TBD	TBD	TBD	TBD

**19. How does the board verify information provided by the applicant?**

All Board applicants are required to submit a Livescan background check. Applicants are not required to disclose their criminal history, but California law allows the Board to conduct mandatory DOJ and FBI background checks for licensure eligibility. Applicants must submit fingerprints to the DOJ, which accesses the Criminal Offender Record Information (CORI) Database. Voluntary disclosure of criminal history is addressed in the application materials, and applicants are informed that choosing not to disclose will not affect the Board’s decision, which will be based on the information it obtains independently.

Applicants must disclose if they have ever been denied a professional license, had a license suspended, revoked, disciplined, or voluntarily surrendered in California or any other state. If any of these apply, the applicant must provide a written explanation, relevant documentation, and details on rehabilitative efforts or preventive actions taken. The Board verifies the accuracy of these disclosures through various methods. For out-of-state applicants, it checks licensure status and disciplinary history with the relevant state boards. For in-state applicants, the DCA BreEze System is used to review any past disciplinary actions.

To verify education, the Board requires a sealed or electronic transcript directly from the applicant’s institution or a secure vendor, such as Parchment or the National Student

Clearinghouse. out-of-state license holders, licensure certification from the issuing state board is also required.

**20. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.**

For applicant with out of country degrees the Board requires the applicant to submit an evaluation by a foreign credential service that is a member of the National Association of Credential Evaluation Service (NACES) and their transcript.

**21. Describe the board's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.**

In May 2015, the Board changed all registration and examination eligibility applications to inquire whether the applicant is serving or had ever served in the U.S. armed forces or the California National Guard. In 2017, DCA revised the BreZE system so that boards could collect and maintain statistics on applicants who are veterans or spouses of veterans.

**Accepting Military Education, Training, or Experience**

The Board is not aware of any instance in which an individual submitted military education and/or experience towards licensure. This information is not tracked by the Board and there is not a common provider of military education or experience that the Board sees cited on incoming applications. The Board may occasionally see supervised experience obtained at an out-of-state military base. This experience may be accepted by the Board if it can determine that the supervision was substantially equivalent, and upon verification that the supervisor is an equivalently licensed acceptable professional who has been licensed at least two years in his or her current jurisdiction and is in good standing.

Aside from utilizing social workers or clinical psychologists who are already state-licensed, the Board has not been made aware of any programs that offer training to those seeking licensure as a psychotherapist. If such a program were presented to the Board, it would need to be evaluated to see if the education and experience gained met current licensing requirements.

- *What regulatory changes has the board made to bring it into conformance with BPC § 35?*

The Board has very specific requirements for education and experience in its licensing laws. Currently, if an applicant for registration of licensure had military education and experience, the Board would conduct a review to determine whether the experience/education was substantially equivalent to current licensing requirements. This would be done on a case-by-case basis, depending on the specific characteristics of the individual's education and experience.

- *How many licensees has the board waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on board revenues?*

In accordance with Business and Professions Code Section 114.3, the Board has waived renewal requirements and fees for nine registrants, including some over multiple renewal



periods, as well as for twelve licensees. This has resulted in a minimal revenue impact to the Board, totaling \$4,590 over the last five fiscal years.

- *How many applications has the board expedited pursuant to BPC § 115.5?*

Pursuant to BPC section 115.5, from FY 2019/20 to FY 2023/24, the Board has expedited 229 applications.

**17. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.**

The Board consistently submits No Longer Interested (NLI) notifications to the DOJ electronically through the BreEZe system. At present, there is not backlog in this process.

## **EXAMINATIONS**

**23. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?**

LMFT, LCSW, and LPCC candidates are required to take and pass two examinations for licensure. LMFT candidates are required to take and pass the California Law and Ethics Examination and a clinical examination. The Law and Ethics Examination consists of 75 questions and the Clinical Examination consists of 150 questions. Both the LMFT Law and Ethics Examination and the LMFT Clinical Examination are developed by the Board.

LCSW candidates are required to take and pass both the California Law and Ethics examination and the Association of Social Work Boards (ASWB) National examination. The California Law and Ethics Examination consists of 75 questions and is developed by the Board. The ASWB National Examination consists of 170 items.

LPCC candidates must take and pass a California Law and Ethics examination and the National Clinical Mental Health Counseling Examination (NCMHCE). The NCMHCE is administered and developed by the National Board of Certified Counselors (NBCC). The California Law and Ethics Examination consists of 75 questions and the NCMHCE consists of 11 clinical mental health counseling case studies.

LEP candidates are only required to take and pass the LEP Written Examination, which consists of 125 questions. This written examination is developed by the Board. LEPs are not required to take a separate California Law and Ethics examination because these items are incorporated within the LEP Written Examination.

The Board works year-round with the Office of Professional Examination Services and Board subject matter experts to develop its examinations. The examinations are multiple-choice and are administered electronically at sites throughout the state and worldwide. All Board examinations are offered in English only. However, an applicant for whom English is a second language may receive additional time to take the examinations if they meet specific criteria demonstrating limited English proficiency.

All examinations are administered in English. The pass rates for first time test takers and retakes are reflected in the following table.



**24. What are pass rates for first time vs. retakes in the past 4 fiscal years? Are pass rates collected for examinations offered in a language other than English?**

Table 8(a). Examination Data <sup>2</sup>						
California Developed Examinations						
License Type		LMFT	LMFT	LCSW	LPCC	LEP
Exam Title		Clinical	Law & Ethics	Law & Ethics	Law & Ethics	Standard Written
FY 2020/21	Number of Candidates	3,118	2,947	3,081	1,024	113
	First Time Pass %	77%	82%	80%	75%	73%
	Re-take Pass %	84%	87%	87%	85%	77%
	Overall Pass %	65%	77%	77%	72%	61%
	Overall Fail %	35%	23%	23%	28%	39%
FY 2021/22	Number of Candidates	2,732	2,981	3,442	1,200	101
	First Time Pass %	80%	79%	77%	75%	63%
	Re-take Pass %	79%	85%	84%	83%	84%
	Overall Pass %	65%	74%	75%	73%	63%
	Overall Fail %	35%	26%	25%	27%	37%
FY 2022/23	Number of Candidates	2,322	3,489	3,653	1,259	119
	First Time Pass %	82%	81%	71%	70%	63%
	Re-take Pass %	78%	81%	81%	81%	82%
	Overall Pass %	65%	75%	69%	66%	58%
	Overall Fail %	35%	25%	31%	34%	42%
FY 2023/24	Number of Candidates	2,545	3,821	4,531	1,472	188
	First Time Pass %	85%	80%	78%	72%	77%
	Re-take Pass %	82%	81%	76%	78%	76%
	Overall Pass %	69%	74%	74%	67%	70%
	Overall Fail %	31%	26%	26%	33%	30%
Date of Last OA		2020	2023	2023	2023	2022
Name of OA Developer		OPES	OPES	OPES	OPES	OPES
Target OA Date		2025	2028	2028	2028	2027

<sup>2</sup> This table includes exams and license types, as well as pass/fail rates.

The Board also excepts two national examinations for licensure. The pass rates for first time test takers and retakes are reflected in the following table.

<b>Table 8(b). National Examinations</b>			
License Type		LCSW	LPCC
Exam Title		ASWB Clinical	NCMHCE
FY 2020/21	Number of Candidates	2,714	306
	First Time Pass %	80%	92%
	Re-take Pass %	87%	90%
	Overall Pass %	65%	91%
	Overall Fail %	35%	9%
FY 2021/22	Number of Candidates	2,042	375
	First Time Pass %	75%	72%
	Re-take Pass %	81%	91%
	Overall Pass %	55%	68%
	Overall Fail %	45%	32%
FY 2022/23	Number of Candidates	2,335	496
	First Time Pass %	76%	77%
	Re-take Pass %	83%	80%
	Overall Pass %	57%	72%
	Overall Fail %	43%	28%
FY 2023/24	Number of Candidates	2,251	620
	First Time Pass %	73%	80%
	Re-take Pass %	80%	83%
	Overall Pass %	51%	71%
	Overall Fail %	49%	29%
Date of Last OA		2022	2019
Name of OA Developer		ASWB	NBCC
Target OA Date		2027	2024

**25. Is the board using computer-based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?**

All Board examinations are administered using computer-based testing. Once the Board approves a candidate's application, the Board sends the candidate's information to the contracted testing vendor. The candidates are sent information that instructs them to contact the testing vendor to schedule the examination. Currently the Board's testing vendors offer multiple testing sites throughout California and worldwide sites at which candidates can schedule to take these examinations. The Board's current testing vendor for Board-developed examinations offers testing six days a week (Monday through Saturday) and year-round, except major holidays.

NBCC offers the NCMHCE examination Monday through Friday on authorized dates. Specifically, the NCMHCE examination is offered the first two weeks of every month.

ASWB (LCSW national examination vendor) is offered to candidates at testing centers worldwide. Most test centers are open Monday through Friday during customary business hours, and some centers are open on Saturday.

**26. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.**

The Board has not identified any current statutes that are hindering the processing of applications or examinations. The Board has not identified any reason to update, revise, or eliminate its current California-specific examinations.

**27. When did the Board last conduct an occupational analysis that validated the requirement for a California-specific examination? When does the Board plan to revisit this issue? Has the Board identified any reason to update, revise, or eliminate its current California-specific examination?**

The Board has five Californian-specific exams that it develops with the assistance of the DCA's Office of Professional Examination Services (OPES). OPES conducts an occupational analysis of these exams every seven years. The last occupational analysis for the California-specific exams are as follows:

- Licensed Marriage and Family Therapist Law and Ethics Exam (2023)
- Licensed Clinical Social Workers Law and Ethics Exam (2023)
- Licensed Professional Clinical Counselor Law and Ethics Exam (2023)
- Licensed Educational Psychologist Written Exam (2022)
- Licensed Marriage and Family Therapist Clinical Exam (2020)

While the Board has found no reason to eliminate any of its current California-specific exams, it is considering adopting the Association of Marital and Family Therapy Board (AMFTRB) National Examination for LMFT licensure.

### **School Approvals**

**28. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?**

The Board does not approve schools. Applicants for licensure as a LMFT must obtain a doctor's or master's degree from a school, college, or university approved by or accredited by the following entities:

- Bureau for Private Postsecondary Education (BPPE)
- Commission on the Accreditation of Marriage and Family Therapy Education; or,
- A regional accrediting agency recognized by the U.S. Department of Education.

Applicants for licensure as a LCSW must obtain a master's degree from a school of social work, accredited by the Commission on Accreditation of the Council on Social Work Education.

LEP licensure candidates must obtain a master's degree from a regionally accredited university. Regionally accredited schools include:

- Western Association of Schools and Colleges
- Northwest Association of Secondary and Higher Schools
- Middle States Association of Colleges and Secondary Schools
- New England Association of Colleges and Secondary Schools
- North Central Association of Colleges and Secondary Schools
- Southern Association of Colleges and Schools

Applicants for licensure as a Licensed Professional Clinical Counselor ("LPCC") must obtain a doctor's or master's degree from a school, college, or university approved by or accredited by the following entities:

- BPPE;
- Western Association of Schools and Colleges, or,
- A regional accrediting agency recognized by the U.S. Department of Education.

The Board will confirm a school's degree program contains coursework that satisfies the educational requirements for LMFT and LPCC licensure. To date, the Board has reviewed 1010 LMFT programs across 79 schools and 108 LPCC programs across 63 schools.

**29. *How many schools are approved by the board? How often are approved schools reviewed? Can the board remove its approval of a school?***

The Board does not approve schools.

**30. *What are the board's legal requirements regarding approval of international schools?***

The Board does not evaluate educational programs from international schools. Instead, international degrees are assessed based on established education requirements for out-of-state candidates. For applicants educated abroad, a transcript evaluation from an accredited foreign credential evaluation service is required.

**31. *Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.***

The Board's continuing education (CE) program is designed to ensure that licensees stay current with professional knowledge and maintain competence throughout their careers. Licensees, as a condition of their biennial renewal licensure renewal, must complete 36 hours of CE in, or relevant to, the licensee's respective field of practice (BPC section 4980.54, 4989.34, 4996.22, and 4999.76). A licensee that holds more than one license with the Board can apply the same CE courses to both licenses if it relates to the practice for each. Licensees must attest at the time of renewal that they have completed the required CE hours. Licensees must maintain records of completed CE coursework for a least two years.

All licensees are required to complete 6 hours of continuing education (CE) in Law and Ethics for each renewal cycle. Additionally, Licensed Marriage and Family Therapists (LMFTs), Licensed Clinical Social Workers (LCSWs), and Licensed Professional Clinical Counselors (LPCCs) must

complete a one-time, 7-hour course on the assessment and treatment of individuals living with HIV/AIDS during their first renewal period (per 16 CCR section 1887.3(b)).

Effective January 1, 2023, all registrants renewing their registration or whose registration expires on or after this date must also complete a minimum of 3 hours of CE in California law and ethics during each renewal period to be eligible for renewal. (BPC section 4980.3999(e), 4992.099(e) and 4999.55(e))

<b>Continuing Education</b>		
Type	Frequency of Renewal	Number of CE Hours Required Each Cycle
<b>Associate Marriage and Family Therapist (AMFT)</b>	Annual	3
<b>Associate Social Worker (ASW)</b>	Annual	3
<b>Associate Professional Clinical Counselor (APCC)</b>	Annual	3
<b>Licensed Marriage and Family Therapist (LMFT)</b>	Biennial	36
<b>Licensed Clinical Social Worker (LCSW)</b>	Biennial	36
<b>Licensed Professional Clinical Counselors (LPCC)</b>	Biennial	36
<b>Licensed Educational Psychologist (LEP)</b>	Biennial	36

An exemption from the CE requirement exists if the licensee meets one of the following criteria:

- Their license is inactive (BPC section 4984.8, 4989.44, 4997 and 4999.1-12) or retired (BPC section 4984.41, 4898.45, 4997.1 or 4999.113)
- For at least one year during the licensee’s current license renewal period, the licensee had a physical or mental disability or medical condition that; substantiality limited one or more life activities and caused the licensee’s earned income to drop below the substantial gainful activity amount for non-blind individuals.
- For at least one year during the licensee’s previous license renewal period the licensee or an immediate family member, including a domestic partner, where the licensee is the primary caregiver for that family member, had a physical or mental disability or medical condition. The physical or mental disability or medical condition must be verified by a licensed physician or psychologist.

Various changes were made to the Board’s CE program effective July 1, 2023. CE-related laws are contained in both statutes (Business and Professions Code or BPC) and in Title 16, Division 18 of the California Code of Regulations (16 CCR). The following changes were made:

- CE For Initial Renewal Period: Require 36 hours of CE, rather than 18 hours of CE during a new licensee’s initial renewal period. Previously, the initial renewal period (the time frame between license issuance and expiration date) for some new licensees was as short as one year. Now, the initial renewal period is two years for all licensees, which provides adequate time to complete 36 hours.
- CE Course Content Requirement: All CE providers must follow the new general content requirements for courses offered on or after July 1, 2023 (16 CCR section 1887.4.0)

- CE Waiver Requirements: No longer allows temporary CE waivers for being absent from California due to military service or residing in another country, Implements new CE waiver request forms and instructions, Modifies temporary CE waiver criteria for licensees impacted by their own health condition, Modifies temporary CE waiver criteria for licensees who are the primary caregiver of an immediate family member, limits the scope of the personal health information, requires licensees who have been granted a temporary CE waiver to complete the 6-hour of law and course (16 CCR Section 1887.2)
- New LEPs Renewing an Initial License: LEPs renewing their license for the first time are required to complete coursework as follows: The Alcoholism and Other Chemical Substance Dependency training must cover substance abuse (as opposed to only substance dependency), Acceptable providers for the above course has changed. A governmental entity or licensed health facility will no longer be acceptable if the entity does not qualify as a board-accepted provider of CE.
- CE for Participation in an Occupational Analysis: A licensee who completes a Board of Behavioral Sciences occupational analysis (OA) survey in full on or after July 1, 2023 will be credited with six hours of CE. An OA is a comprehensive study of a profession that is performed approximately every five years. Licensees complete a survey, the results of which help to determine the important tasks that are currently performed by practicing licensees. Results of the OA are used to develop a current description of practice, including core competencies, which help to form the basis for development of licensing examinations.
- CE for Course Taught: Licensees may fulfill a maximum of 18 hours of the 36-hour CE requirement by teaching CE courses during a single renewal period for a board-accepted provider. This was previously unlimited. This will provide increased consumer protection by encouraging licensees to obtain CE on topics in addition to the courses taught continually.
- Law and Ethics Courses for Supervisors: Clarifies that a course taken on law and ethics designed specifically to meet supervisor training requirements cannot also be accepted toward meeting the six-hour law and ethics course required of all licensees each for renewal period.
- Participation in Law and Ethics Review Committee: Clarifies that in order for a licensee's participation in a law and ethics review committee to be credited toward CE, on or after July 1, 2023, it must have been with a mental health professional organization. In addition, documentation of participation must consist of a letter or certificate from the organization.
- ***How does the board verify CE or other competency requirements? Has the Board worked with the Department to receive primary source verification of CE completion through the Department's cloud?***

The Board relies on audits to verify a licensee/registrant has fulfilled their CE requirements. The Board has not worked with the Department to receive primary source verification of CE completion through the Department's cloud.

- ***Does the board conduct CE audits of licensees? Describe the board's policy on CE audits.***

The Board has the authority to conduct audits to determine compliance with the CE requirements. Each month a random number of licensees are selected for an audit. The licensee is notified in writing of their selection for the audit and provided a due date to submit copies of the continuing education certificates completed during the last renewal period. Upon receipt of the documentation, the certificates are analyzed to determine if the CE was obtained from an approved provider and during the renewal period subject to the audit.

- ***What are consequences for failing a CE audit?***

Licensees who successfully complete their Continuing Education (CE) requirements are notified in writing that they have passed the audit. Those who fail the audit are referred to the Board's Enforcement Unit, where a citation and fine are issued. The citation will outline the order of abatement and the fine, which is determined by the type and number of missing CE units (e.g., required courses for each renewal cycle). Fines can range from \$100 to \$1,200. Licensees may contest the citation by requesting an Informal Citation Conference, where the Executive Officer or Assistant Executive Officer will either affirm, modify, or dismiss the citation. If affirmed or modified, the licensee may then request a Formal Administrative Hearing to further contest the decision.

- ***How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?***

Between July 22, 2021, and September 23, 2021, 57 audits were conducted, resulting in 25 failures, reflecting a 44% failure rate. During the COVID-19 state of emergency, a waiver was issued for continuing education (CE) requirements. This waiver allowed licensees whose licenses expired between March 31, 2020, and October 31, 2021, to renew without completing CEs, provided the CEs were completed by April 1, 2022. Citations issued during this period were rescinded in light of the COVID waiver, and a moratorium on continuing education audits was implemented. Audits resumed on March 12, 2024, with 143 audits conducted so far, resulting in 68 failures, representing a 48% failure rate.

- ***What is the board's course approval policy?***

Effective July 1, 2015, the Board ceased approving CE providers and courses. The decision was made following an extensive review of the Board's existing CE program and national professional association CE programs. As a result, the Board determined that the national professional associations' CE programs were far more robust and provided the best opportunity for licensees to gain CEs relevant to their practice.

- ***Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?***

Board licensees may obtain CE from one of the following:

- An accredited or approved postsecondary institution that meets the requirements set forth in sections 4980.54(f)(1), 4989.34(b)(1), 4996.22(d)(1), or 4999.76(d) of the BPC.

- A Board-recognized approval agency or a continuing education provider that has been approved or registered by a Board-recognized approval agency. The following are Board-recognized approval agencies: National Association of Social Workers (NASW), Association of Social Work Boards (ASWB), National Board for Certified Counselors (NBCC), National Association of School Psychologists (NASP), American Psychological Association (APA), California Association of Marriage and Family Therapists (CAMFT), and California Psychological Association (CPA)
- An organization, institution, association, or other entity that is recognized by the Board as a continuing education provider. The following are the Board-recognized continuing education providers: American Association for Marriage and Family Therapy (AAMFT), American Association for Marriage and Family Therapy-California Division (AAMFT-CA), California Association for Licensed Professional Clinical Counselors (CALPCC), California Association for Marriage and Family Therapists (CAMFT), National Association of Social Workers-California Chapter (NASW-CA), California Society for Clinical Social Work (CSCSW), California Association of School Psychologists (CASP), California Psychological Association (CPA), California Counseling Association (CCA), American Counseling Association (ACA)

Board recognized approval agencies evaluate and monitor continuing education providers to ensure courses meet professional and regulatory standards. Continuing education providers are responsible for offering complaint courses, maintaining records, and issuing completion certificates to licensees. Both agencies and providers are responsible for ensuring that continuing education courses align with the course content requirements (BPC Section 1887.4.0).

- ***Does the board audit CE providers? If so, describe the board's policy and process.***

Board recognized approval agencies are required to conduct periodic reviews of course offered by approved providers and, upon request, report to the Board on the finding of the review (BPC Section, 1887.4.2.(e)). Continuing education providers are responsible for providing all documents, to the approval agency or Board, related to an audit of course material (BPC Section, 1887.4.3(l)). While the Board has the authority to audit course records (BPC Section 1887.12 (c)), it has not received any complaints or exercised this authority to audit providers to date.

- ***Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance-based assessments of the licensee's continuing competence.***

The Board is aware of efforts to consider performance-based assessments of a licensee's continuing competency. Board licensees work in environments in which their work is not typically observed by other licensed professionals. Creating a fair and consistent performance-based assessment is challenging because client interactions in clinical counseling are highly individualized. Simulated scenarios may not accurately reflect the complexity of real-world counseling cases, leading to questions about how well the assessment translates to actual practice. While performance-based assessments may be an appropriate measure for other health profession work settings, they may not be practical in the assessing mental health licensees.



## Section 4 – Enforcement Program

### 32. *What are the board’s performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?*

The Board has the following established Performance Measures (PM):

PM 2 – Intake: This measure tracks the average time from the receipt of a complaint to when it is acknowledged and assigned to an analyst or investigator. Under BPC section 129(b), complaints must be acknowledged within 10 days of receipt. The Board fulfills this requirement by sending written notification to the complainant. The target intake time is 10 days. From FY 2019/20 to FY 2023/24 the Board met target with an average time of 6 days.

PM 4 – Formal Discipline: This metric tracks the average number of days to complete the entire enforcement process for cases resulting in formal discipline. The target for formal discipline is 540 days. From FY 2019/20 to FY 2023/24 the Board met target with an average time of 415 days.

PM 7 – Probation Intake: This metric tracks the average number of days from the assignment of a probation monitor to the first contact with the probationer. The target response time is 10. From FY 2019/20 to FY 2023/24 the Board met target with an average time of 5 days.

PM 8 – Probation Violation Response: This measure tracks the average number of days from when a probation violation is reported to the Board to when the assigned probation monitor takes appropriate action. The target response time is 7 days. From FY 2019/20 to FY 2023/24 the Board met target with an average time of 3 days.

### 33. *Explain trends in enforcement data and the board’s efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?*

The number of complaints received by the Board for the last five years has stayed relatively the same each fiscal year with an average of 1,910. There was a slight uptick in complaint for fiscal year 2023-2024, but that is indicative of an increase in duplicate complaints being submitted. Over the past three years the Board has seen a decrease in the convictions or subsequent arrest notifications, especially during the last fiscal year. Even with a steady increase of applications and within the licensing population, the Board has been able to maintain and meet its enforcement performance measures.

**Table 9a. Enforcement Statistics**

	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24
<b>COMPLAINTS</b>					
Intake					
Received	1,854	1,803	1,878	1,888	2,127

Closed without Referral for Investigation	543	828	784	685	911
Referred to INV	1,308	983	1,127	1,217	1,213
Pending (close of FY)	60	52	20	4	7
Conviction / Arrest					
CONV Received	1,113	1,225	1,226	1,010	846
CONV Closed Without Referral for Investigation	0	1	1	5	6
CONV Referred to INV	1,106	1,231	1,215	1,009	841
CONV Pending (close of FY)	12	4	13	11	11
Source of Complaint <sup>6</sup>					
Public	854	709	882	1,021	952
Licensee/Professional Groups	5	5	6	14	27
Governmental Agencies	1,019	1,080	1,018	1,138	1,006
Internal	627	358	406	156	81
Other	22	15	67	17	119
Anonymous	32	20	25	36	18
Average Time to Refer for Investigation (from receipt of complaint / conviction to referral for investigation)	6	8	7	4	3
Average Time to Closure (from receipt of complaint/conviction to closure at intake)	42	31	33	46	70
Average Time at Intake (from receipt of complaint/conviction to closure or referral for investigation)	24	20	20	21	37
<b>INVESTIGATION</b>					
Desk Investigations					
Opened	2,555	2,185	2,399	2,375	2,200
Closed	2,454	2,144	2,223	2,217	2,186
Average days to close (from assignment to investigation closure)	42	31	33	46	70
Pending (close of FY)	143	177	230	342	353
Non-Sworn Investigation					
Opened	86	192	114	135	96
Closed	80	178	98	115	108
Average days to close (from assignment to investigation closure)	119	110	159	130	150
Pending (close of FY)	39	55	71	51	58
Sworn Investigation					
Opened	14	6	5	11	9
Closed	9	11	3	5	10
Average days to close (from assignment to investigation closure)	206	229	560	449	355
Pending (close of FY)	10	5	7	13	12

All investigations					
Opened	2,655	2,383	2,518	2,500	2,305
Closed	2,543	2,333	2,324	2,337	2,304
Average days for all investigation outcomes (from start investigation to investigation closure or referral for prosecution)	44	38	39	52	76
Average days for investigation closures (from start investigation to investigation closure)	44	37	37	48	70
Average days for investigation when referring for prosecution (from start investigation to referral for prosecution)	TBD	TBD	TBD	TBD	TBD

Average days from receipt of complaint to investigation closure					
Pending (close of FY)	192	237	308	406	423
<b>CITATION AND FINE</b>					
Citations Issued	251	32	21	15	36
Average Days to Complete (from complaint receipt / inspection conducted to citation issued)	51	213	220	287	190
Amount of Fines Assessed	\$245,250	\$72,200	\$28,950	\$30,250	\$39,100
Amount of Fines Reduced, Withdrawn, Dismissed	\$96,250	\$34,100	\$12,000	\$7,750	\$3,600
Amount Collected	\$73,550	\$22,600	\$16,950	\$14,000	\$12,200
<b>CRIMINAL ACTION</b>					
Referred for Criminal Prosecution	0	0	2	0	1
<b>ACCUSATION</b>					
Accusations Filed	101	64	51	71	54
Accusations Declined	0	1	0	0	0
Accusations Withdrawn	4	4	1	1	2
Accusations Dismissed	0	0	0	0	0
Average Days from Referral to Accusations Filed (from AG referral to Accusation filed)	TBD	TBD	TBD	TBD	TBD
<b>INTERIM ACTION</b>					
ISO & TRO Issued	0	0	0		
PC 23 Orders Issued	3	1	0	4	2
Other Suspension/Restriction Orders Issued	0	0	0	0	1
Referred for Diversion	N/A	N/A	N/A	N/A	N/A
Petition to Compel Examination Ordered	1	2	1	3	6
<b>DISCIPLINE</b>					
AG Cases Initiated (cases referred to the AG in that year)	135	105	69	123	115
AG Cases Pending Pre-Accusation (close of FY)	TBD	TBD	TBD	TBD	TBD
AG Cases Pending Post-Accusation (close of FY)	TBD	TBD	TBD	TBD	TBD
<b>DISCIPLINARY OUTCOMES</b>					
Revocation	23	25	11	21	10
Surrender	21	18	9	14	11
Suspension only	0	0	0	0	0
Probation with Suspension	0	0	0	0	0
Probation only	40	48	23	39	47
Public Reprimand / Public Reproval / Public Letter of Reprimand	1	3	0	0	0
Other	3	0	1	0	1
<b>PROBATION</b>					
Probations Completed	TBD	TBD	TBD	TBD	TBD
Probationers Pending (close of FY)	TBD	TBD	TBD	TBD	TBD
Probationers Told	TBD	TBD	TBD	TBD	TBD
Petitions to Revoke Probation / Accusation and Petition to Revoke Probation Filed	TBD	TBD	TBD	TBD	TBD
<b>SUBSEQUENT DISCIPLINE<sup>8</sup></b>					
Probations Revoked	48	27	18	28	18
Probationers License Surrendered	70	34	28	28	17
Additional Probation Only	N/A	N/A	N/A	N/A	N/A
Suspension Only Added	N/A	N/A	N/A	N/A	N/A

Other Conditions Added Only	N/A	N/A	N/A	N/A	N/A
Other Probation Outcome	N/A	N/A	N/A	N/A	N/A
<b>SUBSTANCE ABUSING LICENSEES</b>					
Probationers Subject to Drug Testing	TBD	TBD	TBD	TBD	TBD
Drug Tests Ordered	TBD	TBD	TBD	TBD	TBD
Positive Drug Tests	TBD	TBD	TBD	TBD	TBD
<b>PETITIONS</b>					
Petition for Termination or Modification Granted	8	4	18	14	13
Petition for Termination or Modification Denied	2	1	3	6	1

<b>Table 10. Enforcement Aging</b>							
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	Cases Closed	Average %
<b>Investigations (Average %)</b>							
Closed Within:							
90 Days	2,149	1,912	1,997	1,835	1,650	9,543	85%
91 - 180 Days	212	168	153	273	300	1,106	9.9%
181 - 1 Year	65	44	50	76	162	397	3.5%
1 - 2 Years	24	19	16	29	64	152	1.4%
2 - 3 Years	4	1	7	4	10	26	0.2%
Over 3 Years	0	0	0	0	0	0	0
Total Investigation Cases Closed	2,454	2,144	2,223	2,217	2,186	11,224	2,245 per fiscal year
<b>Attorney General Cases (Average %)</b>							
Closed Within:							
0 - 1 Year	29	24	20	23	44	140	32%
1 - 2 Years	65	60	16	28	20	189	43.5%
2 - 3 Years	16	27	19	16	3	81	19%
3 - 4 Years	8	3	3	6	2	22	5%
Over 4 Years	1	0	0	1	0	2	0.5%
Total Attorney General Cases Closed	119	114	58	74	69	434	87 cases per fiscal year

**34. What do overall statistics show as to increases or decreases in disciplinary action since last review?**

The overall statistics show a mixed trend in disciplinary actions since the last review. Over the past years since the last review there has been a decrease in accusations filed from 101 for FY 2019/2020 to 54 in FY 2023/2024. Revocations have fluctuated, with a decrease from 25 to 10 over the five periods. Surrenders have also decreased, falling from 21 to 11. Suspensions, both with and without probation, have consistently remained at zero. However, probation-only cases show an increase, rising from 40 to 47. Overall, there has been a general decrease in the more severe disciplinary actions, such as revocations and surrenders, while probation-only actions have increased.

### **35. How are cases prioritized? What is the board's compliant prioritization policy?**

The Board developed its Complaint Prioritization Guidelines in 2009 using the DCA model guidelines for health care agencies. Although similar to the DCA model, the Board modified the complaint categories in the DCA guidelines to reflect the subject areas unique to the Board. Using these guidelines, complaints are reviewed by Board staff and categorized. Complaints categorized as "urgent" demonstrate conduct or actions by the licensee or registrant that pose a serious risk to the public's health, safety, or welfare. These complaints receive the immediate attention of the Enforcement manager to initiate the appropriate action.

Complaints categorized as "high" involve allegations of serious misconduct, but the licensee's or registrant's actions do not necessarily pose an immediate risk to the public's health, safety, or welfare. "Routine" complaints involve possible violations of the Board's statutes and regulations, but the licensee's or registrant's actions do not pose a risk to the public's health, safety, or welfare.

### **36. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?**

The Board has various mandatory reporting requirements:

- BPC section 801(b) requires every insurer providing professional liability insurance to a Board licensee to report any settlement or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by the licensee's negligence, error or omission in practice, or by rendering of unauthorized professional services. This report must be sent to the Board within 30 days of the disposition of the civil case.
- BPC section 802(b) requires Board licensees and claimants (or, if represented by counsel) to report any settlement, judgment, or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by the licensee's negligence, error or omission in practice, or by rendering of unauthorized professional services. This report must be submitted to the Board within 30 days after the written settlement agreement.
- BPC section 803(a) requires the clerk of the court to report, within 10 days after judgment made by the court in California, any person who holds a license or certificate from the Board who has committed a crime or is liable for any death or personal injury resulting in a judgment for an amount in excess of \$30,000 caused by his or her negligence, error or omission in practice, or by rendering of unauthorized professional services.
- BPC section 803.5 requires a district attorney, city attorney, or other prosecuting agency to report any filing against a licensee of felony charges and the clerk of the court must report a conviction within 48 hours.
- BPC section 805(b) requires the chief of staff, chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic to file an 805 report within 15 days after the effective date which any of the following occurs as a result of an action taken by the peer review body of a Licensed Marriage and Family Therapist, Licensed Clinical Social Worker, Licensed

Educational Psychologist, or Licensed Professional Clinical Counselor: 1) The licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason; 2) the licentiate's membership, staff privileges, or employment is terminated or revoked for medical disciplinary cause or reason; or, 3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

- BPS section 805.8 requires a health care facility or other entity that makes any arrangement under which a healing arts licensee is allowed to practice or provide care for patients shall file a report of any allegation of sexual abuse or sexual misconduct made against a healing arts licensee by a patient, if the patient or the patient's representative makes the allegation, in writing, to the agency within 15 days of receiving the written allegation of sexual abuse or sexual misconduct. An arrangement under which a licensee is allowed to practice or provide care for patients includes, but is not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.
- Penal Code section 11105.2 establishes a protocol whereby the DOJ reports to the Board whenever Board applicants, registrants, or licensees are arrested or convicted of crimes. In such instances, the DOJ notifies the Board of the identity of the arrested or convicted applicant, registrant, or licensee in addition to specific information concerning the arrest or conviction.

Additionally, registrants and licensees are required to disclose at the time of renewal all convictions since their last renewal.

**37. Describe settlements the board, and Office of the Attorney General on behalf of the board, enter into with licensees.**

- a. What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?**

The Board is not exempt from Gov. Code section 11415.60, subdivision (b), under the Administrative Procedure Act, which requires a pleading to be issued (e.g., accusation or SOI) before the Board can settle an adjudicative proceeding regarding discipline of a license.

After concluding its investigation and determining that a violation of the statutes and regulations has occurred, the Board determines the appropriate penalty based on the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (USRSADG). The guidelines provide a minimum and maximum penalty based on a violation category. The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation. The USRSADG apply in all cases in which a license or registration is placed on probation due in part to a substance abuse violation.

For cases referred to the AGO which the Board would consider settling, the Board will provide proposed settlement terms based on USRSADG with the referral. The intent of this procedure is to engage in settlement discussions with the respondent after the respondent receives notice of the proposed disciplinary action.

Once a pleading has been filed, the Board's Executive Officer and assigned Deputy Attorney General will evaluate whether the case is appropriate to negotiate settlement terms with the respondent. Stipulated settlements negotiated between the complainant (Executive Officer) and respondent (licensee or license applicant) are submitted to the Board for consideration.

**b. *What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?***

The Board settled 219 cases, while 210 proceeded to a hearing, resulting in a settlement rate of 51% over the past four years. Notably, there has been a decline in the number of cases advancing to a hearing over the last two years.

**c. *What is the dollar threshold for settlement reports received by the board?***

BPC section 802(b) requires Board licensees and claimants (or, if represented by counsel) to report any settlement, judgment, or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by the licensee's negligence, error or omission in practice, or by rendering of unauthorized professional services.

BPC section 803(a) requires the clerk of the court to report, within 10 days after judgment made by the court in California, any person who holds a license or certificate from the Board who has committed a crime or is liable for any death or personal injury resulting in a judgment for an amount in excess of \$30,000 caused by his or her negligence, error or omission in practice, or by rendering of unauthorized professional services.

**d. *What is the average dollar amount of settlements reported to the board?***

During the last four fiscal years, the Board received a total of 7 reports for settlement or arbitration award. The average amount of the award paid on the behalf of the licensee is \$360,000.

**38. *Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?***

The Board is subject to a statute of limitations period as set forth in BPC section 4990.32 and 4982.05. An accusation must be filed within three years from the date the Board discovers the alleged act or violation or within seven years from the incident date, whichever occurs first. Cases regarding procurement of a license by fraud or misrepresentation are not subject to the limitations.

An accusation alleging sexual misconduct must be filed within three years after the Board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. In cases involving a minor patient, the 7- and 10-year limitation is tolled until the child reaches 18 years of age.

The Board implemented monitoring procedures to ensure that limitation deadlines are identified and that cases are monitored closely through the review and investigation process. If a case is forwarded for formal investigation, the investigator is informed of the limitation deadline and staff

frequently follows up with the assigned investigator to track the progress. If violations are confirmed and the case is transmitted to the AGO, the deputy attorney general assigned to the case is informed of the limitations deadline to ensure prompt filing of charges. In the last four years the Board has not lost jurisdiction on a case due to the statute of limitations period.

**39. Describe the board's efforts to address unlicensed activity and the underground economy.**

The Board provides several publications and information to consumers on its website relating to the selection of a mental health practitioner and verification of an individual's license status. Any complaint received by the Board related to unlicensed activity is investigated. Investigations confirming unlicensed activity result in the Board issuing a citation and fine up to \$5,000 to the unlicensed individual or referring the case to the local district attorney's office for appropriate action.

**40. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the \$5,000 statutory limit?**

A citation and fine order is an alternative means by which the Board can take an enforcement action against a licensed or unlicensed individual who is found to be in violation of the Board's statutes and regulations. The citation and fine program increase the effectiveness of the Board's disciplinary process by providing a more effective method to address relatively minor violations that normally would not warrant more serious license discipline to protect the public.

Citations and fine orders are not considered formal disciplinary actions, but they are matters of public record. BPC section 125.9 authorizes the Board to issue citations and fines for certain types of violations. A licensee or registrant who fails to pay the fine cannot renew his/her license until the fine is paid in full. The Board has not increased its maximum fine since the last sunset review.

**41. How is cite and fine used? What types of violations are the basis for citation and fine?**

A citation and fine is appropriate if an investigation substantiates a violation of the Board's statutes and regulations, but the violation does not warrant formal disciplinary action. A citation and fine order contains a description of the violation, an order of abatement which directs the subject to discontinue the illegal activity, a fine (based on gravity of the violation, intent of the subject and the history of previous violations), and procedures for appeal. Payment of a fine does not constitute an admission of the violation charged, but only as satisfactory resolution of the citation and fine order.

Frequently, citations are issued for violations related to unlicensed practice, practicing with an expired license, record keeping, failing to complete the required continuing education courses within a renewal period, advertising violations or failure to provide treatment records in accordance with the law. In assessing a fine, the Board, considers the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

**42. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?**



An individual to whom a citation is issued may choose to appeal his/her case at an informal office conference. The informal office conference is a forum for the individual to provide information or mitigation not previously considered by the Board. Documentary evidence such as sworn witness statements and other records will be accepted. The individual can be present at the informal office conference with or without counsel or they may choose to be represented by counsel alone. All information submitted will be considered. The Board may affirm, modify, or withdraw the citation.

Since the last review, the Board has averaged one informal office conference per month, conducting 46 conferences over the past four fiscal years. During the same period, the Board received three requests for administrative hearings to appeal citations and fines.

**43. What are the five most common violations for which citations are issued?**

- The five most common violations for which citations are issued are as follows:
- Failure to complete specific continuing education coursework requirements.
- Failure to maintain patient confidentiality.
- Providing services for which licensure is required.
- Misrepresentation as to the type or status of a license or registration held.
- Misrepresentation as to the completion of continuing education requirements.

**44. What is average fine pre- and post- appeal?**

	<b>FY 2020-21</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>
<b>Average Pre-Appeal</b>	\$2,208	\$1,812	\$2,187	\$2,017
<b>Average Post Appeal</b>	\$594	\$723	\$250	\$1,417

**45. Describe the board’s use of Franchise Tax Board intercepts to collect outstanding fines.**

A licensee who fails to pay an uncontested fine cannot renew his/her license until the fine is paid in full. In addition, the Board utilizes the Franchise Tax Board Intercept Program which allows tax returns to be intercepted as payment for any outstanding fines. Typically, uncollected fines are related to unlicensed individuals that the Board has limited information on to pursue collection.

**46. Describe the board’s efforts to obtain cost recovery. Discuss any changes from the last review.**

Pursuant to BPC section 125.3, the Board is authorized to request that its licensees who are disciplined through the administrative process reimburse the Board for its costs of investigating and prosecuting the cases. The Board seeks cost recovery regardless of whether the case is settled by stipulation or proceeds to an administrative hearing.

Probationers are afforded a payment schedule to satisfy the cost recovery. However, compliance with cost recovery is also a condition of probation. Noncompliance with this condition may result in the case returning to the AGO to seek revocation or to extend the probation term until the cost recovery is made in full.

**47. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.**

During the settlement process, the Board will frequently offer to reduce costs as an incentive to settle a case prior to a hearing. This strategy is beneficial to all parties in that hearing costs and time to resolve the matter are reduced, the individual may continue to practice while on probation, and the individual's violations and probation terms are publicly disclosed sooner.

Probationers are required to pay the cost recovery ordered as a condition of probation and must be paid in full prior to the end of probation. The Board establishes a payment schedule for probationers to pay their cost recovery, spreading the payments throughout the probation term.

Cost recovery is not always collected in disciplinary cases that resulted in the surrender of a license. Often, one of the terms in the final order accepting the license surrender requires that the cost recovery must be paid in full if the individual were to reapply to the Board. In these situations, the individual may never reapply, and the Board will not collect the cost recovery.

**48. Are there cases for which the board does not seek cost recovery? Why?**

The Board seeks cost recovery in every formal disciplinary case although administrative law judges often reduce the amount of cost recovery payable to the Board. The Board's request is made to the administrative law judge who presides over the hearing. The administrative law judge may award full or partial cost recovery to the Board or may reject the Board's request for cost recovery.

**49. Describe the board's use of Franchise Tax Board intercepts to collect cost recovery.**

The Board does use the Franchise Tax Board to collect cost recovery. As noted previously, most of the cost recovery ordered is directly related to probationers. All probationers must pay cost recovery in full prior to the completion of their probation term.

<b>Table 11. Cost Recovery<sup>3</sup></b>		<b>(list dollars in thousands)</b>		
	<b>FY 2020/21</b>	<b>FY 2021/22</b>	<b>FY 2022/23</b>	<b>FY 2023/24</b>
Total Enforcement Expenditures	\$3,574,000	\$3,378,000	\$3,388,000	\$3,479,000
Potential Cases for Recovery *	64	51	71	54
Cases Recovery Ordered	64	51	71	54
Amount of Cost Recovery Ordered	\$56,713	\$50,617	\$45,832	TBD
Amount Collected	\$14,873	\$10,501	\$13,840	TBD

\* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.

**50. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.**

Pursuant to Government Code section 11519, the Board may impose a probation term requiring restitution. In cases regarding violations involving economic exploitation or fraud, restitution is a necessary term of probation. The Board may require that restitution be ordered in cases regarding Medi-Cal or other insurance fraud. In addition, restitution would be ordered in cases where a

<sup>3</sup> Cost recovery may include information from prior fiscal years.

patient paid for services that were never rendered or the treatment or service was determined to be negligent. No restitution has been ordered since the Board's last sunset review.

## Section 5 – Public Information Policies

**51. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the board's website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?**

The Board uses a multifaceted approach of keep stakeholders and public informed about the Board's activities. Meeting agendas for Board and Committee meetings are posted to the Board's website at a minimum of ten days before the date of the meeting. Additionally, an announcement that the agenda has been posted is sent by email to individuals who have signed up for Board subscriber alerts as well as posted on the Board's social media accounts. Board meeting agendas and materials remain on the Board's website for seven years. Draft meeting minutes are included with the materials for subsequent meetings.

**52. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings? How long to webcast meetings remain available online?**

The Board webcasts all its meetings and the meeting recordings are available for seven years. Because it allows for increased accessibility for stakeholders, the Board plans to webcast all future Committee and Board meetings.

**53. Does the board establish an annual meeting calendar, and post it on the board's web site?**

During its third quarter meeting the Board will establish its meeting calendar for the following year. This information is posted to the website for the upcoming year in November.

**54. Is the board's complaint disclosure policy consistent with DCA's Recommended Minimum Standards for Consumer Complaint Disclosure? Does the board post accusations and disciplinary actions consistent with BPC § 27 if applicable?**

The Board's complaint disclosure policy is consistent with the DCA's Recommended Minimum Standards for Consumer Complaint Disclosure. Accusations and disciplinary actions are posted on the Board's website, published in the quarterly newsletter, and distributed by email to subscribers of the Board's Listserv. The documents can also be accessed through the DCA License Verification option on BrEZe.

**55. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?**

The Board offers the following information through the BrEZe system: licensee name, address of record, license type, status, issue, and expiration dates, as well as any disciplinary or enforcement actions.

## **56. What methods are used by the board to provide consumer outreach and education?**

Also, Board staff regularly attend industry conferences and symposiums by phone or in person and consistently encourage applicants and licensee to follow the board on Facebook and Twitter and to sign up with the Board's subscriber list so that they can stay informed about Board Meetings and notices.

The Board has updated its consumer brochure, "Therapy Never Includes Sexual Behavior" (formally, "Professional Therapy Never Includes Sex"), which required collaboration with the California Psychology Board, Medical Board of California, and the Osteopathic Medical Board of California.

## **Section 6 – Online Practice Issues**

### **57. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate internet business practices or believe there is a need to do so?**

The increasing use of online-only therapy platforms and alternative methods of therapy, such as apps, email, and texting, raises concerns about potential public protection issues that the Board may need to address. Many clients now seek therapy through platforms like BetterHelp, Talkspace, LiveHealth Online, and Cerebral. These platforms typically offer various plans, including video therapy, text or messaging therapy, or a combination, often facilitated through an app.

Board registrants and licensees are required to comply with all California laws and regulations governing the practice of therapy, including those related to privacy, confidentiality, and informed consent. Therapists using online platforms must adhere to the same standards of care as they would in traditional, in-person settings. This includes maintaining confidentiality, ensuring appropriate professional boundaries, delivering evidence-based treatments, and safeguarding their clients' well-being.

The Board's Enforcement Unit reports that complaints about online therapy platforms constitute a small proportion of the total complaints it receives. Past complaints have included issues such as:

- Unlicensed practice concerns.
- Client difficulties in obtaining billing codes for insurance reimbursement.
- Therapist concerns about company incentives that encourage prolonging therapy unnecessarily.
- Advertising or listing of therapists' professional information without permission.
- Concerns over the wording of client user agreements.
- The lack of therapist access to a client's legal name or location in case of an emergency.

The Board's Telehealth Committee discussed these issues at meetings on December 8, 2022, and March 16, 2023. At the March meeting, the Committee approved a survey for licensees and registrants with experience working on these platforms to gather more information. Conducted from April 10 through May 15, 2023, the survey received over 1,700 responses.

The survey results were discussed at the Committee's June 8, 2023, meeting, identifying three potential areas of concern:

- Therapists being matched with clients in states where they are not licensed.
- Issues with record management and informed consent.
- The absence of an emergency plan for clients.

In response to these concerns, the Board sponsored AB 1759 (Aguiar-Curry, Chapter 520, Statutes of 2022), which requires Board applicants and current licensees to complete three hours of training or coursework on providing mental health services via telehealth. This mandate ensures that therapists offering online services are trained in teletherapy best practices and are prepared to address the unique challenges of virtual care.

Additionally, the Committee developed and published three key documents:

- "A Note About Use of Online-Only Therapy Platforms"
- "Providing Mental Health Services via Telehealth"
- "Considering Mental Health Services via Telehealth as a Consumer"

The Board will continue to monitor trends in online therapy, along with any corresponding increase in consumer complaints. This issue will remain a focus of ongoing committee and board discussions and may result in further regulations.

## Section 7 – Workforce Development and Job Creation

### **57. What actions has the board taken in terms of workforce development?**

California is experiencing a significant mental health workforce shortage, which has been a growing concern for several years. This shortage is particularly acute in certain regions and for specific types of mental health professionals. The Board established a Workforce Development Committee in 2023 to conduct an in-depth discussion about several topics related to the pathway towards licensure with the goal of reducing any unnecessary barriers in the process. Topics of discussion have centered around the three major milestones in the licensure pathway: education, supervision, and examinations.

The Board has revised supervision requirements to allow for more flexibility in how supervision is provided. For example, telehealth supervision has been increasingly accepted, especially in response to the COVID-19 pandemic, which has made it easier for candidates to access qualified supervisors, regardless of location. The Board has taken steps to expand the pool of qualified supervisors by allowing a broader range of licensed professionals to provide supervision, thus increasing the availability of supervision opportunities.

The Board is streamlining the licensure process to make it easier and faster for new professionals to enter the workforce. The BBS has moved many of its licensure application and renewal processes online. Efforts have been made to simplify and consolidate forms and documentation requirements, reducing the administrative burden on applicants.

The Board supports and promotes state and federal loan repayment and forgiveness programs aimed at reducing the financial burden on candidates pursuing licensure, particularly for those willing to work in underserved areas. Recently the Board's executive officer has been part of HCAI's Behavioral Health Workforce Strategy advisory group.

The Board has developed clear guidance documents, FAQs, and other resources to help candidates navigate the licensure process. These resources are designed to clarify common areas of confusion, such as specific requirements for hours of supervised experience, examination processes, and application procedures.

**59. Describe any assessment the board has conducted on the impact of licensing delays.**

The Board has not conducted formal assessments on the impact of licensing delays but fully acknowledges how delays can affect an applicant's progress in the licensure process and ability to secure employment. Consequently, the Board maintains a strong focus on reducing application processing times.

**60. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.**

The Board collaborates with institutions to host webinars and informational sessions, providing students with valuable insights into the licensure process, including comprehensive explanations of requirements, timelines, and common challenges. In the coming years, the Board aims to expand its outreach efforts by increasing the promotion of these activities. Additionally, to broaden its reach, the Board plans to engage more pre-degree individuals by partnering with DCA to identify additional outreach opportunities, such as job fairs.

**61. Describe any barriers to licensure and/or employment the board believes exist.**

At the April 2024 committee meeting staff presented a summary of the data collected from the Board's Licensure Pathway Survey. That survey was completed on April 19, 2024, and resulted in 3,170 complete responses, including free form comments that numbered from 600 to over a thousand per question. This survey was developed to seek input from Board registrants and licensees about barriers that they are facing, or may have faced, during their pathway to licensure. The survey focused on three key milestones in the pathway to licensure and the findings were as follows:

- **Education:** common barriers identified by respondents include the challenge of balancing full-time work, school, and unpaid practicum positions. Many reported difficulties in finding practicum placements that fit within their personal schedules, compounded by a perceived lack of culturally competent and trauma-informed professors, as well as inadequate preparation for practicums. Additionally, respondents noted a lack of training provided by educational institutions regarding the licensure pathway and examinations.
- **Supervision:** significant barriers include challenges in finding qualified or available supervisors, coupled with the high cost of supervision. Respondents also expressed concerns about inadequate supervision environments that fail to sufficiently prepare them for the licensing process and exams. Scheduling supervision hours that align with other job responsibilities and personal commitments is another major hurdle, particularly for those balancing part-time work. There is also a prevalent concern that supervisors may not be

fully knowledgeable about the licensing laws relevant to the supervisee's licensure pathway. Moreover, certain agency policies and job structures are perceived to negatively impact the quality of supervision. The extensive number of required supervision hours, including specific types such as those with children or couples, and the challenge of accumulating these hours without compensation were also highlighted.

- **Examinations:** the length and perceived difficulty of licensure exams were frequently mentioned as significant barriers, with many individuals finding the exams exceedingly challenging, thereby increasing anxiety and stress. Balancing professional responsibilities with exam preparation is particularly challenging for those working full-time. The costs associated with exams, including study materials and application fees, further add to the burden. The comprehensive nature of the exams, requiring extensive preparation often beyond what is covered in standard educational programs, was another major concern.

Although the survey primarily focused on education, supervision, and examinations, respondents also identified barriers associated with the overall licensing process. These include long waiting times to get hours certified and processed, as well as administrative hurdles such as the 90-day rule for live scans post-graduation. Navigating the licensing requirements, particularly in keeping up with changes that may necessitate additional coursework, posed further challenges. Understanding and tracking requirements for specific types of hours, such as those involving children or couples, also proved difficult for many. The 6-year rule, which invalidates previously accumulated hours if not completed within six years, was another significant barrier identified by respondents.

This information will be utilized by the Board's Workforce Development Committee to advance proposals aimed at strengthening workforce development initiatives.

**62. Provide any workforce development data collected by the board, such as:**

While the Board does not directly collect workforce development data, licensees are required to complete a demographic and workforce survey at the time of renewal. Although participation in the survey is mandatory, individuals may choose to decline to respond to specific questions. The collected data is shared with the Department of Health Care Access and Information (HCAI) for analysis and public reporting on the current workforce. HCAI has created dashboards that cover all Board license types, providing valuable insights that support the Board's workforce planning and discussions.

At the January 19, 2024, Workforce Development Committee meeting, members reviewed race and ethnicity data for registrants and licensees, derived from the HCAI survey. This information can be found in Section 11, Attachment E – HCAI Race & Ethnicity Data.

**63. What efforts or initiatives has the board undertaken that would help reduce or eliminate inequities experienced by licensees or applicants from vulnerable communities, including low- and moderate-income communities, communities of color, and other marginalized communities, or that would seek to protect those communities from harm by licensees?**

Board licensees are required to complete cultural competency coursework before licensure, and out-of-state applicants must demonstrate completion of comparable coursework specific to California's cultural context. The Board's primary consumer resource, Self Empowerment: How to Choose a Mental Health Professional, is now available in twelve languages, expanding

accessibility for diverse communities. Additionally, Board staff have participated in three diversity, equity, and inclusion trainings facilitated by DCA's SOLID Training and Planning Solutions. These sessions promoted awareness of implicit bias and its potential effects on decision-making and helped staff develop skills for navigating diverse communication preferences by understanding the strengths, values, and needs of individuals.

## Section 8 – Current Issues

### **64. Describe how the board is participating in development of online application and payment capability and any other secondary IT issues affecting the board.**

The Board utilizes the BreEZe system and was part of Release 1 in 2013. Since then, the Board has been very active in identify and requesting change requests to improve the system. The Department of Consumer Affairs (DCA) Office of Information Services has been responsive to these requests. Since it last sunset in 2019 the Board has established online applications for supervisor self-assessments, law and ethics re-examination, LMFT clinical re-examination, initial license, name changes, address changes, and license upgrades. The most notable change request that are currently being worked on are:

- A redesign of the Board's current rank-based licensing structure. While these changes will be not user facing changes to the system, they will allow the Board to better utilize the BreEZe system capabilities.
- Implementation of an online AMFT, ASW, and APCC registration application. This is expected to be fully released by the middle of 2025.

Additionally, the Board is currently exploring options to implement a BreEZe system upgrade or a compatible system that will allow for the electronic submittal and tracking of supervision forms and supervision experience hours.

## Section 9 – Board Action and Response to Prior Sunset Issues

The Board was last reviewed by the Legislature through sunset review in 2019-2020. During the previous sunset review, 11 issues were raised. In January 2025, BBS submitted its required sunset report to the Senate Committee on Business, Professions, and Economic Development and Assembly Committee on Business and Professions (Committees). In this report, the Board described actions it has taken since its prior review to address the recommendations made. The following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made. For those which were not addressed, and which may still be of concern to the Committees, they are addressed and more fully discussed under "Current Sunset Review Issues."

**PAST ISSUE #5:** What is the status of the Board's implementation of Assembly Bill 2138 (Chui/Low) and are any statutory changes needed to enable the Board to better carry out the intent of the Fair Chance Licensing Act?



The Board will discussing proposed updates made after DCA’s Legals initial review to the Board’s “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines”. The proposed changes fall into three general categories:

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

Previously, this proposal was approved by the Board at its meeting in August 2023.

**PAST ISSUE #5:** How does the Board ensure that supervisors are not supervising more registrants or trainees that authorized and how does the Board ensure individuals are earning reported hours?

The Board initiated amendments to its supervision regulation. These became effective January 1, 2022. The amendments did the following:

- Revise the qualifications to become supervisor.
- Require supervisors to perform a self-assessment of qualifications and submit the self-assessment to the Board.
- Set forth requirements for substitute supervisors.
- Update and strengthen supervisor training requirements.
- Strengthen supervisor responsibilities, including provisions pertaining to monitoring and evaluating supervisees.
- Strengthen requirements pertaining to documentation of supervision.
- Make supervision requirements consistent across the three licensed professions.
- Address supervision gained outside of California.
- Address documentation when a supervisor is incapacitated or deceased.
- Set forth terms relating to registrant placement by temporary staffing agencies.

**PAST ISSUE #6:** Is clarity needed for what places are considered exempt settings?

AB 690 (Arambula), Chapter 747, Statutes of 2021 reclassified all psychotherapy settings as either exempt or non-exempt from licensure and registration requirements, as defined. This bill also increased the maximum number of persons a supervising psychotherapist licensed under the Board may supervise from three persons to six persons.

**PAST ISSUE #11:** Should the licensing and regulation of the BBS be continued and be regulated by its current membership?

SB 1474 (Senate Committee on Business, Professions, and Economic Development), Chapter 312, Statutes of 2020 extended the Board’s sunset date for one year, to January 1, 2022. Subsequently, SB 801 (Archuleta), Chapter 647, Statutes of 2021 extended the Board’s sunset date to January 1, 2026.

**ISSUE #1: Technical, Clean-up Legislation**

**Background:** The Board requests several technical, clean up amendments be included in this year's sunset bill. The amendments were approved by the Board at the September 20, 2024 Board meeting.

**Sunset Provisions**

The Board has two key provisions in statute that are set to sunset on January 1, 2026. When developing these statutes, the Board chose to give each a sunset date that aligned with the Board's sunset date, so that any needed adjustments to those newer statutes could be done via the sunset bill if needed (for example, to address any unintended consequences that might arise, or make any needed clarifications).

The two sunset provisions of law are as follows:

1. Allowance of supervision via videoconferencing in all settings

In 2022, the Board sponsored AB 1758 (Aguiar-Curry, Chapter 204, Statutes of 2022) to allow supervision to take place via videoconferencing in all settings, not just in exempt settings. This bill was run as an urgency measure.

After evaluating the success of the allowance, including reviewing current research papers on supervision via videoconferencing, seeking feedback from supervisors and supervisees, and noting the lack of enforcement complaints on the topic, the Board proposes to delete the sunset date.

2. Temporary practice allowance

In 2023, the Board sponsored AB 232 (Aguiar-Curry, Chapter 640, Statutes of 2023). The bill provides a 30-day temporary practice allowance to qualifying therapists licensed in another U.S. jurisdiction to continue treating existing clients who are visiting California or relocating to California.

Because this was a brand-new allowance, the Board decided to include a sunset date of January 1, 2026, so that the allowance could be reevaluated as part of the Board's sunset review process.

The program has only been in effect since January 1, 2024. Since that date, the Board has issued approximately 9 temporary practice allowances per week, for a total of 263 between January 1st and mid-July.

The Board is proposing to extend the temporary practice allowance sunset date to January 1, 2030, to allow more time to gather data about the success of the program over time.

## **Advertising Requirements**

The Board is requesting technical amendments to the definition of “advertising” in its four practice acts. LPCC statute defines “advertising” in a slightly different way than the other 3 license types. The definition, which is located in BPC §4999.12(g), does not reference a public communication as defined in BPC §651(a), as the definition for the Board’s other 3 license types do.

This omission could affect the clarity of how advertising is defined for LPCCs. Specifically, §651’s “public communication” definition includes electronic communications, while §4999.12(g) for LPCCs does not loop this in. Although §651 applies to LPCCs by default (they are a healing art license type and thus subject to the statute), it may be preferable to clarify this in §4999.12, like the other practice acts do.

The Board’s proposal includes additional technical amendments to make the exact wording of the “advertising” definition in each practice act the same. In addition, language referencing “notices in church bulletins,” has been changed to reference “notices in bulletins from a religious organization” so that it is consistent across license types.

## **Supervisory Ratios for Associate Social Workers**

Associates who perform more than 10 hours of certain types of supervised experience per week in a setting are required to have at least one additional hour of direct supervisor contact for that week for that setting.

It was brought to the Board’s attention that there is some confusion surrounding which type of experience hours trigger the required extra hour of supervision per week for Associate Clinical Social Workers (ASWs). The Board is proposing making some changes to the wording of the requirement, which is located in BPC §4996.23.1(a)(2), to clarify its interpretation in a manner that is consistent with the law for the Board’s LMFT and LPCC license types.

## **LMFT enforcement statute of limitations**

The Board considered whether Business and Professions Code (BPC) §4982.05, which details the enforcement statute of limitations for licensed marriage and family therapists (LMFTs), is necessary. This is because BPC §4990.32, which is the Board’s general statute that applies to all 4 of its practice acts, contains very similar language.

After legal review, it was determined that BPC §4982.05 contains nearly duplicative language, and in some cases, BPC §4990.32 contains more specific detail. Therefore, the Board is requesting that BPC §4982.05 be deleted.

## **Association of Marital and Family Therapist National Examination**

To become a Licensed Marriage and Family Therapist (LMFT) in California, passing the Board-administered LMFT clinical exam is mandatory. This exam is developed by the Board with the assistance of Department of Consumer Affairs’ (DCA’s) Office of Professional Examination Services (OPES). In contrast, all other states require passing the Association of Marital and Family Therapy Regulatory Board’s (AMFTRB) Marital and Family Therapy National Examination (AMFTRB National Exam).

While the Board has already adopted national clinical examinations for Licensed Clinical Social Workers (LCSW) and Licensed Professional Clinical Counselors (LPCC), it has yet to adopt the AMFTRB National Exam for LMFT licensure. Adopting a national clinical exam will allow a California LMFT license to be more portable to other states. At its May 2024 Board meeting, the Board voted to

begin the process of drafting the necessary law changes to accept the AMFTRB National Exam as the clinical exam, and to collaborate with AMFTRB on addressing the Board's outstanding concerns.

The Board has determined that statutory amendments are needed as a first step to allow it the authority to adopt a national clinical exam via regulations if it desires. An amendment to the Board's clinical exam fee in statute is also needed to allow a national examination entity to charge the fee they determine necessary.

Statutory amendments would not adopt the AMFTRB National Exam; they would simply lay the groundwork to allow the adoption of the AMFTRB National Exam if the Board chose to do so via regulations. After statutory amendments are successfully adopted via legislation, the Board would need regulatory amendments to officially name the AMFTRB National Exam as the clinical exam accepted by the Board for LMFT licensure.

## **ISSUE #2: LEP Education and Experience Requirements Amendments**

**Background:** The Board requests that proposed amendments to its LEP licensing requirements be included in this year's sunset bill. The amendments were approved at the September 20, 2024, Board meeting.

The proposed statutory amendments to BPC §4989.20 fall into three categories:

- Specifying Experience Requirements in Greater Detail
- Clarifying Requirements for In-State Versus Out-of-State School Psychologists
- Adding an Age Limit to a Passing Score on the LEP Exam

The Board believes that together, these amendments will provide greater clarity to the LEP licensure requirements and will provide a process for out-of-state LEP applicants to qualify for licensure.

## **ISSUE #3: Retired License Amendments**

**Background:** The Board requests that proposed amendments to requirements to retire a license be included in this year's sunset bill. These amendments were approved at the September 20, 2024, Board meeting.

The proposal makes the following changes to the requirements to retire a license in the LMFT, LEP, LCSW, and LPCC practice acts:

- Instead of requiring one's license either be current and active or inactive to retire it, the proposal instead requires a license to be current and active, inactive, or expired within the past 3 years (this timeframe was chosen because an expired license is renewable for 3 years, after which it is cancelled). This added allowance would remove the barrier of requiring someone who had let their license expire from having to pay to reactivate it (to either active or inactive status) in order to then retire it.
- Clarifies what "subject to disciplinary action" means. A licensee who wishes to retire their license must not be subject to disciplinary action, but current law does not explicitly state what this means.

- Specifies what information needs to be provided to the Board in the application to retire a license and in the application to restore a retired license to active status.
- Specifies the professional title that a retired licensee is permitted to use.
- Limits a retired licensee from reactivating their license to one time only.
- Specifies the amount of renewal fee to be paid when reactivating a retired license based on the upcoming expiration date.
- Extends the time that a retired license can be reactivated without meeting certain additional requirements from three years to seven years, with the new requirements being as follows:
  - o If the retired license was issued less than 7 years prior, the applicant must pay the renewal fee, fingerprint, complete continuing education (18 or 36 hours, depending on how long they've been retired, including 6 hours in California law and ethics), and if retired for 3 or more years, pass the California law and ethics exam (LEP only: pass the LEP written exam if retired 3 or more years).
  - o If the retired license was issued 7 or more years prior, the applicant must pay the renewal fee, fingerprint, complete 36 hours of continuing education (including 6 hours in California law and ethics), and either pass the current exams required for licensure (California law and ethics and clinical exam) or hold a current, active and unrestricted equivalent license in the same profession in another U.S. jurisdiction and pass the California law and ethics exam.

**ISSUE #4: *Should the Board consider expanding its LPCC Professional Representation***

**Background:** The original language of SB 788 (Wyland), Chapter 629, Statutes of 2009 included the addition of two Licensed Professional Clinical Counselors (LPCCs) to the board composition. As enacted the bill only made provisions for one LPCC member. It is unclear as to why this change was made.

While LPCC licensees account for approximately 3% of the Board's licensee population, over the last four years LPCCs have had the largest increase in population (39%) when compared to LMFTs (15%) and LCSWs (20%). This increase is only projected to continue as the population of the corresponding registrant level of licensure that leads to a LPCC license, the Associate Professional Clinical Counselor (APCC), has increased approximately 50% over the same four years. The Board has not had any formal discussions regarding its professional membership representation.

**Recommendation:** The Board should consider legislation amendments to BPC §4990(a) to increase the LPCC Board's LPPC membership to two state licensed professional clinical counselors.

**ISSUE #5: *Supervision: Pre-Licensed Individuals. Does the Board need to amend its statutes or regulations to strengthen supervision of pre-licensed individuals?***

**Background:** Trainees are unlicensed individuals currently enrolled in a master's or doctoral degree program designed to qualify them for licensure. These individuals must have completed at least 12 semester units or 18 quarter units of coursework in a qualifying program. The "90-day rule" is a provision in the law that allows applicants for registration as an Associate Marriage and Family

Therapist, Associate Professional Clinical Counselor, or Associate Clinical Social Worker to count supervised experience gained during the period between the degree award date and the issuance of the Associate registration number. This is only applicable if the application for Associate registration is submitted within 90 days of the degree award date.

While the Board has established supervision requirements for trainees and individuals covered by the "90-day rule," it does not have direct oversight of these individuals during this period. There is growing concern about whether the supervision they receive is sufficient to adequately prepare them for licensure and maintain consumer protection.

**Recommendation:** The Board should review current supervision requirements for trainees and the "90-day" rule and consider whether amendments to the current statutes or regulations are necessary to ensure consumer protection.

**ISSUE #6: *Processing Timelines. What changes can the Board implement to the application***

**Background:** Over the past five years, application volumes have steadily increased, a trend that is expected to continue. The Board has observed an average annual increase of 5% in registration applications and 1% in licensure applications. To address these challenges, the Board has made efforts to meet its processing goals by temporarily reallocating staff, offering overtime to evaluators, and implementing process improvements. While the Board has recognized improvements to processing times through these efforts, staff recognize that additional efforts could ensure the Board further reduces and maintains processing times. One such effort is to fully automate the submittal of registration application and application for licensure.

A registration application requires an individual to submit a transcript and, in some instances, an education certification from their institution. The Board has implemented the process for individuals and institutions to submit these items electronically. Additionally, the Board is in the final stages of implementing an online registration application. While this system is close to being fully automated with online applications, staff will need to consider how to improve the process of transcript and additional supporting documents for registrant applications.

Applicants for licensure are required to complete 3,000 hours of supervised experience before becoming eligible to take the clinical licensure examination. To begin accumulating these hours, individuals must first register with the Board and maintain documentation of their supervision relationships and experience hours. Most registrants will work with multiple supervisors throughout this process, which typically spans a minimum of two years but can extend up to six years or more.

To document supervision, registrants use two key forms: the Supervision Agreement and the Experience Verification Form. The Supervision Agreement, completed prior to the start of supervision, affirms that both the supervisor and the supervisee understand their responsibilities and relevant legal requirements. This form also includes a supervisory plan outlining the goals and objectives of the supervision. The Experience Verification Form, completed at the end of each supervisory relationship, details the supervision provided and requires the supervisor to document the hours gained across specific areas. Supervisors are required to sign this form under penalty of perjury. Currently, registrants submit these forms with their licensure application after accumulating all supervised hours.

Implementing an automated system for maintaining and submitting supervision forms would provide significant benefits to both registrants and the Board. Board staff are aware of existing programs used

by applicants and agencies that assist in recording and tracking supervision hours and completing the necessary forms for Board submission. These systems allow applicants to submit their supervision records online, enabling supervisors to review and attest to them in real time. An automated approach would streamline the process for Board evaluators, allowing them to compile and analyze applicants supervised hours more efficiently. This system would enable the Board to review supervisory forms as they are completed, providing registrants with a streamlined, accessible method for managing and submitting their documented hours.

**Recommendation:** The Board should explore and implement improvements to current processes that will allow for a more streamlined process for submitting transcripts, education verifications, and supervisory experience forms.

***ISSUE #7: Artificial Intelligence. Does the Board need to amend current law to ensure***

**Background:** Currently, there is a lack of clear regulations and guidelines regarding the use of AI in mental health care. This uncertainty makes it difficult to ensure that AI tools are used safely and effectively. While AI tools currently available can offer some great assistance to a practitioner, the use in mental health raises significant ethical issues, including privacy, confidentiality, and informed consent.

**Recommendation:** The Board should examine the use of AI in mental health services and assess whether amendments to existing statutes or regulations are necessary to ensure consumer safety and uphold professional standards.

***ISSUE #8: Outreach & Education. How can the Board increase its engagement with***

**Background:** In the Board's strategic plan for 2022-26 the following goals were identified for outreach and education:

- Create a more responsive and robust consumer and licensing education program through videos, social media campaigns, and electronic publications to ensure understanding of new changes in laws and regulations.
- Collaborate with entities that work with consumers to increase equitable and inclusive outreach to diverse populations.
- Increase and diversify Board engagement with schools, training programs, public events, and relevant professional organizations to raise awareness of the Board's role and activities.
- Identify and implement strategies to gain increased participation in Board meetings from a wider group of stakeholders.
- Increase awareness of the profession by using outreach to build relationships with underserved communities and diversify the workforce.

**Recommendation:** The Board, through its Outreach and Education Committee, should actively discuss, identify, and pursue initiatives that align with and advance its strategic plan goals for outreach and education.

**ISSUE #9: *Interstate Compacts. Should California join the interstate compact for Licensed Professional Clinical Counselors and Licensed Clinical Social Workers?***

**Background:** Currently, two interstate compacts relevant to the Board's licensure are in effect: the Clinical Counselor Compact and the Social Work Compact.

**Recommendation:** The Board should evaluate and discuss the interstate compacts to determine whether joining them would be beneficial and appropriate for California.

**Background:** To become a Licensed Marriage and Family Therapist (LMFT) in California, passing the Board-administered LMFT clinical exam is mandatory. This exam is developed by the Board with the assistance of Department of Consumer Affairs' (DCA's) Office of Professional Examination Services (OPES). In contrast, all other states require passing the Association of Marital and Family Therapy Regulatory Board's (AMFTRB) Marital and Family Therapy National Examination (AMFTRB National Exam). While the Board has already adopted national clinical examinations for Licensed Clinical Social Workers (LCSW) and Licensed Professional Clinical Counselors (LPCC), it has yet to adopt the AMFTRB National Exam for LMFT licensure.

The Board discussed potentially accepting AMFTRB's exam, most recently at its May 2024 meeting. At the May meeting, the Board voted to begin the process of pursuing legislation and/or regulations accepting the AMFTRB National Exam, assuming some conditions can be met. At its August 9, 2024, meeting, the Board's Policy and Advocacy directed staff to bring the statutory amendments to the Board for consideration as a legislative proposal. (The regulatory amendments would need to be adopted separately at a later date, once the Board believes all implementation issues have been properly addressed and the Board is ready to proceed with the final step in accepting the national exam.)

**Recommendation:** The Board should consider whether to accept the AMFTRB National Exam for licensure in California.

**ISSUE #10: *Subject Matter Experts. What can the Board do to increase its pool of subject matter experts for case review and exam development?***

The Board utilizes the expertise of subject matter experts to review Board cases in determining if a violation of law occurred. These subject matter experts review the evidence obtained during the Board investigation and consider the standard of care for the profession in determining if a violation occurred. Further, the subject matter experts provide testimony at an administrative hearing, when appropriate. The subject matter expert's role is vital to the Board's mandate to protect the public.

It is crucial for the Board to have a robust pool of subject matter experts (SMEs) to ensure that each expert possesses the necessary qualifications to thoroughly review cases and provide credible testimony. However, the Board has faced significant challenges in recruiting and retaining these experts, largely due to the limited compensation offered. The compensation may not be competitive



enough to attract top-tier professionals, especially when compared to the earnings available in clinical practice or other consulting opportunities. Additionally, the demands of serving as an SME—such as case reviews, attending hearings, and managing extensive paperwork—can be cumbersome and time-consuming. These factors often discourage qualified professionals from participating in the process.

**Recommendation:** The Board may need to consider an augmentation to its SME budget line in the future to support increased compensation for SMEs.

***ISSUE #11: Psychedelic Assisted Therapy. Does the Board need to amend current law to ensure consumer protection when a licensee utilizes psychedelic assisted therapy in their***

Psychedelic-assisted therapy has garnered increasing attention in California, with legislative efforts aiming to regulate and expand its use. In February 2024, a bipartisan bill known as the Regulated Psychedelic-Assisted Therapy Act was introduced, proposing a framework for adults over 21 to access substances like psilocybin, MDMA, DMT, and mescaline under professional supervision. While emerging research suggests potential benefits of psychedelics in treating certain mental health conditions, the evidence is still developing. Psychedelic-assisted therapy requires specialized knowledge and skills.

**Recommendations:** The Board should explore the ethical and legal implications of psychedelic-assisted therapy by its licensees in mental health service delivery. This research may help determine whether amendments to current statutes or regulations are necessary to ensure consumer safety.

## Section 11 – Attachments

- A. Board’s administrative manual.
- B. 1a. Board Member Attendance  
1b. Board & Committee Member Roster  
1c. Board Member Biographies
- C. 1a. Telehealth & Supervision Survey 2021  
1b. Online-Only Therapy Platforms Study 2023  
1c. Pathway to Licensure Survey 2024
- D. Year-end organization charts for last four fiscal years.
- E. HCAI BBS Race & Ethnicity Data 2024



Board of Behavioral Sciences

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# BOARD MEMBER PROCEDURE MANUAL

## 2024

STATE OF CALIFORNIA

**dca**

DEPARTMENT OF CONSUMER AFFAIRS

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## ***INTRODUCTION***

This procedure manual is provided to Board Members as a ready reference of important laws, regulations, DCA policies, and Board policies to guide the actions of the Board Members and ensure Board effectiveness and efficiency. The Executive Officer will coordinate an orientation session with each new Board Member upon his or her appointment, to assist the new member in learning processes and procedures.

The Board's mission is to *protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practice.*

The vision of the Board is that *all Californians are able to access the highest-quality mental health services.*

To accomplish its mission, the Board develops and administers licensure examinations; investigates consumer complaints and criminal convictions; responds to emerging changes and trends in the mental health profession legislatively or through regulations; and creates publications for consumers, applicants, registrants, and licensees.

The Board's statutes and regulations require an individual to be licensed before they may engage in the practice of Licensed Clinical Social Work, Licensed Marriage and Family Therapy, Licensed Educational Psychology, and Licensed Professional Clinical Counseling. These statutes and regulations set forth the requirements for registration and licensure and provide the Board the authority to discipline licensees.

The highest priority for the Board is protection of the public in exercising its licensing, regulatory, and disciplinary functions. Board members fulfill this mandate through policy decisions and voting on proposed disciplinary actions in which a licensee or registrant has violated the Board's laws.





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# CHAPTER 1

## **BOARD HISTORY**

The Board of Behavioral Sciences (Board) is one of the forty regulatory entities within the Department of Consumers Affairs (DCA). DCA is one of eight entities under the Business, Consumer Services and Housing Agency (BCSH), an agency within the California State Government Executive Branch.

DCA educates consumers by giving them the information they need to avoid unscrupulous or unqualified people who promote deceptive or unsafe practices. Although DCA provides administrative oversight and support services to the Board, the Board has policy autonomy and sets its own policies, procedures, and regulations.

Legislation signed on July 18, 1945, by Governor Earl Warren created the Board of Social Work Examiners under the Department of Professional and Vocational Standards (renamed the Department of Consumer Affairs in 1970). California became the first state to register social workers. During the first 16 months of existence, the Board registered 4,098 social workers.

In the late sixties, the Marriage, Family, and Child Counselor Licensing Law and the Board of Social Work Examiners were combined and renamed the Social Worker and Marriage Counselor Qualifications Board. In 1970, regulatory oversight of Licensed Educational Psychologists was added, and the Board was renamed the Board of Behavioral Sciences Examiners.

In 1997 the name of the Board was changed to its present name, the Board of Behavioral Sciences. In 2010, a fourth mental health profession, Licensed Professional Clinical Counselors, was added to the Board's regulatory responsibilities.

Today, the Board licenses and regulates Licensed Clinical Social Workers (LCSW), Licensed Marriage and Family Therapists (LMFT), Licensed Educational Psychologists (LEP), and Licensed Professional Clinical Counselors (LPCC). Additionally, the Board registers Associate Clinical Social Workers (ASW), Associate Marriage and Family Therapists (Associate MFTs), and Associate Professional Clinical Counselors (Associate PCCs).

The first members of the Board were comprised of seven members, two of which were required to represent the public. The remaining members were required to be licensees of the Board. All members were appointed by the Governor and served a four-year term.

Today, the Board is comprised of thirteen (13) members; two (2) Licensed Clinical Social Workers, one (1) Licensed Educational Psychologist, two (2) Licensed Marriage and Family Therapists, one (1) Licensed Professional Clinical Counselor, and seven (7) members of the public. Each licensed member must possess a Master's Degree from an accredited college or university and shall have at least two years of experience in his or her profession.

Eleven (11) Board Members are appointed by the Governor and are subject to Senate confirmation. One (1) member is appointed by the Senate Committee on Rules and one (1) member is appointed by the Speaker of the Assembly. Each Board Member may serve up to two, four-year terms.

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## ***GENERAL RULES OF CONDUCT***

Whether you are attending a public board meeting or an event/activity unrelated to the Board, your role as a Board Member is continuous. The public perceives you as the “Board” and this perception will not end until your service on the Board is concluded. Therefore, it is important that your actions and conduct are a positive reflection upon the Board, and ultimately the Governor of California.

The following list is intended to assist Board Members in avoiding any situation that has the potential to reflect poorly on the Board.

- Board Members’ actions shall uphold the Board’s primary mission to protect the public.
- Board Members shall maintain the confidentiality of confidential documents and information.
- Board Members shall commit time, actively participate in Board activities, and prepare for Board meetings, which includes reading Board packets and all required legal documentation.
- Board Members shall respect and recognize the equal role and responsibilities of all Board Members, whether public or licensee.
- Board Members shall act fairly and in a nonpartisan, impartial, and unbiased manner.
- Board Members shall treat all applicants, registrants and licensees in a fair and impartial manner.
- Board Members shall not use their positions on the Board for political, personal, familial, or financial gain.



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## ***DEFINITIONS***

AEO	Assistant Executive Officer
AG	Office of the Attorney General
Agency (BCSH)	Business, Consumer Services, and Housing Agency
ALJ	Administrative Law Judge
B&P, BP, BPC	Business and Professions Code
BCP	Budget Change Proposal (request for additional staff/funds to board budget)
BreEZe	Board Database System
CCR	California Code of Regulations
DAG	Deputy Attorney General
DCA	Department of Consumer Affairs
Department	Department of Consumer Affairs
DOF	Department of Finance
DOI	Division of Investigations
EO	Executive Officer
LPR	Legislation and Policy Review Division
MOU	Memorandum of Understanding
OAH	Office of Administrative Hearings
OPES	Office of Professional Examination Services
PD	Proposed Decision issued from ALJ
SAM	State Administrative Manual
STIP	Stipulation – settlement agreement
Uniform Standards	Disciplinary Guidelines for Substance Abusing Licensees



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# CHAPTER 2

## **BOARD AND COMMITTEE MEETINGS**

### **BOARD MEETING FREQUENCY**

Business and Professions Code Section 101.7 requires the Board to meet at least two times per calendar year; holding at least one meeting in Northern California and one meeting in Southern California. The Board schedules four meetings usually in February/March, May, August/September and November. The meetings are two or three days in duration. A two-day meeting is scheduled on Thursday and Friday. A three-day meeting is scheduled on Wednesday through Friday. The number of disciplinary matters and petitioners determine if two or three days are necessary.

The meeting dates are coordinated with the Board Chair, Vice Chair, and the upcoming legislative calendar. The meeting dates are announced prior to the August/September Board meeting.

### **COMMITTEE MEETING FREQUENCY**

The Board has one standing committee: The Policy and Advocacy Committee. The Policy and Advocacy Committee is comprised of four Board Members. This Committee meets at least three times a year to discuss all legislative and rulemaking proposals. The meeting dates are coordinated with the Chair of the Committee and occur prior to the Board meeting.

As needed, ad-hoc committees are established to address specific topic areas. The number of members on an ad-hoc committee ranges from two to four Board Members.

All Committee Members are appointed by the Board Chair.

### **ATTENDANCE (BOARD POLICY #B-15-1)**

Board Members shall attend each meeting of the Board and their assigned committee. If a member is unable to attend, they must contact the Board Chair or the Executive Officer and ask to be excused from the meeting for a specific reason.

All meeting minutes will reflect Board Member attendance including when a member is excused or absent from the meeting.

*Please refer to Attachment A: Board Policy #B-15-1, Board Member Attendance.*



### ***MEETING QUORUM***

A quorum of the Board or Committee must be present to constitute an act and/or decision on behalf to the Board. If a quorum of the Board is not present, the meeting is canceled.

Quorum for a Board meeting is seven (7) members. Committee meetings require a majority of the Committee membership. For example, in committees comprised of three members, two members must be present.

### ***BOARD MEETING FORMAT***

The first day of the Board meeting (or two days if a three-day meeting is held) is reserved for all disciplinary matters and always includes a closed session. The closed session permits the Board to deliberate and render a decision on all disciplinary matters. The last day of the meeting is reserved for all Board business. At all Board meetings, Board Members are provided with a quarterly report regarding the Board's operations, statistics, and budget. All open sessions of the Board meetings are webcast.

### ***COMMITTEE MEETING FORMAT***

Committee meetings are schedule for one day. At all committee meetings, the members and the public discuss items on the meeting notice. The committee members will vote to recommend a position to the Board. The recommendation is presented at the next Board meeting. Alternatively, the committee members may direct Board staff to complete specified tasks and present the findings at a following committee meeting.

### ***AGENDA TOPICS (BOARD PROCEDURE)***

Any Board Member may suggest items for a Board meeting agenda to the Executive Officer or during the "Executive Officer's Report" at every Board meeting. The Executive Officer sets the agenda at the direction and approval of the Board Chair.

### ***MEETING MATERIALS (BOARD PROCEDURE)***

The Board staff prepares all materials for Board and Committee meetings. Board meeting materials are available electronically to all members.

Board and Committee Members will receive all related material in advance of each meeting. To engage in a meaningful discussion to determine a recommendation or position, Board and Committee Members should thoroughly review all meeting materials prior to each meeting.

### ***RECORD OF MEETING (BOARD PROCEDURE)***

Board minutes are a summary, not a transcript, of each board meeting. The minutes are prepared and submitted for review by Board Members before the next board meeting. Board minutes are approved at the next scheduled meeting of the Board. The purpose of reviewing and approving the minutes at a Board meeting is not to approve of actions

taken by the Board at the previous meeting, but rather to determine whether the minutes as drafted accurately reflect the Board's discussion at the previous meeting. When approved, the minutes shall serve as the official record of the meeting.

***DIGITAL RECORDING (BOARD PROCEDURE)***

The public-session portions of a meeting may be digitally recorded if determined necessary for staff purposes. Digital recordings shall be deleted following Board approval of the minutes.

***MEETING RULES***

The Board generally uses Robert's Rules of Order as a guide for conducting its meetings, to the extent that this does not conflict with state law. More information regarding Robert's Rules of Order is provided in Chapter 10.



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# CHAPTER 3

## **MEETING REQUIREMENTS**

All Board and Committee meetings are open to the public unless a closed session is specifically authorized. All Board and Committee meetings are subject to the provisions of the Bagley-Keene Open Meeting Act.

### ***BAGLEY-KEENE OPEN MEETING ACT***

The Bagley-Keene Open Meeting Act (*Government Code Section 11120 et seq.*) directs that the people's business must be conducted openly. Therefore, decisions and actions by a public agency must be conducted openly so that the public may be informed. The Board achieves this legislative mandate by complying with all the requirements specified in the Bagley-Keene Open Meeting Act.

### ***DEFINITION OF A MEETING (GOVERNMENT CODE SECTION 11122.5)***

A meeting is defined in the Bagley-Keene Open Meeting Act (Open Meeting Act) as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." In this definition, the term "state body" refers to the Board.

The meeting definition also applies to all communication between Board Members (e.g., emails, telephone calls, texts, dining conversations) if the total number of Board Members involved in the communication is a majority of the Board or a Committee.

If Board Members engage in any communication regarding Board business with more than one member, this communication is a violation of the Open Meeting Act. The violating members may be guilty of a misdemeanor (*Government Code Section 11130.7*).

There are some exemptions to the meeting definition. Please refer to the Bagley-Keene Open Meeting Act for clarification. When in doubt, contact the Executive Officer or the Board's legal counsel.

*Please refer to Attachment B: Guide to the Bagley-Keene Open Meeting Act.*

### ***TELECONFERENCE MEETINGS (GOVERNMENT CODE SECTION 11123)***

The Board may opt to hold a meeting via teleconference. This type of meeting is frequently held to discuss a single topic and when the discussion is anticipated to be less than 60 minutes. Meetings held via teleconference are also subject to the same notice requirements under the Open Meeting Act. The meeting notice must be published at

least ten days in advance and must include the physical location of each Board Member attending the meeting remotely.

The Board Member must be present at the physical location he or she provided for the meeting notice. The public is permitted to attend the meeting at any of the locations listed on the meeting notice during an open session of the meeting. Therefore, each Board Member must confirm that the physical location used for the teleconference meeting is ADA accessible. The public is not permitted to attend any part of the meeting that is designated as “closed session.”

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# CHAPTER 4

## ***BAGLEY-KEENE / OPENING MEETING ACT***

### ***BOARD DUTIES UNDER THE OPEN MEETING ACT***

The Board has three duties under the Open Meeting Act: provide notice of meetings, provide opportunity for public comment, and conduct public meetings.

### ***MEETING NOTICE REQUIREMENTS (GOVERNMENT CODE SECTION 11125)***

The Board must give adequate notice of meetings to be held. The Board meets this duty at the time the meeting notice is published. The Board must give at least ten calendar day's written notice of each Board and Committee meeting. This notice is posted on the Board's website. The meeting notice includes the location(s) where the meeting will be held and the meeting agenda.

The agenda must include all items of business to be transacted or discussed at the meeting. A brief description of the item to be discussed at the meeting is required. The description may not be generalized (i.e., miscellaneous topics or old business) and must provide sufficient information so that the public is aware of the item to be discussed.

The notice must include the name, address, and telephone number of any person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. Additionally, the notice must contain information that would enable a person with a disability to know how, to whom, and by when a request can be made for any disability-related accommodation, including auxiliary aids or services.

A meeting notice, once posted, may not be revised after the tenth day prior to the meeting date.

### ***OPPORTUNITY FOR PUBLIC COMMENT (GOVERNMENT CODE SECTION 11125.7)***

The Board meeting must provide an opportunity for public comment. The Board solicits public comment for each topic on the agenda and after a motion is made. Additionally, every Board and Committee meeting agenda contains an agenda item that allows for public comment and matters not on the agenda. Board Members may not act or discuss matters presented by the public under these agenda items. The matter may be suggested for a future agenda item or for follow-up by Board staff.

## ***PUBLIC MEETINGS***

The Board must conduct the meetings in an open session except where a closed session is specifically authorized. All Board and Committee meetings, except for a closed session, are open to the public.

Closed session meetings must follow the same meeting notice requirements and are held specifically for matters designated under law, such as discussion of disciplinary cases, pending litigation, and personnel matters.

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# CHAPTER 5

## **TRAVEL AND SALARY/PER DIEM**

### **TRAVEL POLICIES**

Board Members will be reimbursed for travel expenses related to all Board and Committee meetings. Reimbursement will be in accordance with current state travel reimbursement policies. Please refer to the Department of Consumer Affairs Travel Guide for specific travel guidelines and reimbursement policies.

*Please refer to Attachment C: Department of Consumer Affairs Travel Guide.*

### **TRAVEL APPROVAL (STATE ADMINISTRATIVE MANUAL SECTION 700 ET SEQ.)**

Travel related to Board and Committee meetings do not need approval. All other travel related to Board business must be approved by the Department of Consumer Affairs (DCA) prior to the event. This includes any out-of-state travel. Under specific circumstances, a Board Member may travel to attend a national association meeting. Please contact the Executive Officer for further information.

### **TRAVEL ARRANGEMENTS (DEPARTMENT PROCEDURE / BOARD PROCEDURE)**

Board Members should always contact Christina Kitamura to make travel arrangements for Board and Committee meetings. Ms. Kitamura will book flights, and hotel and rental car reservations. A hotel that honors the state government employee rate will be chosen for all Board Members needing a room. Rental cars will be reserved for Board Members when a car is needed. To encourage ride sharing, vans or large sedans are reserved. Board Members may also use taxi, ride sharing services such as Uber or Lyft, shuttle service, or a personal vehicle for transportation.

To facilitate easier travel planning, all Board Members should provide Ms. Kitamura with their credit card information and Southwest Rapid Rewards number. This information will be kept in a secure location and will be kept on file for future travel arrangements.

All travel and transportation arrangements are made in compliance with state travel guidelines. Any expenses incurred by a Board Member, which were not previously approved or within the state travel guidelines, may require written justification. The written justification will be submitted with the travel claim and is subject to the appropriate approvals. The expense may or may not be approved.



## ***EXCEPTIONS TO TRAVEL REIMBURSEMENT POLICIES***

### ***LODGING***

State guidelines generally prohibit reimbursement for hotel expenses within 50 miles of an individual's home address or an extra night stay following the conclusion of the Board activity. However, an exception to this guideline may be obtained if the circumstances necessitate an overnight stay. Please contact Ms. Kitamura for further information.

### ***AIRPORT PARKING REIMBURSEMENT***

State guidelines strongly encourage the use of the least expensive parking available. However, if the Board determines that additional parking costs above the lowest-cost option are in the best interest of the State, a written justification explaining the necessity for the additional cost must be submitted with the travel claim. Please contact Ms. Kitamura for further information.

### ***TRAVEL CLAIMS (DEPARTMENT POLICY)***

Rules governing reimbursement of travel and meeting expenses for Board Members are the same as for state management-level staff. All expenses must be claimed on the appropriate travel expense claim forms. All travel claim forms must be submitted to Ms. Kitamura for processing.

Board Members are strongly encouraged to submit their travel expense forms immediately after returning from a trip and not later than the 15<sup>th</sup> of the month following the trip. It is also necessary to submit original receipts for expenses claimed such as parking, transportation service, bridge tolls, and flight itineraries. Hotel receipts must reflect a zero balance. Receipts for meals are not required for reimbursement.

*Please refer to Attachment D: Travel Expense Claim Form.*

## ***SALARY PER DIEM***

### ***SALARY PER DIEM (BPC SECTION 103, BOARD POLICY #B-15-2)***

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by Business and Professions Code Section 103.

In relevant part, this section provides for payment of salary per diem for Board Members "for each day actually spent in the discharge of official duties," and provides that the Board

Member “shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.”

Board Members fill non-salaried positions but are paid \$100 per day for each meeting day or 8-hour day spent performing Board business. Board Members are advised to submit the Per Diem Claim Form not later than the 5<sup>th</sup> day of the following month. This allows board staff to promptly process all per diem claims. Timely submission of all claims ensures prompt processing for reimbursements and avoids extra work for Board staff.

*See Attachment E: Per Diem Claim Form.*

*See Attachment F: Per Diem Policy.*



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# CHAPTER 6

## **SELECTION OF OFFICERS AND COMMITTEES**

### **BOARD OFFICERS (BPC 4990(G))**

The Board shall elect a Chair and a Vice Chair from its membership. Not later than the first of June of each calendar year, the Board shall elect the officers. Officers shall serve terms of one year and may be re-elected to consecutive terms. The election of officers occurs at the May Board meeting.

If for any reason the Chair of the Board is unable to continue in his/her role as Chair, the Vice Chair shall immediately assume the duties of Chair until the next election of officers.

*See Attachment G: Board Policy #B-15-3, Succession of Officers.*

### **COMMITTEE APPOINTMENTS (BOARD PROCEDURE)**

Committees are created by and appointed at the discretion of the Board Chair. The Committee Chair is appointed by the Board Chair. Board Members who desire to serve on an existing committee or a future committee are encouraged to speak to the Board Chair.

### **DUTIES OF THE BOARD CHAIR**

- Spokesperson for the Board (may attend legislative hearings and testify on behalf of the Board, may attend meetings with DCA or Agency, may attend meetings with stakeholders and legislators)
- Meets and communicates with the Executive Officer on a regular basis
- Authors a Board Chair message for every quarterly newsletter
- Communicates with other Board Members for Board business
- Chairs and facilitates Board meetings
- Assigns Board Members to Board Committees, appoints the Chair for the Committee

In the absence of the Board Chair, the Board Vice Chair will perform the above duties.



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# CHAPTER 7

## **BOARD ADMINISTRATION AND BOARD STAFF**

### **BOARD ADMINISTRATION**

Board Members should be concerned primarily with formulating decisions on Board policies rather than making decisions concerning the implementation of such policy. It is inappropriate for Board Members to become involved in the details of program delivery or implementation. Strategies for the day-to-day management of Board programs and Board staff is the responsibility of the Executive Officer. Board Members should not interfere with day-to-day operations, which are under the authority of the Executive Officer.

### **EXECUTIVE OFFICER (BPC SECTION 4990.04)**

The Executive Officer is appointed by and serves at the pleasure of the Board, and is exempt from civil service. The Executive Officer shall exercise the powers and perform the duties delegated by the Board. The Executive Officer is responsible for the financial operations and integrity of the Board and is the official custodian of records. Annually, the Board Members will conduct a review of the Executive Officer's performance. The Board Chair will meet with the Executive Officer to discuss the performance appraisal.

### **BOARD STAFF**

Employees of the Board, except for the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and condition of employment are governed by a myriad of civil service laws and regulations, and often by collective bargaining labor agreements. Due to this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Board Members shall not intervene or become involved in specific day-to-day personnel transactions.

*See Attachment H: Board Organizational Chart.*

### **RULES FOR CONTACTING STAFF (BOARD PROCEDURE)**

Board Members should only contact the following designated staff:

- Executive Officer, Steve Sodergren at (916) 574-7904 regarding all Board business.

- Assistant Executive Officer, Marlon McManus at (916) 574-7917 regarding all Board business.
- Administrative Analyst, Christina Kitamura at (916) 574-7927 regarding travel, salary per diem, Board and Committee meeting materials, training and required personnel forms.
- Enforcement Manager, Gena Beaver (916) 574-7997 regarding disciplinary matters.
- Legal Counsel, Sabrina Knight at (916) 574-8242 regarding disciplinary procedural questions or ethical questions.

### ***STRATEGIC PLANNING***

The Board will conduct periodic strategic planning sessions. Dates for these sessions will be announced well in advance.

Att I. BBS Strategic Plan 2022

### ***BOARD MEMBER ADDRESSES (DCA POLICY)***

Board Member addresses and telephone numbers are confidential and shall not be released to the public without expressed authority by the individual Board Member.

A roster of Board Members is maintained for public distribution and is placed on the Board's website, using the Board of Behavioral Sciences' office address and telephone number.

### ***BUSINESS CARDS***

Business cards will be provided to each Board Member with the Board's address, telephone and fax number, and website address.

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# CHAPTER 8

## ***OTHER POLICIES AND PROCEDURES***

### ***PUBLIC RECORDS ACT AND COMPLAINT DISCLOSURE***

The California Public Records Act (PRA), Government Code Section 6250 et seq., requires public records to be available upon request. The PRA provides for specific timelines and general process to respond to a request for public records. Further, Government Code Section 6254 specifies which records are not subject to public disclosure. As a state regulatory board within DCA, the Board is subject to the requirements for all public record requests. The Board's response is coordinated with its DCA legal counsel.

Business and Professions Code Section 27 specifies what information, such as enforcement actions and a licensee's address of record, must be available through the Internet (i.e., Board website). Providing this information allows consumers to verify their mental health professional's licensure or registration status as well as determine if there is any disciplinary action. The Board's licensing records are updated daily.

### ***IMMUNITY FROM LIABILITY***

There are many provisions in state law relating to the liability of public agencies and employees. Government Code Section 818.4 states, "A public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where the public entity or an employee of the public entity is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked."

Government Code Section 821.2 states, "A public employee is not liable for an injury caused by his issuance, denial, suspension or revocation of, or by his failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where he is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked."

Many other complex provisions relate to defense, payment of a judgment or settlement, and indemnification. Specific questions should be discussed with the Board's legal counsel.



### ***RESIGNATION OF BOARD MEMBERS (GOVERNMENT CODE SECTION 1750)***

If it becomes necessary for a Board Member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Director of DCA, the Board Chair, and the Executive Officer.

The departing Board Member is also required to complete and submit specific paperwork immediately following the effective date of the resignation. The departing Board Member is encouraged to contact Ms. Kitamura for further information.

### ***REMOVAL OF BOARD MEMBERS (BPC 106)***

The Governor has the power to remove from office, at any time, any member of any Board appointed by him for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct.

### ***RULES FOR CONTACT WITH THE PUBLIC, A LICENSEE, AN APPLICANT, OR THE MEDIA***

Occasionally, in your role as a Board Member, you may be contacted by a licensee, colleague, applicant, member of the public, or the media regarding an issue or concern that pertains to Board business or proceedings. Any one of these contacts may compromise your position relating to future decisions about policy, disciplinary actions, or other Board business.

To avoid compromising your role as a Board Member, please refrain from assisting the individual with his/her issue. Instead, offer to refer the matter to the Executive Officer or give the individual the contact information for the Executive Officer. Refrain from engaging in discussion with the individual and make every effort to end the conversation quickly and politely. Report all such contacts to the Executive Officer as soon as possible.

### ***CONFLICT OF INTEREST (GOVERNMENT CODE SECTION 87100)***

No Board Member may make, participate in making, or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has financial interest. Any Board Member, who has a financial interest that may be affected by a governmental decision, shall disqualify himself/herself from making or attempting to use his/her official position to influence the decision. Any Board Member who feels he/she is entering a situation where there is potential for a conflict of interest, should immediately consult the Executive Officer or the Board's legal counsel.

## **SERVICE OF LAWSUITS**

Board Members may receive service of a lawsuit against themselves and the Board pertaining to a specific issue (e.g., a disciplinary matter, a complaint, a legislative matter, etc.). To prevent a confrontation, the Board Member should accept service. Upon receipt, the Board Member should notify the Executive Officer of the service and indicate the name of the matter that was served, date and time of service, and any other pertinent information. The Board Member should mail the entire packet to the Executive Officer as soon as possible. In addition to mailing the packet, the Board Member should also scan and email the packet to the Executive Officer. The Board's legal counsel will provide instructions to the Board Members on what is required of them once service has been made.

## **EX PARTE COMMUNICATIONS (GOVERNMENT CODE SECTION 11430.10 ET SEQ.)**

The Government Code contains provisions prohibiting *ex parte communications*. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party.

While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

*"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the presiding officer from an employee or representative or if an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication."*

An applicant who is formally being denied licensure, or a licensee/registrant against whom a disciplinary action is being taken, may attempt to directly contact Board Members.

If the communication is written, the member should read only enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, the Board Member should reseal the documents and send them to the Executive Officer or forward the email.

If the Board Member receives a telephone call from an applicant or licensee/registrant against whom an action is pending, the Board Member should immediately tell the person they cannot speak to the person about the matter. If the person insists on discussing the case, the person should be told that the Board Member will be required to recuse himself or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the licensee/registrant or applicant.

If the Board Member believes he or she has received an unlawful *ex parte* communication the Board Member should contact the Board's legal counsel and/or the Executive Officer.



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# CHAPTER 9

## **BOARD MEMBER REQUIRED TRAINING**

Board Members are required to complete specific forms and training at various intervals during their appointment period. To ensure compliance and notification to the requisite agencies, all training certificates and required forms must be sent to Ms. Kitamura at the Board.

Ms. Kitamura will forward the required documentation to the appropriate agency and maintain a copy in the Board Member's personnel file. It is important that the Board have a copy of all required training and documents. This ensures that the Board has an accurate record that you have satisfied all requirements and are able to provide copies upon request. The following is the list of required training.

### **STATEMENT OF ECONOMIC INTEREST (<http://www.fppc.ca.gov/Form700.html>)**

This form is commonly referred to as Form 700 and is to be completed upon assuming the position, annually, and upon leaving. Under DCAs' Conflict of Interest Code, designated officials are required to complete a Statement of Economic Interests Form 700. Annually, DCA will send several reminders to complete this form with a link to the electronic filing system.

Failure to complete this form in a timely manner may result in a fine from the Fair Political Practice Commission. All fines are publicly noticed.

### **ETHICS ORIENTATION FOR STATE OFFICIALS (GOVERNMENT CODE SECTIONS 11146-11146.4)**

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat the ethics orientation every two years throughout their term.

The training includes important information on activities or actions that are inappropriate or illegal. For example, public officials cannot take part in decisions that directly affect their own economic interests. They are prohibited from misusing public funds, accepting free travel and accepting honoraria. There are limits on gifts.

An online, interactive version of the training is available on the Attorney General's website at <https://oag.ca.gov/ethics/course>.

An accessible, text-only version of the materials is also available at the Attorney General's website.

Copies of completion certificates must be sent to Ms. Kitamura to be maintained in the personnel file. Records concerning the attendance of this course must be kept on file for five years.

### ***DCA BOARD MEMBER ORIENTATION TRAINING (BPC SECTION 453)***

California Business and Professions Code Section 453 require every newly appointed member to complete a training and orientation program offered by DCA within one year of assuming office.

DCA has been advised that this statute also applies to all reappointed Board Members. Therefore, if you attended the training during your first term and are reappointed, you must attend the training following your reappointment.

The training covers the functions, responsibilities and obligations that come with being a member of a DCA board. To receive credit for the training, Board Members must attend the entire day.

DCA schedules the Board Member Orientation Training (BMOT) sessions throughout the year. Specific locations are announced several months prior to the orientation. Board Members must register for the training through Ms. Kitamura.

### ***SEXUAL HARASSMENT PREVENTION TRAINING (GOVERNMENT CODE SECTION 12950.1; CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 11024)***

Section 12950.1 of the Government Code requires an employer having five or more employees to provide at least two hours of classroom or other interactive training and education regarding sexual harassment to all supervisory employees and at least one hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees. The employer shall provide sexual harassment training and education to each employee once every two years. New nonsupervisory employees shall be provided training within six months of hire. New supervisory employees shall be provided training within six months of the assumption of a supervisory position.

California Code of Regulations, Title 2, Section 11024 also specifies requirements of an employer to provide two hours of training mandated by Government Code 12950.1.

An online, two-hour Sexual Harassment Prevention Tutorial is provided by DCA. Ms. Kitamura will provide information and instructions to access the online tutorial.

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# CHAPTER 10

## ***BOARD MEMBER ROLE – POLICY DECISIONS***

Protection of the public is the highest priority for a Board Member. Board Members achieve this mandate by establishing policies that affect the licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

### ***SETTING BOARD POLICY***

At each Board and Committee meeting, Board Members are presented proposals to modify or add to existing statutes and laws affecting the licenses and registrants governed by the Board. Each meeting packet will contain information relevant to the discussion, such as an analysis of the proposed bill or suggested language to modify an existing statute.

The meeting allows for Board Members and stakeholders to engage in an open discussion regarding the proposal. Below is a list of questions that are helpful to consider when determining an action or position on the proposal.

#### Consumers

- Does a consumer safety issue exist?
- Does the bill assist consumer access to services?
- Does the bill ensure their safety?
- Will the provisions provide them with more information?
- Does the bill directly or indirectly increase costs for the consumer?
- Is any added cost worth the increased protection provided by the bill?
- Is there a less costly way to achieve the goals of the bill?

#### Licensees

- Is the provision necessary to ensure that they are minimally competent to perform their scope of practice?
- Will the bill increase costs for the licensees?

- Does the bill increase barriers to entry for licensees?
- The bill should not be concerned with elevating licensees (trade associations).
- Is there a way to achieve the bill's goal that is less costly for the licensees?

Board Impact

- Will the bill be costlier for the Board?
- Does the Board have the staff, resources, and expertise to perform any proposed additional functions?
- Is the proposed additional function appropriate for the Board to perform?
- Will it result in a fee increase?
- Is there a way to achieve the bill's goal that is less costly to the Board?

The discussion may result in the following action.

- Board staff is directed to make the suggested changes and bring the proposal back at a future meeting.
- Board staff is directed to gather additional information to present at a future meeting.
- The proposal is approved by the Board, and Board staff is directed to initiate the action (i.e., initiate rulemaking process or seek an author for the proposal).
- The discussion results in a motion to take a formal position on the proposal.

As a member of a state regulatory board, the Board’s position on a bill proposal affecting Board licensees/registrants is important to legislators. Regulatory agencies, such as the Board, are viewed as the experts for the professions it regulates. In determining policy changes, the legislature relies on their staff and regulatory boards for input. The absence of a position on a bill proposal that affects the Board’s licensees and registrants may result in unintended consequences. Therefore, it is important when considering a position to understand the position’s definition.

<b>Position</b>	<b>Definition</b>
Support	The Board agrees with the proposal. The Board will send a letter of support to the author and actively participate in the legislation process to get the proposal in law.

Support, if amended	The Board is seeking some changes to the proposal. If the requested changes are made, the Board will move to a support position. If changes are not made, the Board will move to a neutral (silent) position on the proposal.
Oppose	The Board does not agree with the proposal. The Board will send a letter of opposition to the author and actively participate in the legislation process to prevent the bill from becoming law.
Oppose, unless amended	The Board is seeking some changes to the proposal. If the changes are not made, the Board will move to an oppose position. If the changes are made, the Board will move to a neutral (silent) position on the proposal.
Neutral	The Board neither supports or opposes the proposal. The Board does not participate in the legislative process.

The Board Member Procedure Manual states that the Board will use Robert’s Rules of Order (Robert’s Rules) as a guide when conducting its meetings to the extent it does not conflict with state law. The Board has not adopted Robert’s Rules as its mandatory governing procedure for meetings, nor has the Board historically chosen to apply its strict provisions. The Board is free to adjust its practice for handling motions to promote effective deliberation and decision-making.

The Board’s custom and practice has been to use the following process when dealing with amendments to motions:

- Following Board Member and comments from the public, a motion is made and seconded.
- Discussion between Board Members and request for additional public comments.
- Request for motion to be amended or a competing motion is made.
- If the first Member agrees to the amendment, and the amended motion is seconded, then it proceeds to discussion between Board Members, public comment, and vote.



- If the first Member withdraws the original motion, then a new motion can be made and seconded, and the new motion proceeds to Board discussion, public comment, and vote.
- If the first Member does not agree to amend or withdraw the motion, then it proceeds to public comment and vote. If it fails, then a new motion may be made.

In contrast, under Robert’s Rules, motions to amend or substitute would proceed as follows:

- Main motion is made and seconded.
- The president/chair states the question on the motion.
  - Until the president/chair states the question, the first Member has the right to modify the motion or to withdraw it. Additionally, until the president/chair states the question, another Member can ask the first Member if he or she will accept a modification. If the request for modification is accepted, then it may be seconded again, or presumed seconded by the Member who requested the modification.
- After the question has been stated by the president/chair, the first Member cannot amend nor withdraw the motion without the Board’s consent.
- Board Member discussion starts with the person who made the motion. A Member who has spoken twice on a motion has exhausted his or her right to speak on the motion again (unless rules are formally waived).
- If a Member makes a motion to amend the main motion, or to substitute a different motion, and it is seconded, then this subsidiary motion takes precedence over the main motion, and proceeds to discussion, public comment, and vote.
- Depending on the results of the vote on the motion to amend, the main motion, in its amended or original form, is subject to public comment and Board vote.

### **Example**

**Member 1:** I move that the Board support the bill. (Seconded)

**President:** It is moved and seconded to support the bill.

**Member 2:** I move to amend the motion by adding “if it is amended to state XYZ.” (Seconded)

**President:** It is moved and seconded to add, “if it is amended to state XYZ.” If the amendment is adopted, the main motion will read, “The Board supports the bill if it is amended to state XYZ.” The question is on adding the words “if amended to state XYZ.”

If the Board votes in favor of the amendment, then it would vote on the main motion as amended: “The Board supports the bill if it is amended to state XYZ.”

If the Board opposes the amendment, then it would vote on the main motion as originally stated: “The Board supports the bill.”

In compliance with the Open Meeting Act, the public would be invited to comment before each vote.

### **More on Robert’s Rules**

Under Robert’s Rules, there are four basic types of motions, with subcategories:

1. **Main Motions (§10):** The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.
2. **Subsidiary Motions:** Their purpose is to change or affect how a main motion is handled and is voted on before a main motion.
  - a. **Postpone Indefinitely (§11):** Used to drop the main motion without a direct vote on it.
  - b. **Amend (§12):** Used to modify the wording – and within certain limits – the meaning of a pending motion before the pending motion itself is acted upon.
  - c. **Commit or Refer (§13):** Used to send a pending question to a committee or task force.
  - d. **Postpone to a Certain Time (§14):** Used to put off action on a pending question to a definite day, meeting, or until after a certain event.
  - e. **Limit or Extend Limits of Debate (§15):** Used to change the number or length of time Members can talk about a pending motion.
  - f. **Previous Question (§16):** Used to immediately close debate and the making of subsidiary motions, except the motion to Lay on the Table.
  - g. **Lay on the Table (§17):** Used to interrupt the pending business to permit doing something else immediately.

3. **Privileged Motions:** Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
  - a. Call for Orders of the Day (§18): Used to require Members follow the agenda.
  - b. Raise a Question of Privilege (§19): Used to obtain recognition to state an urgent motion or request while another motion is pending.
  - c. Recess (§20): Used to take a short break while another motion is pending.
  - d. Adjourn (§21): Used to close the meeting immediately.
  - e. Fix the Time to Which to Adjourn (§22): Used to set the time and place for another meeting to continue business of the session, with no effect on when the current meeting will adjourn.
  
4. **Incidental Motions:** Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.
  - a. Point of Order (§23): Used when a Member thinks that the rules are being violated, thereby calling upon the president/chair for a ruling and an enforcement of the regular rules.
  - b. Appeal (§24): Used to appeal the president's/chair's ruling by one Member making a motion to appeal the decision, and another Member seconding it. The decision is then made by the Board via vote.
  - c. Suspend the Rules (§25): Used to permit the Board to do something during a meeting that it cannot do without violating a rule.
  - d. Objection to the Consideration of a Question (§26): Used to enable the Board to avoid an original main motion when it believes it would be undesirable for the motion to come before the Board at all.
  - e. Division of a Question (§27): Used to divide a multi-part motion into single parts to be voted on.

Incidental, privileged, and subsidiary motions take precedence, in that order, over main motions.

*See Attachment J: Robert's Rules of Order Cheat Sheet.*

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# CHAPTER 11

## ***BOARD MEMBER ROLE – DISCIPLINARY PROCESS***

### ***DISCIPLINARY PROCESS OVERVIEW***

Each year, the Board receives over 1,500 consumer complaints and nearly 1,200 criminal arrest notifications. Through the enforcement process, each consumer complaint and criminal arrest notification is reviewed to determine if the matter is within the Board's jurisdiction. If the complaint or conviction is determined to be within the Board's jurisdiction, the allegations are investigated to determine if evidence exists to substantiate a violation of the Board's laws and regulations.

All cases in which the evidence substantiates a violation has occurred, are referred to Subject Matter Experts (SMEs). The SME is a licensee of the Board and will review the investigation and evidence to determine if the violation constitutes gross negligence, incompetence, and/or patient harm. Cases in which clear and convincing evidence substantiates a violation of the Board's laws and regulations, appropriate disciplinary action is initiated.

### ***DISCIPLINARY OPTIONS***

The Board has two options available to impose discipline against a licensee. In cases in which the violations do not warrant the revocation of a license, a citation and fine is issued. In cases in which the violations are egregious and warrant formal discipline of the license/registration, the Board forwards the matter to the Attorney General's (AG's) office to pursue formal disciplinary action. Each decision is made in consultation with the Executive Officer.

### ***CITATION AND FINE***

A citation and fine issued to the licensee is not considered a formal disciplinary action. However, the matter is an administrative action and is subject to public disclosure. The fines are set forth in law and range from \$100 to a maximum of \$2,500. In specific circumstances (e.g., fraudulent billing to an insurance company), a fine up to a maximum of \$5,000 may be issued.

All citation and fines issued include an order of abatement in which the cited person must provide information or documentation that the violation has been corrected. The cited person is afforded the opportunity to appeal the issuance of the citation and fine.

The cited person may submit a written request for an administrative hearing or an informal citation conference. All informal citation conferences are conducted by the Assistant

Executive Officer and the Enforcement Manager. The citation may be modified, affirmed, or dismissed. If the cited person wished to contest the affirmed or modified citation, the matter will be referred to an administrative hearing before an Administrative Law Judge (ALJ).

### ***FORMAL DISCIPLINARY ACTION***

If an investigation and evidence substantiate gross negligence, incompetence, or patient harm, the Enforcement Analyst, in consultation with the Enforcement Manager and Executive Officer, determines whether the case should be forwarded to the AG's Office for formal disciplinary action.

### ***FILING FORMAL CHARGES***

Formal charges are almost always filed in cases in which the health and safety of the consumer has been compromised, and in which clear and convincing evidence can be established. The Board's Executive Officer determines whether to file formal charges for any violation of the Board's licensing laws. These formal charges are referred to as pleadings. In each pleading, the Executive Officer is the complainant. The Deputy Attorney General (DAG) assigned to the matter represents the Board.

### ***PLEADINGS***

There are three types of pleadings. The type of pleading is dependent upon whether the respondent (subject of the case) is licensed or registered with the Board, an applicant for licensure, or is already on probation.

- **Accusation:** A written statement of charges against the holder of a license or privilege, to revoke, suspend or limit the license, specifying the statutes and rules allegedly violated and the acts or omissions comprising the alleged violations.
- **Statement of Issues:** A written statement of the reasons for denial of an application for a license or privilege, specifying the statutes and rules allegedly violated and the acts or omissions comprising the alleged violations.
- **Petition to Revoke Probation:** A written statement to revoke a probationer's license or registration alleging the probationer has violated the terms and conditions of his or her probation.

In all formal disciplinary actions, the respondent is formally notified of the Board's proposed action, their rights under the law, and a due date to respond to the Board's notification.

## ***ACTIONS PRECEDING AN ADMINISTRATIVE HEARING***

### ***STIPULATIONS (SETTLEMENTS) – REQUIRES BOARD MEMBER VOTE***

The licensee/applicant and Board may decide to settle the case at any time during the administrative process. Settlements are negotiated and completed prior to the date of an administrative hearing. Although settlements prior to the scheduled hearing avoid the expense of a hearing; this is not a reason to settle a case. Settlements are considered in cases where the respondent has presented mitigating information/evidence to demonstrate that he/she may be a good candidate for probation.

The settlement is reduced to a written stipulation and order which sets forth the settlement terms and proposed disciplinary order. The DAG prepares a memo describing the rationale for the proposed settlement. The memo and the written stipulation and order are forwarded to the Board Members for consideration and decision.

If the Board Members reject the proposed settlement, the case will return to the disciplinary process. A new settlement may be submitted to the Board Members later or the case may proceed to an administrative hearing before an ALJ.

Stipulations prior to an administrative hearing also eliminate the six-months to one-year delay that may result from attempting to schedule a mutually agreeable hearing date. The public is often better served because the resolution time is reduced, lengthy appeals are avoided, and the Board and respondent save time and money. Further, a licensee on probation is closely monitored by the Board.

### ***DETERMINING SETTLEMENT TERMS***

Stipulations (settlements) are negotiated by the DAG (in consultation with the Executive Officer), the respondent, and the respondent's legal counsel. Stipulation terms are provided to the DAG utilizing the Board's Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Disciplinary Guidelines). These guidelines provide the parameters for settlement terms for specific violations of law.

In negotiating a stipulation, the DAG works closely with the Board's Executive Officer to arrive at a stipulation that will be acceptable to the Board. The Executive Officer considers the evidence, the law, witness and subject matter expert testimony, and protection of the public in the decision process.

The following factors are considered when settlement terms are proposed:

- Nature and severity of the act(s), offense(s), or crime(s)
- Actual or potential harm to any consumer or client
- Prior disciplinary record

- Number and/or variety of current violations
- Mitigation evidence
- Rehabilitation evidence
- In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation
- Overall criminal record
- Time elapsed since the act(s) or offense(s) occurred
- Whether the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties
- Recognition by respondent of her or his wrongdoing and demonstration of corrective action to prevent recurrence

The Board's Disciplinary Guidelines were established to provide consistency in determining settlement terms. Variation from the guidelines may occur when sufficient mitigating information or evidence warrants a reduction in the term and does not compromise consumer protection.

Enforcement staff considers the Disciplinary Guidelines when determining whether to seek revocation, suspension, and/or probation of a license. Board Members use the Disciplinary Guidelines when considering cases during closed sessions. The Disciplinary Guidelines are updated when necessary and are distributed to DAGs and ALJs who work on Board cases.

A pre-hearing conference may be scheduled to settle the case prior to the administrative hearing. Pre-hearing conferences are a more formal method for developing a stipulated agreement. These hearings involve the Executive Officer, the respondent, respondent's attorney, and an ALJ.

If the parties are not able to agree on the proposed settlement terms, the matter will move forward to a hearing held at the Office of Administrative Hearings.

*See Attachment K: Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.*

### **OFFICE OF ADMINISTRATIVE HEARINGS**

The Office of Administrative Hearings (OAH) consists of two divisions located in six regional offices at major population centers throughout the state. The first division is the General Jurisdiction Division, which conducts hearings, mediations, and settlement

conferences for more than 1,000 state, local, and county agencies. This division conducts the formal hearings for the Board. The second division is the Special Education Division, which conducts special education due process hearings and mediations for school districts and parents of children with special education needs throughout the state. Each year between 10,000 and 14,000 cases are filed with the OAH.

The OAH is a central panel of experienced, highly qualified ALJs who preside as neutral judicial officers at hearings and settlement conferences. They also serve as impartial mediators at mediations held to resolve disputes between parties. The ALJs are fully independent of the agencies whose attorneys appear before them. The ALJs are required to have practiced law for at least five years before being appointed and typically have over ten years of experience.

The administrative hearing process is similar to any other court proceeding. The ALJ presides over the hearing; a (DAG) represents the Board and presents the case; and the respondent or the respondent's representative/attorney presents its case. Testimony and evidence is presented and there is a transcript of the proceedings.

Upon the conclusion of the administrative hearing, the ALJ will consider all the testimony and evidence and will prepare a Proposed Decision. Once the hearing is finished, the ALJ has 30 days to prepare the Proposed Decision and send it to the Board.

### ***FORMAL DISCIPLINARY CASE OUTCOMES***

The Board refers over 100 cases a year for formal discipline. The possible outcomes for these cases are denial of the application, revocation, surrender of the license/registration, or probation. If an individual is placed on probation, the individual must comply with the specific terms of the probation during the probation period. Once the individual has successfully completed probation, the license or registration is restored without restrictions. However, the discipline will remain part of the individual's record for twenty years.

### ***DEFAULT DECISIONS***

If an accusation is returned by the post office as unclaimed, the service is not possible because the Board does not know the whereabouts of a respondent. The respondent is considered to be in default. A respondent is also considered to be in default if the respondent fails to file a Notice of Defense upon receipt of the Accusation or Statement of Issues or fails to appear personally or through counsel at the hearing.

Default cases result in revocation of the license or denial of the application. The Board Members have delegated the authority to adopt a Default Decision to the Executive Officer. In the event, the respondent becomes aware of the decision prior to the effective



date, he/she may submit a written request to reconsider the decision. This request is presented to the Board Members to determine if they wish to grant the request.

### ***PROBATION***

Licensees who are placed on probation are monitored by the Board. The average length of probation is 3.9 years. Upon successful completion of probation, the license is restored and is unrestricted.

A probationary file is established to monitor an individual's compliance with the probation requirements (e.g., cost recovery payments, remedial education course completion, and quarterly reports). When a probationer violates a term of probation, the Board has the option to revoke probation and impose previously stayed discipline. Within some stipulated agreements, language is included that provides for automatic revocation of a license if certain conditions of probation are not met.

### ***CRIMINAL PROSECUTION***

Depending on the nature of a complaint, cases may be referred to local law enforcement entities. All cases in which there is sufficient evidence to file charges against a licensee, registrant, or person performing unlicensed activity are referred to the appropriate city or district attorney's office. Criminal actions include, but are not limited to, violations of the licensing laws of the Board.

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# CHAPTER 12

## ***BOARD MEMBER ROLE - DISCIPLINARY CASE REVIEW***

### ***BOARD REVIEW OF STIPULATIONS AND PROPOSED DECISIONS***

The Board Members review and vote on each case where the matter is either settled prior to hearing or the ALJ issues a Proposed Decision. In all cases, the Board Member has the option to adopt, non-adopt, or hold for discussion. The decision on each case is based on a majority vote of the Board.

### ***MAIL VOTE PROCESS***

Proposed Decisions (decision from the ALJ) and Proposed Stipulations (negotiated settlements) are sent to the Board vi a mail for their consideration and vote. Mail ballot packet materials are confidential and include the following:

- Memo from enforcement staff listing the cases for review and decision
- Ballot or instructions to submit the vote electronically
- Legal documents (Proposed Decision or Proposed Stipulation, and Accusation or Statement of Issues)
- Memo from the assigned DAG (Proposed Stipulated Settlement cases only)
- Self-addressed, stamped envelopes

Deliberation and decision-making should be done independently and confidentially by each Board Member. The Board Member shall only use the information provided to make their determination. Where the vote is done by mail (or email), voting members may not communicate with each other and may not contact the DAG, the respondent, anyone representing the respondent, any witnesses, the complainant, the ALJ, or anyone else associated with the case.

Additionally, Board Members should not discuss pending cases with Board staff, except as to questions of procedure or to ask whether additional information is available, and whether the agency may properly consider such information. It is strongly encouraged that these types of questions be directed to the Executive Officer or the Board's legal counsel.

If a Board Member has any procedural questions not specific to evidence, or any question specifically related to the cases, the questions should be directed to the Board's legal counsel.

Completed mail ballots are due at the Board office no later than the due date indicated in the mail ballot package. The due dates are established in accordance with the timelines indicated in the Administrative Procedure Act (APA). It may be that your vote that is the deciding vote in the outcome of a case. Therefore, it is critical that Board Members return their votes timely.

Mail ballot materials should be retained until notification by enforcement staff that the cases have been adopted. Once a decision is final, the mail ballot packet materials must be confidentially destroyed.

### ***MAIL BALLOT DEFINITIONS***

Each mail ballot will have the following options for each case. Below are the definitions for each option.

- **Adopt/Grant:** A vote to adopt the proposed action means that you agree with the action as written.
- **Reject/Non- Adopt:** A vote to reject or non-adopt the proposed action means that you disagree with one or more portions of the proposed action and do not want it adopted as the Board's decision. However, a majority vote to adopt will prevail over a minority vote to not adopt.
- **Hold for Discussion:** A vote to hold for discussion may be made if you wish to have some part of the action changed in some way (increase penalty, reduce penalty, etc.). For example, you may believe an additional or a different term or condition of probation should be added, or that a period of suspension should be longer. At least TWO votes in this category must be received to stop the process until the Board can consider the case in closed session at the Board meeting.
- **Topic Discussion for Open Session:** By marking this category, you may have a matter that is not specifically related to the case, but a topic in general discussed at the Board's next meeting. The discussion will be in open session.

### ***MAIL VOTE OUTCOMES***

Below are the outcomes for each voting option for either a Stipulation (proposed settlement) or Proposed Decision.

#### ***STIPULATIONS – PROPOSED SETTLEMENT***

- **Adopt** – If the decision of the Board is to adopt the terms proposed in the Stipulation, the decision becomes effective within 30 days and the respondent is notified.

- **Reject/Non-Adopt** – If the Board decides to reject or non-adopt the stipulation, the respondent is notified, and the matter resumes the process for a formal administrative hearing before an ALJ. Following the hearing, the ALJ will issue a Proposed Decision for the Board Members to consider.
- **Hold for Discussion** – A Board Member may be unable to decide due to concerns or desire further clarification. (*Note: A Board Member may seek procedural clarification from the Board’s legal counsel.*) In this situation, the Board Member may choose to hold the case for discussion citing the reasons for this vote. If two or more Board Members vote to hold the case for discussion, the case is discussed in the next available meeting during a closed session. If only one Board Member votes to hold the case for discussion, the case is not held for discussion and the majority decision of the remaining Board Members prevails.

***PROPOSED DECISIONS – DECISION FROM THE ALJ FOLLOWING A FORMAL HEARING***

Proposed Decisions are subject to a specified timeline pursuant to the APA. The Board has 100 days after receiving the Proposed Decision to either adopt or non-adopt the Proposed Decision.

- **Adopt** – If the Board Members decide to adopt the Proposed Decision, it becomes effective within 30 days and the respondent is notified by Board staff.
- **Reject/Non-Adopt** – If the Board Members do not agree with any aspect of the ALJ’s Proposed Decision, they may non-adopt the Proposed Decision. In this situation, the respondent is notified. Board staff will order the administrative hearing transcripts and request written arguments from the respondent. Board Members review the transcripts, evidence, and written arguments and meet in in a closed session Board meeting with legal counsel to write their decision. The Board uses the Disciplinary Guidelines and applicable law when making such decisions. The Board’s decision is then adopted and issued to the respondent.

***DISQUALIFICATION – MAY NOT PARTICIPATE IN CASE DECISION***

With some limited exception, a Board Member cannot decide a case if that Board Member investigated, prosecuted or advocated in the case or is subject to the authority of someone who investigated, prosecuted or advocated in the case. A Board Member may be disqualified for bias, prejudice or interest in the case. When in doubt Board Members should contact DCA legal counsel for guidance.

### ***RECUSAL FROM CASE DECISION***

If the Board Member knows the respondent and/or is familiar with facts/circumstances regarding the action that lead to the disciplinary matter, the Board Member shall consult with legal counsel regarding the Board Member's ability to participate in the case decision.

### ***EX PARTE COMMUNICATIONS DEFINITION AND LIMITATIONS***

"Ex Parte" technically means "by or for one party only." In practice, it is a limitation on the types of information and contacts that Board Members may receive or make when considering a case. While a case is pending, there are only limited types of communications with Board Members that are allowed if all parties are not aware of the communication and do not have a chance to reply.

For example, a Board Member can accept advice from a Board staff member who has not been an investigator, prosecutor, or advocate in the case; however, that person/staff cannot add to, subtract from, alter or modify the evidence in the record. Or, a Board Member can accept information on a settlement proposal or on a procedural matter.

Most other communications may need to be disclosed to all parties, and an opportunity will be provided to the parties to make a record concerning the communication. Disclosure may also apply to communications about a case received by a person who later becomes a Board Member deciding the case. Receipt of some ex parte communications may be grounds to disqualify a Board Member from that case.

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# CHAPTER 13

## ***GUIDELINES FOR PETITIONER HEARINGS***

### ***PETITION HEARING OVERVIEW***

The first day of the Board meeting consists of requests from probationers to modify the terms of their probation or from licensees seeking to reinstate their license. These individuals submit a request to the Board and include all documentation to support their request. Board staff will review all documentation to determine if the individual is eligible to make the request. If so, the individual will be scheduled to appear at an upcoming Board meeting.

Prior to the Board meeting, Board staff will prepare the petition package, include all relevant documentation, and mail the petition package to the Board Members for their review. Board Members should review the package thoroughly, noting any questions they may have about the documentation.

The petition hearings are conducted during an open session of the Board Meeting with an ALJ presiding. A court reporter is present to document the testimony. Unless otherwise indicated, all testimony, questions, and comments are part of the record.

The hearing format begins with the ALJ announcing the petitioner's name and case number. The ALJ will explain the hearing process to the petitioner and ascertain if the petitioner has any questions. Once the ALJ is satisfied that the petitioner understands the process, the ALJ begins the hearing.

First, the DAG appears on behalf of the Board and introduces the case. The DAG provides the history of the conduct that resulted in probation or license revocation and introduces the relevant evidence. The DAG will question the petitioner regarding their request, supporting documentation, and rehabilitation efforts. The DAG's questions may occur either before or after the Board Members question the petitioner.

Next, the petitioner is provided an opportunity to testify in support of their request. The petitioner may or may not be represented by an attorney. The petitioner often reads a prepared statement or speaks freely. The petitioner may, or may not, call witnesses to provide testimony in support of the petitioner's request.

Following the petitioner's testimony, each Board Member is provided the opportunity to question the petitioner.

## **QUESTIONS FOR PETITIONERS**

In your role to protect the public, it is critical to determine the following.

*Will the public be protected without the current restrictions?*

*Will the petitioner deliver clinical services safely to the public?*

Your decision must be based on the evidence before you – the petitioner’s supporting documentation, petitioner’s testimony, witness testimony, and rehabilitation. All questions to the petitioner should be related to documentation in the petitioner’s packet and testimony provided by the petitioner.

Frequently, Board Members may inquire about the following topics.

- Inconsistencies in the documentation
- Inconsistencies or clarification related to the petitioner’s testimony
- Incidents of non-compliance with probation
- Efforts related to rehabilitation and support systems
- Petitioner’s efforts to practice self-care and good physical and mental health.
- Petitioner’s personal growth while on probation
- What assurance does the petitioner offer that the incident will not reoccur?

These types of questions are appropriate and often, the responses aid in determining the petitioner’s ability to safely practice.

Board Members should exercise caution to avoid inquiries that are not appropriate. For example:

- Questions that attempt to relitigate the matter that lead to the probation or revocation.
- Questions that may compel the petitioner to disclose a medical condition or physical disability.
- Questions that may compel the petitioner to disclose a protected group category (e.g., age, race, religion, sexual orientation).

***DELIBERATIONS***

Upon conclusion of the hearing, the Board Members, ALJ, Board legal counsel, and a Board staff member will meet in closed session to discuss whether to grant the petitioner's request.





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# CHAPTER 14

## **RESOURCES**

### **Board of Behavioral Sciences Website**

[www.bbs.ca.gov](http://www.bbs.ca.gov)

### **Board of Behavioral Sciences Disciplinary Guidelines**

<http://www.bbs.ca.gov/pdf/publications/dispguid.pdf>

### **DCA Board Member Resource Center**

<http://www.dcaboardmembers.ca.gov>

### **California Administrative Procedure Act**

*The California Administrative Procedure Act is found in the California Government Code starting at section 11370 and continuing through section 11529 and title 1 of the California Code of Regulations starting at section 1000 through section 1050.*

<http://leginfo.legislature.ca.gov/faces/codes.xhtml>

<https://govt.westlaw.com/calregs>

### **Bagley Keene Open Meeting Act**

<https://oag.ca.gov/open-meetings>

### **California Legislative Information** (may search for bills and subscribe to bill updates)

<http://leginfo.legislature.ca.gov/faces/home.xhtml>

## ***PROFESSIONAL ASSOCIATIONS***

California Association of Marriage and Family Therapists (CAMFT)

<http://www.camft.org>

California Association for Licensed Professional Clinical Counselors (CALPCC)

<https://calpcc.org>

National Association of Social Workers – California Chapter (NASW)

<https://www.naswca.org/>

California Association of School Psychologists

<http://casponline.org>

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## **ATTACHMENTS**

- A. BOARD MEMBER ATTENDANCE POLICY #B-15-1
- B. GUIDE TO THE BAGLEY-KEENE OPEN MEETING ACT
- C. DCA TRAVEL GUIDE
- D. TRAVEL EXPENSE CLAIM FORM
- E. PER DIEM CLAIM FORM
- F. PER DIEM POLICY #B-15-2
- G. SUCCESSION OF OFFICERS BOARD POLICY #B-15-1
- H. BOARD ORGANIZATIONAL CHART
- I. BBS STRATEGIC PLAN 2022
- J. ROBERT RULES OF ORDER CHEAT SHEET
- K. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES



SUBJECT: Board Member Attendance	POLICY # B-15-1	DATE ADOPTED: August 28, 2015
	SUPERSEDES: B-98-1	PAGE: 1
DISTRIBUTE TO: All Board Members	APPROVED BY:	<b>BOARD OF BEHAVIORAL SCIENCES</b>

Protection of the public is the highest priority for the Board of Behavioral Sciences (Board) in exercising its licensing, regulatory, and disciplinary functions. Each member recognizes it is a privilege and an honor to serve as a member of the Board of Behavioral Sciences. So that the Board can fulfill its consumer protection mandate and conduct the Board's business, consistent attendance at Board and Committee Meetings is critical.

**Attendance:**

1. All Board members should attend all required quarterly board meetings, and any special board meetings.
2. All Board members should attend all required committee meetings for each committee to which the Board member has been assigned.
3. A "meeting" shall mean the entirety, from the date and time of the beginning of the meeting as set forth on the official agenda for said meeting, until the official adjournment of the meeting.

**Absences:**

If a Board member has been absent from more than two consecutive Board meetings, a letter will be sent to the appointing authority regarding the absences.

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**Implementation:** Immediate

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# **GUIDE TO THE BAGLEY-KEENE OPEN MEETING ACT**

**(Includes Amendments through January 1, 2017)**

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# BAGLEY-KEEN OPEN MEETING ACT

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**GUIDE TO THE  
BAGLEY-KEENE OPEN MEETING ACT  
(Includes Amendments through January 1, 2017)**

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

**I. PUBLIC POLICY TO CONDUCT PEOPLE’S BUSINESS OPENLY**

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

## **II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS**

### **A. Definition of a "Meeting"**

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

### **B. Exemptions from Definition of Meeting**

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

### **C. Board and Committee Meetings**

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

**[Restriction on Attendance at Committee Meetings]** The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that “Members of the board who are not members of this committee may be attending the meeting only as observers.”

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of “state body” in Section 11121(c).”

### **III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS**

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a “special” meeting, or an “emergency” meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

#### **A. Regularly Scheduled Meetings**

##### **1. Who May Hold a Regularly Scheduled Meeting**

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

##### **2. Purposes for Which the Meeting May be Held**

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board’s licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

### **3. Notice Requirements for a Regularly Scheduled Meeting**

#### **a. Board Meetings**

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice."

(§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting \_\_\_\_\_ at (916) \_\_\_\_\_ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

\* \* \*

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

**[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]**

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

#### **b. Committee, Subcommittee or Task Force Meetings**

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.



Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

#### **4. Specific Requirements for Regularly-Scheduled Meetings**

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

#### **5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting**

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

### **B. "Special" Meetings**

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

#### **1. Who May Hold a Special Meeting**

A board, committee, subcommittee or task force may hold a special meeting.

#### **2. Purposes for Which a Special Meeting May be Held**

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

”(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider ‘pending litigation’ as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

\* \* \*

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

### **3. Notice Requirements for a Special Meeting**

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 “would impose a substantial hardship on the state body or where immediate action is required to protect the public interest.” (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency’s meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

**[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]**

#### **4. Specific Requirements During Special Meetings**

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

#### **5. Specific Prohibitions on Holding a Special Meeting**

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

### **C. "Emergency" Meetings**

#### **1. Who May Hold an Emergency Meeting**

A board, committee, subcommittee or task force may hold an emergency meeting.

#### **2. Purposes for Which an Emergency Meeting May be Held**

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

“(2) Crippling disaster that severely impairs public health or safety, or both.” (§11125.5(b))

### **3. Notice Requirements for an Emergency Meeting**

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

### **4. Specific Requirements for an Emergency Meeting**

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- \* Minutes of the meeting
- \* A list of persons notified, or attempted to be notified, of the meeting
- \* Any action taken at the meeting
- \* A copy of the rollcall vote on action taken (§11125.5(d))

### **5. Specific Prohibitions on Holding an Emergency Meeting**

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

## **IV. CLOSED SESSIONS**

### **A. Purposes for Which Closed Session Can be Held**

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:

## **1. Personnel Matters**

A board may meet in closed session to ". . . consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing . . . which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

## **2. Examination Matters**

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

### **3. Matters Affecting Individual Privacy**

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

**CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.**

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

### **4. Administrative Disciplinary Matters**

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

#### **5. Board of Accountancy Matters**

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

#### **6. Pending Litigation**

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

#### **7. Response to Confidential Final Draft Audit Report**

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

## **8. Threat of Criminal or Terrorist Activity**

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

## **9. Advisory Bodies/Committees May Meet in Closed Session**

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126((f), (4)-(6))

## **10. Open Session Otherwise Required**

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

## **B. Notice and Reporting Requirements for Closed Sessions**

### **1. Notice of Closed Session**

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."



Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

## **2. Reporting After a Closed Session**

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

“Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.”

## **C. Other Procedural Requirements for Closed Sessions**

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

“A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed.” (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that “We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed.” (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

## **V. MEETING BY TELECONFERENCING**

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

"(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

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

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

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

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

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

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

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

## **VI. DELIBERATIONS AND VOTING**

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

### **A. Seriatim Calls to Individual Agency Members Prohibited**

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4<sup>th</sup> 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members “to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency.” (Emphasis added.) (§11122.5(b))

### **B. E-Mail Prohibition**

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

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

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

agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

### **C. Secret Ballot Prohibited**

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

### **D. Voting by Proxy Prohibited**

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

### **E. Use of Electronic Devices During Meeting**

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

## **F. Voting by Mail on Administrative Disciplinary Matters**

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

## **G. Recording and Reporting Votes**

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

## **VII. MISCELLANEOUS PROVISIONS**

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

### **A. Conforming Board Member's Conduct**

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

### **B. Providing Open Meeting Act to New Board Members**

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

### **C. Prohibition on Placing Conditions on Public's Attendance**

#### **1. Sign-in**

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

## **2. Discrimination in Admittance to Meeting Facility**

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

## **3. Access for the Disabled**

All meetings must be accessible to the disabled. (§11131)

## **4. Charging a Fee or Requiring a Purchase for Access**

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

## **D. Agency Recording of the Proceedings**

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

## **E. Public's Right to Record the Proceedings**

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

## **F. Media Broadcast of the Proceedings**

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

## **G. Webcasting**

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

“While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.”

## **H. Taking Agenda Items Out of Order**

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that “All times indicated and the order of business are approximate and subject to change,” to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that “Items scheduled for a particular day may be moved to an earlier day to facilitate the board’s business.” Again, the purpose may not be to frustrate public or other input.

## **I. Opportunity for Public Comment at Meetings**

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))



## **VIII. DISCLOSURE OF DOCUMENTS**

### **A. Documents Distributed Prior to the Meeting**

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

### **B. Documents Distributed During the Meeting**

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

### **C. Charging a Fee for Public Documents**

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

## **IX. PENALTIES**

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

# Department of Consumer Affairs Travel Guide

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## Office of Administrative Services Accounts Payable Travel Unit



July 2022

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**Disclaimer:** *Bargaining Contracts, California Department of Human Resources (CalHR), Departmental Policy and the State Administrative Manual (SAM) sets forth the information contained in this Travel Guide. If any of the information within conflicts with the most recent provisions set forth by the said mentioned above, then those provisions will supersede this Travel Guide. Information provided in this Travel Guide is routinely updated by various control agencies. The traveler or user of this Travel Guide must always make sure they have the most current information. Click on the web links to view the most current information.*

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# Chapter 1: Introduction and Definitions

## Introduction

The purpose of the Department of Consumer Affairs Travel Guide (Guide) is to provide and define the basic travel reimbursement rules for employees who are required to travel on official State business, methods of travel that are available, and how to use them, in accordance with the State Bargaining Contracts, California Department of Human Resources (CalHR) travel rules for state officers and employees pursuant to Sections 599.615 through 599.638.1 of Article 2 of Subchapter 1 of Chapter 3 of Division 1 of Title 2 of the California Code of Regulations, and the *State Administrative Manual (SAM)*, Chapter 700. If any of the information herein conflicts with the most recent provisions set forth by the bargaining contracts or legal provisions cited above, then those provisions will supersede this Guide. In addition, information provided in this Guide is routinely updated by various control agencies. The traveler or user of this Guide must always make sure they have the most current information.

Note: The travel reimbursement program is subject to Internal Revenue Service (IRS) requirements. There are no flat reimbursement rates. All items claimed must be for the actual amount of the expense, up to the maximum rates allowed for all State officers, employees, and agents of the State traveling on official State business.

## Who can file a claim?

All Department of Consumer Affairs (DCA and/or Department) employees and any agent of the State (listed below) may request a travel advance and/or travel reimbursement using the appropriate Department forms and the CalATERS Global System. Certain restrictions may apply (see reference-related section for specific requirements).

Statutory Board Members are individuals appointed to serve on boards or commissions established by law. Members are appointed by the Governor, Legislature, or Department Head. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Non-statutory Board Members are individuals appointed to serve on boards, commissions, committees, or task forces that are created by agency secretaries, department directors, executive officers, or board members on an as-needed basis to fulfill the Department's mission. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Proctors are intermittent hires through the State Personnel Board. Proctors administer written or physical agility exams for civil service classification. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Volunteers are individuals who voluntarily perform services for the State without pay. The volunteer must sign an Oath of Allegiance, which is kept on file at the Department with the Volunteer Service Agreement. Volunteers will be reimbursed for necessary travel expenses at the rate negotiated for State employees performing comparable duties.

## **Terms**

Short-Term Travel: Expenses incurred at least 50 miles (one-way) from headquarters and/or residence when applicable and is fewer than 31 consecutive days.

Long-Term Travel: Travel that is in excess of 30 consecutive days becomes long-term travel. Specific reimbursement rates and reporting requirements apply; contact your Travel Liaison.

Per Diem Expenses: Meals, lodging, and all appropriate incidental expenses incurred may be claimed when conducting State business while on travel status.

Transportation Expenses: Various modes of transportation used while on official State business; for example, airfare, vehicle, taxi, and shuttle expenses.

Business Expenses: Charges necessary to the completion of official State business, such as business phone calls, emergency clothing, and emergency supplies. All purchases shall be justified, and if the total business expense is more than \$25, the claim must be approved by the DCA Accounting Administrator II.

Conference or Convention: A meeting with a formal agenda of persons to discuss or consult on specific work-related subjects with the purpose of exchanging views, providing lectures or dialogue, or providing or gaining skills and/or information for the good of the State. Requires an approved conference attendance request prior to attending and must be attached to the [Travel Expense Claim \(TEC\) \(STD 262 A\)](#).

Non-State Sponsored Conference: Planned, arranged, and funded by an outside entity.

State-Sponsored Conference: Planned, arranged, and funded by State agencies for the benefit of the State and/or outside parties for the purpose of conducting State business.

## **Policies**

Official Established Headquarters: Shall be designated for each State officer and employee and defined as the place where the officer or employee spends the largest portion of their regular workdays or working time, or the place to which they return upon completion of special assignments. In some instances, however, it may be in the best interest of the Department to designate either an employee's residence address or an assigned geographic area as their headquarters. Home-as-headquarters and



geographic area designations will be based upon a determination of “economic merit” for geographic and logistical circumstances where the State benefits from such a determination, either in increased efficiencies or reduced costs.

**Signature Authority:** The signature of the approving officer certifies that the traveler is authorized to travel, the expenses incurred were to conduct official State business, and that the items claimed are appropriate and keeping within the rules that govern State business travel. Typically, the approving officer would be the traveling employee’s immediate supervisor.

### Travel Approvals (Updated May 2020)

Type of Travel	Who Must Approve?	Date to DCA	Forms Required	Submittal Recipient/ Questions
Conference Attendance	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Deputy Director of Administrative Services</li> </ul>	One month prior to travel	<ul style="list-style-type: none"> <li>• <a href="#">Conference Attendance Request</a></li> <li>• Conference Agenda</li> <li>• Bulleted Memo</li> <li>• All documents supporting the necessity &amp; mission criticality of the travel</li> <li>• EO or AEO signature required</li> </ul>	<p><b>Nicole Le</b> Deputy Director Administrative Services (916) 574-8306 <a href="mailto:Nicole.Le@dca.ca.gov">Nicole.Le@dca.ca.gov</a></p>
Mission Critical In-State Travel	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> </ul>	<p style="text-align: center;">N/A</p> <p style="text-align: center;"><i>Delegated Authority; Not Submitted to DCA for Approval</i></p>	<ul style="list-style-type: none"> <li>• Approvers retain:               <ul style="list-style-type: none"> <li>- Bulleted Memo</li> <li>- Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>- EO, Bureau Chief or Deputy Director approval signatures</li> </ul> </li> </ul> <p style="text-align: center;"><i>NOTE: If the travel is in-state and to a conference, the conference attendance process is to be followed.</i></p>	<p><b>Questions to Kam Khatra</b> Accounting Administrator (916) 574-7170 <a href="mailto:Kam.Khatra@dca.ca.gov">Kam.Khatra@dca.ca.gov</a></p>

Out-of-Country	<ul style="list-style-type: none"> <li>EOs, Bureau Chiefs or Deputy Directors</li> <li>DCA Budget Office</li> <li>DCA Director</li> <li>Agency Secretary</li> <li>Governor's Office</li> </ul>	Three months prior to travel	<ul style="list-style-type: none"> <li>Out-of-State Travel Memo Template</li> <li><a href="#">STD. 257 Approval Request Form</a></li> <li>Cost Breakdown Document</li> <li>Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>EO signature required</li> </ul>	<p><b>Taylor Schick</b> DCA Fiscal Officer (279) 278-5834 <a href="mailto:Taylor.Schick@dca.ca.gov">Taylor.Schick@dca.ca.gov</a></p> <p><b>Vacant</b> Deputy Director Board &amp; Bureau Services (916) 574-8214 <a href="mailto:Carrie.Holmes@dca.ca.gov">Carrie.Holmes@dca.ca.gov</a></p>
Out-of-State	<ul style="list-style-type: none"> <li>EOs, Bureau Chiefs or Deputy Directors</li> <li>DCA Budget Office</li> <li>DCA Director</li> <li>Agency Secretary</li> <li>Governor's Office</li> </ul>	Two months prior to travel	<ul style="list-style-type: none"> <li>Out-of-State Travel Memo Template</li> <li><a href="#">STD. 257 Approval Request Form</a></li> <li>Cost Breakdown Document</li> <li>Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>EO signature required</li> </ul>	<p><b>Taylor Schick</b> DCA Fiscal Officer (279) 278-5834 <a href="mailto:Taylor.Schick@dca.ca.gov">Taylor.Schick@dca.ca.gov</a></p> <p><b>Vacant</b> Deputy Director Board &amp; Bureau Services</p>
Travel Advance Exception Request	<ul style="list-style-type: none"> <li>EOs, Bureau Chiefs or Deputy Directors</li> <li>DCA Deputy Director Board &amp; Bureau Services</li> <li>DCA Accounting Office</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>Advance approval in the CALATERS System (<b>Carrie Holmes</b>)</li> <li><a href="#">Travel Advance Exception Approval Request Form</a> (Kam Khatra)</li> </ul>	<p><b>Vacant</b> Deputy Director Board &amp; Bureau Services</p> <p><b>Kam Khatra</b> Accounting Administrator</p>
50-Mile Exemption Request	<ul style="list-style-type: none"> <li>EOs, Bureau Chiefs or Deputy Directors</li> <li>DCA Accounting Office</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>Bulleterd Memo</li> <li>Additional Detail: <ul style="list-style-type: none"> <li>- Start and end time of the meeting(s)</li> <li>- Mileage from traveler's house to the meeting site</li> <li>- Estimated Commute Time</li> </ul> </li> <li>EO or AEO signature required</li> </ul>	<p><b>Kam Khatra</b> Accounting Administrator</p>

Excess Lodging Request	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Accounting Office</li> <li>• California Department of Human Resources (CalHR)</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>• <a href="#">Excess Lodging Form</a></li> <li>• Three lodging quotes</li> <li>• Justification as to why the proposed lodging is needed</li> <li>• Traveler or manager's signature required</li> </ul> <p>Note: CalHR approval required for lodging over \$250.</p>	<b>Kam Khatra</b> Accounting Administrator
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The Deputy Director of Board Relations approves Board Presidents' [TECs](#). Once they have been reviewed and initialed by the Executive Officer, the Board President shall approve the Executive Officer's and the Board Members' travel claims. In the absence of the Board President, the Board Vice President shall approve the Executive Officer's and the Board Members' travel claims.

The Deputy Director of the Office of Administrative Services approves Bureau and Board Presidents', Bureau Chiefs', Division Chiefs', and Deputy Directors' travel advances, expense claims, conference requests, and authorized signature forms. The Deputy Director of the Office of Administrative Services also approves all exception-to-travel status for board and bureau and Travel Advance Requests for non-salaried employees. In the absence of the Board President, the Board Vice President shall approve the Executive Officers' and the Board Members' travel claims.

In the extended absence of either the Deputy Director of Board and Bureau Services or the Deputy Director of the Office of Administrative Services, either can approve the above for boards and bureaus.

All approving officers must have a signature card on file with the Accounting Office before approving a claim.

Note: See DCA policy, form, and procedures posted on the ["Accounting" page of the DCA Intranet](#) regarding authorized signatures.

## Chapter 2. Per Diem Allowances

### Introduction

The State provides for reimbursement of actual and necessary out-of-pocket expenses while traveling on State business. When determining the appropriate amount of reimbursement allowed for meals, lodging, and incidentals, two criteria need to be

considered: distance and time. Employees on travel status must be at least 50 miles from home and/or headquarters. The most direct route determines this distance.

For short-term travel status per diem (meals, lodging, and incidentals), several factors need to be considered, such as:

- The bargaining unit of the employee (represented or excluded).
- Geographical location of travel must be at least 50 miles (one-way) from where the trip begins at headquarters and/or home. Factors include: Which is the closest distance? Is travel during normal working hours or not? Is it a second worksite?
- The timeframe in which the trip started and stopped.
- The type and location of facilities used for lodging.

### Lodging Rates

Short-term reimbursement rates for lodging expenses are as follows. Please review your Bargaining Unit Contract on [CalHR](#) website for current rates.

<b>For Excluded/Exempt, BU 1 through BU 21</b>	
<b>Lodging</b>	<b>Reimbursement</b>
Statewide (except for those listed below)	\$90.00 plus taxes/resort fees on the entire cost of the lodging rate.
Napa, Riverside, and Sacramento Counties	\$95.00 plus taxes/resort fees on the entire cost of the lodging rate.
Marin County	\$110.00 plus taxes/resort fees on the entire cost of the lodging rate.
Los Angeles, Orange, Ventura Counties, and Edwards AFB, excluding the City of Santa Monica	\$120.00 plus taxes/resort fees on the entire cost of the lodging rate.
Monterey, San Diego	\$125.00 plus taxes/resort fees on the entire cost of the lodging rate.
Alameda, San Mateo, and Santa Clara Counties	\$140.00 plus taxes/resort fees on the entire cost of the lodging rate.
City of Santa Monica	\$150.00 plus taxes/resort fees on the entire cost of the lodging rate.
San Francisco County	\$250.00 plus taxes/resort fees on the entire cost of the lodging rate.

Lodging facilities include commercial hotels and motels and residential property—short term rental, that are reserved for fewer than 30 days. (See [CalHR PML-2015-039](#), Assembly Bill 229 (Stats. 2015, ch. 770), effective January 1, 2016 through December 31, 2018.) All rates for reimbursement are limited to State-contracted lodging rates. (See [CalHR Travel Reimbursements](#).)

## Hotel Tax Waiver

The [Hotel/Motel Transient Occupancy Tax Waiver, STD 236 \(New 9-91\)](#), is available on the [DCA Intranet](#) Travel Home Page and should be used whenever possible. This form must be completed in advance and given to the hotel for its records. In most cases, employees must ask for the exemption at time of reservation. Some hotels will not honor the tax waiver.

## Acceptable Receipts

Lodging receipt must indicate the establishment's name, address, and check-in/check-out dates and times, number of occupancies, room rate, taxes, and method of payment.

In the rare event where an employee chooses to use a third-party vendor (such as Priceline.com, Expedia.com, Travelocity.com, Hotels.com, etc.) to make travel arrangements, the following instructions must be strictly adhered to:

- Employees who request reimbursement for receipts from third-party vendors for lodging expenses related to a State-approved relocation or for lodging expenses incurred while traveling on State business, must provide a valid receipt from the third-party vendor and the commercial lodging establishment where the employee stayed.

Both receipts are required to properly substantiate a valid business expense.

## Sharing a Room

When sharing a room with another State employee, each person can claim half the room rate, or one employee can claim the entire amount and reference the other person in the comment section. Both employees should file their travel expense claims ([TECs](#)) at the same time and a copy of the other's claim should be attached to their own.

## Meal Rates

There are no flat reimbursement rates. All items claimed are to be for the actual amount of the expense, up to the following maximum reimbursement amounts listed below. The employee (or agent of the State) shall not claim reimbursement for any meals provided by or included in the cost of the hotel stay, airfare, and conference or convention registration fee and/or provided by the terms stated in a State contract. Please review your Bargaining Unit Contract on [CalHR, Travel Reimbursements](#) website for current rates.

Excluded and/or exempt employees and represented employees in Bargaining Units (BU) 1 through 21, please review your existing MOU for current rates (see following table).

<b>Expense</b>	<b>Maximum Reimbursement For Actual Expense</b>
Breakfast	Up to \$7
Lunch	Up to \$11
Dinner	Up to \$23
Incidental	Up to \$5

### **Fewer Than 24 Hours**

The following table shows conditions under which a represented or non-represented employee may be reimbursed for meals while on travel status, if the trip is fewer than 24 hours:

<b>Starts Trip on OR Before</b>	<b>Returns from Trip on OR After</b>	<b>Entitled To</b>
6 a.m.	9 a.m.	Breakfast
4 p.m.	7 p.m.	Dinner

Note: Board and committee members are entitled to meals, including lunch, on a one-day trip only when attending official scheduled board or committee meetings. These meal expenses are excused from the travel status mileage requirement, but all-time requirements are applicable; for example, start trip at or before 11:00 a.m. and end at or after 2 p.m. to claim lunch. In addition, meals on trips of fewer than 24 hours will be reported as a taxable fringe benefit as required by the IRS.

### **More Than 24 Hours**

If a trip is more than 24 hours, but fewer than 31 consecutive days, a represented or non-represented employee is entitled to breakfast, lunch, and dinner for every full 24-hour period while on travel status. The following table shows the meal entitlements for the last fractional period:

<b>Starts Trip on OR Before</b>	<b>Returns from Trip on OR After</b>	<b>Entitled To</b>
6 a.m.	8 a.m.	Breakfast
11 a.m.	2 p.m.	Lunch
5 p.m.	7 p.m.	Dinner

## **Incidentals**

Incidental reimbursement is allowed for every full 24 hours of travel up to the maximum amount allowed per Bargaining Unit Contract for actual necessary expenses. Incidentals include expenses for fees and tips for services such as porters, baggage carriers, and hotel staff. No other items may be claimed as an incidental cost. (See [CalHR PML 2015-003](#) and [IRS Publication 463](#).)

## **Business-Related Meals**

In rare instances, the cost of business-related meal expenses may be allowed. It must be clearly shown that it was impractical to conduct the State's business during working hours and that the meal took place in conditions beyond the employee's control. Justification should be provided on the [TEC](#).

The statement must include the purpose or goal of each business-related meal and the unusual conditions that justify payment. The employee may claim expenses not to exceed the breakfast, lunch, or dinner allowance, whichever meal was consumed. The amount must be supported by a voucher or receipt for represented employees. Claims must include the establishment, the persons in attendance, and the business conducted during the meal period. No reimbursement is allowed for the meal if the employee claims per diem for that day.

Allowable meals may include: Participants from different cities hold a luncheon to allow one or more of them to make connections on a scheduled flight; an employee is required to go to lunch as a member of a group, such as a board or commission where official business is conducted; the meeting does not adjourn during the lunch and the employee has no choice of place to eat.

Non-allowable meals include: Two or more employees go to lunch together and continue their business as an incidental to the meal; the meal is strictly for public relations purposes; departments call meetings with their own and/or other department employees to conduct State business; the meeting could have taken place during regular working hours.

## **Receipts**

Although the Department does not require receipts for most meals or incidentals, except as noted above, the traveler must retain all their meal and incidental receipts for IRS purposes.

## **Overtime Meals and Rates**

Overtime meal reimbursement is allowed when the employee works two excess hours, either consecutive or contiguous to regular scheduled work hours. Rates and terms are defined by each bargaining unit contract as stated below. In determining the overtime hours worked for meal compensation, do not include any breaks for meals. Only one

meal allowance may be claimed each day unless the employee has worked a minimum of 16 hours. For every six additional hours worked in excess of ten hours, another meal allowance may be claimed, not to exceed three overtime meals within 24 hours.

<b>Bargaining Unit</b>	<b>Rate</b>	<b>Consecutive*</b>	<b>Contiguous*</b>
10	\$7.50	X	
1, 4, 11 & 14	\$8.00		X
2, 7, 9, 12, 16 & 19	\$8.00	X	
Excluded & 21 (exempt FLSA)	\$8.00	X	

### **Definitions**

Consecutive: Works either two hours before or two hours after normal work hours on a regular scheduled workday; works two hours in excess of normal work hours on weekends, holidays, or regular scheduled day off (RDO).

Contiguous: Works two or more hours in excess of the number of hours worked on regular scheduled workday.

Excluded: Work Week Group Exempt (WWGE) and Represented Employees Exempt from Fair Labor Standards Act (FLSA) are only entitled to overtime meals for extended arduous work.

### **Arduous Work OT Meal**

Meals for Extended Arduous Work: On those rare occasions when an employee who is in a Work Week Group other than Work Week Group 2 would be required to physically or mentally work ten hours or more (not including any breaks for meals) for an extended period. The employee, with approval of the appointing authority, may claim the actual cost of an arduous work meal up to \$8. Such meals should only be approved when the work schedule is consistently in excess of a normal full-time schedule. Occasional extra hours worked, consistent with the nature of other than a Work Week Group 2 schedule, do not meet the criteria for Extended Arduous Work Meals.

### **Excess Lodging Policy and Procedure**

Request for reimbursement of lodging expenses in excess of the State-specified rates, excluding taxes, must be received ten days prior to the trip. Approval is required from the DCA Accounting Administrator II up to \$250 and CalHR if more than \$250. Please note that although DCA has been delegated authority to make determinations regarding Excess Lodging Rate Requests up to \$250 per night, the Excess Lodging Rate Form (STD 255C) has been updated to reflect the increased amount. The [Excess Lodging Rate Request \(STD 255C\)](#) form located on [DCA Intranet](#) should be completed and contain the following:



- A list of at least three hotels contacted using the [Concur CalTravel Store](#) website to obtain State rate lodging. Contact additional hotels if no State rate hotels are found within the work area.
- Supporting documentation that a reasonable effort was made to locate lodging at State-specified rates. Using only higher-rate hotels in the documentation cannot be considered reasonable efforts.
- Explain any applicable reasons for the State business need for an exception to the State's standard lodging rate.
- Obtain all required signatures and submit the request to the DCA Travel Unit at least ten working days prior to the trip, when possible.
- Employees who incur expenses in excess of standard reimbursement will be responsible for the difference if the excess lodging request is denied.
- Attach agendas for any approved conference or convention that would assist in the travel justification.

### **Reasonable Accommodation**

A reasonable accommodation can be obtained with supporting documentation through DCA Office of Human Resources Health & Safety Unit when travel requirements are a hardship to the employee for medical reasons. Please obtain the reasonable accommodation approval prior to the trip. (See [Health & Safety Unit, Reasonable Accommodation, DCA Intranet.](#))

### **Exception to Travel Status Policy**

It is the policy of the DCA to adhere to the rules and regulations as defined by the CalHR regarding the approval of requests for reimbursement within 50 miles of the employee's home or headquarters when conducting official State business. Extreme acts of God and nature that place the employee in harm's way are automatic and will be approved after the fact, when fully documented ([SAM section 0715](#), [CalHR PML 93-28.](#))

Note: All exceptions to travel status reimbursements will be reported as a taxable fringe benefit as required by the IRS.

### **Exception Authority, Limits, and Criteria**

The CalHR delegated the exception to travel status authority to the Director of the DCA, who delegated the authority to the Chief Accounting Officer. There is no other allowable signature authority for this delegation. This delegation is extended with the provision that it will be administered according to the criteria, considerations, and

record-keeping requirements as stated below. All exceptions are subject to audit by CalHR. Exceptions are to be granted in advance of the occurrence by the appointing power.

This delegation does not extend to the approval of meals or lodging at either the home or headquarters location. There is no allowance for any increase in the standard short-term travel reimbursement rates for meals and lodging or partial exceptions, such as lodging allowance without meals. When exceptions meet all the requirements and are granted by the Chief Accounting Officer, the employee is entitled to full short-term travel reimbursement rates. This exception is not to be used in lieu of overtime for one-day travel.

Exception requests will be considered under a limited number of circumstances when the employee is required to be away from their home and headquarters locations for more than a single day, but fewer than 50 miles. These include the nature of the work performed, the hours of work, or the apparent road and/or weather conditions make it impractical for the employee to return home or to the headquarters location at night.

The CalHR has guidelines for an exception approval criterion that includes reasonable commute mileage. State departments are expected to demonstrate that every consideration has been given to minimize the cost to the State through responsible planning and scheduling.

### **Exception Process**

A written request must be submitted in advance of the occurrence to the Accounting Office for review and approval by the Chief Accounting Officer. The Executive Officer or the Division/Bureau/Program Chief must approve all exception requests. Requests must contain the following information for each attendee:

- Name and classification of employee(s) requesting exception. If the time period and reason for expense are the same, submit a group request listing each employee's name, classification, the time period, and reason.
- Home and Headquarters address with distance to location of the event.
- Name and address of the location where expenses will be incurred.
- Name of the sponsor of the event.
- Reason(s) for the exception request; attempts made to reduce the costs.
- Amount of the anticipated expenses, including tax.

- For a conference or convention with more than one attendee, explain why one employee could not achieve the goal and attach a training and development request with approval.

Note: Provide copies of the agenda, conference/convention announcements, and map/mileage printouts. Once the exception request has been processed, a copy will be forwarded to the requesting office by the DCA Accounting Office. The requesting office must maintain a record of each request for the standard five-year record retention schedule.

## **Chapter 3. Transportation.**

### **Introduction**

The cost of transportation while on official State business should be accomplished by using the most economical means for the State, according to the [SAM section 0700 \(General Policy\)](#).

All transportation costs related to State business travel should be entered on all [TECs](#).

Transportation expenses consist of:

- Commercial airfares;
- Private vehicle use;
- Commercial rental car use;
- Gasoline for State or rental cars;
- Taxis, shuttles, or streetcar fares;
- Transportation Network Companies (TNT) – Uber and Lyft;
- Parking of State, rental, or privately-owned vehicles;
- Bridge and road tolls;
- Emergency repairs (State cars only); and
- Commuting transit/vanpool (employee benefit) use.

### **Supervisor's Responsibility**

It is the supervisor's responsibility to ensure the method chosen for travel on State business is in the best interest of the State and not for the employee's convenience.

## Determining the Most Economical Mode of Travel

When determining the most economical mode of transportation, the following costs should be considered:

- Employee's time;
- Expenses for transportation (airline, bus, train, parking, shuttle, tolls, etc.);
- Expenses for meals, incidentals, lodging, and any other State business expense;
- Urgency of the situation;
- If the employee must carry specialized equipment;
- Number of stops and amount of equipment;
- Number of people to be transported (is it more economical?);
- Driving time one-way (is it more than two hours?);
- Availability of transportation to and from the destination; and
- Overtime wages.

## Cost Comparison

Reimbursement will be made for the mode of transportation which is in the best interest of the State, considering direct expenses as well as the employee's time. If the employee chooses a more expensive mode of transportation, reimbursement will be for the least expensive mode of travel. Expenses incurred at the travel destination will be reimbursed based on the actual business expenses incurred while at that location.

A [cost comparison](#) must:

- Be completed and attached to the [TEC](#), showing both methods of travel.
- Include the least costly methods of travel for those expenses being substituted.
- Include only the expenses of traveling from one location to another. Do not include any worksite expenses. Expenses incurred onsite are to be claimed separately.

- An employee choosing to use a more expensive mode of transportation will only be reimbursed for the amount it would have cost for the most economical mode of travel.
- A [cost comparison](#) showing actual cost incurred versus the most economical mode and cost must be submitted with an employee's [TEC](#). The [cost comparison form](#) is provided in Appendix A for your convenience.

### Example of Cost Comparison

The most common cost comparison is when the employee chooses to drive their personal vehicle versus using normal air transportation. For example, when an employee drives (having obtained supervisor's prior approval) to Los Angeles from Sacramento, the comparison is computed from the point the employee would normally have left on travel status in Sacramento to the point of landing in Los Angeles. Please note all cost comparisons should be calculated using the current mileage rate and State rates for airfare if applicable.

Air Costs		Vehicle Costs	
Ticket roundtrip	\$216.00	Mileage: City-to-city roundtrip:	
Mileage to/from airport			
30 miles x 62.5 cents per mile=	\$18.75	720 miles x 62.5 cents per mile =	<b><u>\$450.00</u></b>
Parking	<u>\$20.00</u>		
Total	\$254.75		

### Reimbursement

The least expensive method of transportation will be reimbursed on the [TEC](#). The time requirement for meals and lodging would be allowed for the time the employee would have left and returned had they flown. Additional meal and lodging expenses incurred as a result of using an alternative method of transportation is at the employee's own expense.

### Exception

An exception to the least-expensive requirement would be if an employee has a reasonable accommodation approval through the Department [Health & Safety Unit](#), which prevents the employee from specific modes of travel, such as air travel.

Request guidance from the Accounting Office Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) when special circumstances arise prior to commencing the trip.

### Direct and Indirect Travel Arrangements

All travel arrangements for air, auto rental, and lodging for official State business must be made through the Department's approved travel agency, Concur CalTravelStore.

## Air Travel

Before making airline reservations, be aware of the contract rates and where to book your flights. The State contracted rate includes airfare for origination and destination points known as city pairs for within California, out-of-State, and international destinations. The contract rates are unrestricted one-way fares and are not subject to limited seating.

When booking on Southwest Airlines, you should only select “Want to Get Away”. You should never select Business Class-type flights; if selected, you will be responsible for the difference in cost.

The 2020-23 contract fares are with United Airlines and Southwest Airlines. You must purchase your airline tickets through the CalTravelStore, the certified State travel agency, using your Department’s centralized Citibank Business Travel Account (BTA). The CalTravelStore website contains the online booking tool Concur Travel (formerly Cliqbook), the online booking tool for all airline travel.

All travel arrangements for official State business must be made through the Department’s approved travel agency, CalTravelStore ([www.caltravelstore.com](http://www.caltravelstore.com)).

Current Airfare Contract: [DGS TB #20-03 Airfare for Official State Business; July 1, 2020 – June 30, 2023](#)

Air Travel: [SAM section 741](#).

Airline Itinerary Requirements: [SAM section 8422.114](#).

## Airport Parking

Employees parking at the airport must use the most economical parking available. However, if the board, bureau, or division determines that additional parking costs above the lowest-cost option are in the best interest of the State, a justification explaining the necessity for the additional cost shall be submitted with the employee’s [TEC](#). Without a receipt, reimbursement is limited to \$10. Please note, [TECs](#) submitted without the required justification may be cut by the State Controller’s Office. (See [CalHR PML 2007-024](#).)

Agencies/departments may consider the following items when determining if additional parking costs are in the best interest of the State:

- The direct expense; and
- The officer’s or employee’s time.

Please contact your Department's Travel Liaison to initiate the start of your CalTravelStore profile. You must complete your registration before booking your travel.

Please use the links below for training and more information:

- After the initial profile setup, you'll access the reservation system at [www.caltravelstore.com](http://www.caltravelstore.com). Click on "Concur Login" to complete your profile.
- [Concur Travel Demo](#) (video) and [Concur Interactive Training](#).
- Concur Travel FAQs: [Concur Travel Booking Tool Training, Guides](#)

For security reasons, every traveler will need to contact their board or bureau Travel Liaison to initiate their CalTravelStore profile. Your user ID is your Department e-mail address. You must use your Department e-mail address as your user ID to have access to our Department's company ID. This e-mail address will be your user ID for future access to the reservation system. After you receive your temporary password, you can complete your profile and book your trips. In addition, you'll need to change the temporary password to ensure your account is secure. Once you've established a user ID and password, the system will request that you complete the profile. After you've completed the profile, you must save the information before you attempt to book a trip. The CalTravelStore has a travel reservation guide and video to help; they are provided on the website and link above.

### **Non-Employee Reservations (Airfare and Lodging)**

You can make reservations for non-State employees conducting State business for your program, such as subject matter experts, volunteers, witnesses, or contractors, and receive State rates when using the DCA State-contracted travel service agency. One-time travelers should be booked as a guest traveler; no profile should or needs to be established.

### **Frequent Flyer Programs**

Employees who earn travel premiums (frequent flier miles/points) while on official State business may use these travel premiums for their personal use. The value of these premiums will not be reimbursed to the employee if used for State business. (See [PML 2005-051](#).)

### **Receipts**

Airline itinerary or passenger receipts should include the traveler's name, dates and times of travel, destination, and amount of airfare. This document must be submitted with the employee's [TEC](#). The cost should always be entered on the claim as "Commercial Airfare," and "Department Paid" should be selected for payment type.

## Privately Owned Aircraft Usage [SAM 0743](#) and [0746](#)

Travel on official State business may be by privately owned, rented, or leased aircraft whenever this is the least costly means or is in the best interest of the State.

Employees must first obtain supervisor and agency approval. Employee pilots shall certify at least yearly to their employing agency that they have the required liability insurance during the period of official travel. These required limits are shown on [STD 265 \(New 2-91\)](#). Use [STD 265](#) for certification and insurance. (See [SAM section 0746](#).)

In all cases, the aircraft must be certified in accordance with Federal Aviation Administration regulations and properly equipped for the type of flying to be performed.

State employees who pilot aircraft on official State business must meet the requirements of CalHR Rule 599.628 and [SAM section 0747](#).

Reimbursement for use of privately-owned aircraft: [SAM section 0744](#)

The reimbursement rate for employee privately owned aircraft is \$1.81 per statute mile effective Jul.1, 2022 to Dec 31, 2022 [Private Aircraft Mileage](#). Mileage is computed on the shortest air route from origin to destination, using airways whenever possible. Enter "Air Miles" and mileage on the [TEC](#). For expenses other than mileage, substantiate the expense with a voucher. Landing and parking fees are paid except at the site where the aircraft is normally stored.

## State-Owned, Privately Owned, and Commercially Owned Rental Vehicle Use

Agencies determine who will drive on official State business and the vehicle type to be used: State-owned, privately owned, or commercially owned vehicles. The definition of "use of a State vehicle in the conduct of State business" includes the use of State vehicles "when driven in the performance of, or necessary to, or in the course of, the duties of State employment and shall include the operation of State-owned or leased vehicles as commute vehicles in a carpool or vanpool program authorized by a State agency." ([SAM section 0750](#).)

State vehicles may be authorized when two or more employees are traveling together; the trip includes intermediate stops not feasible for public transportation; the schedule of public carriers does not fit the itinerary; transportation is not available at the destination; or an employee must carry specialized tools, books, etc.

Privately owned vehicles may be used by employees on official State business if this is approved by the DCA. If the use is not less costly, the supervisor may authorize the use, but the payment will be for the less-costly alternative. No agency will require an employee to use their privately-owned vehicle unless this is a formal condition for employment.



The following circumstances are prohibited uses of State vehicles:

- Using the State vehicle for anything other than conducting State business.
- Carrying in the vehicle non-Departmental employees, friends, or family members.
- Using the vehicle for private or recreational use.

**Commercially owned rental vehicles** may be rented when a State vehicle is not available and automobile travel is essential. The employee must return the rental car at the end of each work week State business is concluded. Refer to the [Department of General Services \(DGS\) website](#) to view the rental car contract and ensure adherence to State policy. (See Appendix.)

### **Commercial Rental Cars**

Transportation Services: [SAM Section 4100](#)

CalHR Policies for Method of Travel: [Travel Reimbursements - CalHR](#)

[DGS State Fleet Handbook \(revised May 2008\), at Page 5.](#)

DGS Rental Car Policies and Procedures: [Car Rental Resources for State Travel](#)

The State contract vendor for rental vehicles is Enterprise Rent a Car. The [current contract](#) is effective March 2019. Click on [www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx](http://www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx) for more information.

[Commercial Car Rental Car Rates](#) as of March 1, 2019:  
[http://inside.dca.ca.gov/documents/travel\\_rental\\_19-01.pdf](http://inside.dca.ca.gov/documents/travel_rental_19-01.pdf)[RentingaVehicle.aspx](#) for more information.

The rental of alternative fuel vehicles is encouraged, and their rental rate should be the same.

Here's a link to the complete [rental car contract](#).

### **Car Rental Reservation Information**

Rental Car reservation must be made on [Concur CalTravelStore \(www.caltravelstore.com\)](#).

To receive the contract rate, employees are required to provide a current driver license and a second form of identification (ID) to ensure a smooth delivery of service when

renting a vehicle. Acceptable second forms of ID can be an employee issued ID badge, a business card, a copy of a travel itinerary booked through CalTravelStore or Concur (the online reservation tool), or an authorization letter on Department letterhead. Reservations are required to be made in advance on Concur.

Employees must NOT:

- Extend rental agreements for personal business and pay the difference. When extending business trips for personal reasons, the employee must stop the State rental agreement and initiate a new personal rental agreement.
- Agree to purchase insurance. Insurance is included in the State contracted rates.
- Agree to purchase the fuel service option or prepaid fuel (i.e., a flat refueling rate).
- Agree to purchase higher rate, non-economy cars.
- Carry unauthorized, non-State employees in a rental or State vehicle. If travel plans change, please cancel the reservation.

## **Insurance**

The State contract includes insurance and employees should not accept additional insurance. Employees using a noncontracted vendor may not have insurance included in their rental rate. The employee will be personally responsible for the insurance costs when choosing to use a noncontracted vendor.

In the event an at-fault accident occurs when renting a noncontract vehicle, the employee and the Department may be legally responsible for all damages sustained by others as well as property damage to the rental vehicle. More information on SAM Insurance and Surety Bonds is available at [SAM section 2400](#).

## **Receipts**

DCA policy requires the final rental car receipt be attached to the expense reimbursement claim (STD 262 or CalATERS), whether charged to the Department or paid by the employee. The receipt must indicate the amount charged and payment method. Pre-calculations or reservation agreements are not acceptable. (See [SAM section 8422.115](#); [https://www.dgsapps.dgs.ca.gov/documents/sam/SamPrint/new/sam\\_master/sam\\_master\\_file/chap8400/8422.115.pdf](https://www.dgsapps.dgs.ca.gov/documents/sam/SamPrint/new/sam_master/sam_master_file/chap8400/8422.115.pdf).)

## **Forms of Payment**

The contract requires use of the Corporate Rental Business Traveler Account (CRBTA). Use of cash or the traveler’s personal credit card will not guarantee the State contract rate or the State’s insurance coverage.

A [Short-Term Vehicle Justification Form](#), signed by the employee's supervisor will be required for the following “exceptions” for State departments to submit to the State Controller’s Office (SCO):

- Renting a vehicle larger than compact/intermediate size;
- Renting a vehicle from a noncontracted vendor;
- Needing physical or medical accommodations; and

All employees **are not** required to refuel the rental car vehicle prior to returning. When refueling the rental car, the employee must submit a detailed gasoline receipt for reimbursement. Gasoline receipts must show the date of purchase, method of payment, and an expense breakdown: number of gallons, price per gallon, and extended total purchased amount. Prepaid fuel receipts are not acceptable for reimbursement.

The SCO approval form should be attached to the invoice and travel expense claim associated with the justification. State departments are no longer required to receive approval from the DGS Statewide Travel Program. The Short-Term Vehicle Justification Form is available on the DGS website.

Rates include unlimited mileage and are not subject to blackout dates. Contracted vehicle rates information is available on the [DCA Intranet, Travel Bulletin](#). Examples of vehicles are listed in parentheses shown on the list below. The Maximum Cap Rate (MCR) includes the base rate, all fees, all charges, in addition to airport fees, vehicle license fees and, State, city and county, or local surcharges that apply to the commercial car rental industry as a whole and identified by airport. Sales tax and refueling charges are not included in the contract rate.

**Short-Term Commercial Car Rental Cost Table**  
**Base Rate with \$300,000 Insurance for Short-Term Rentals**  
 (Effective March 1, 2021 - February 2024)

Vehicle Class Type	Daily	Weekly
<b>Compact</b> (Nissan Versa, Toyota Yaris)	\$37.75	\$158.55
<b>Mid-Size/Intermediate</b> (Toyota Corolla, Nissan Sentra)	\$37.75	\$158.55

<b>Full-Size</b> (Chevy Impala, Nissan Altima)	\$39.00	\$163.80
<b>FWD/Sport Utility Vehicle</b> (Ford Escape, Jeep Liberty)	\$55.00	\$275.00
<b>Minivan</b> (Chrysler Town and Country, Dodge Grand Caravan)	\$55.00	\$275.00
<b>Pick-Up Trucks</b> (Chevy Silverado, Ford F150)	\$65.00	\$300.00
<b>Plug-In Hybrid Electric Vehicle/Zero Emission Vehicle</b> (Nissan Leaf, Chevy Volt)	\$54.00	\$270.00
<b>Hybrid Electric Vehicle</b>	\$47.00	\$235.00

Note: The State of New York is exempt from the Base Rate listed above. Such rates are subject to open market rates quoted at time of actual car rental.

### Private Vehicle Authorization and Use

The SAM requires that before any employee, including a board member, uses a privately owned vehicle to conduct State business, that employee must obtain authorization in writing from his or her supervisor and certify that the vehicle will be operated in compliance with [SAM section 0753](#). An Authorization to Use Privately Owned Vehicles on State Business form ([STD 261](#)) should be completed and on file with the immediate supervisor. The [STD 261](#) form must be updated and re-signed annually.

Employees should be aware that the insurance maintained by the State is for the liability above the amount of the employees' policies. All employees driving on State business must carry evidence of liability insurance coverage. Mileage rates paid to employees include an amount that reimburses employees for maintaining minimum insurance coverage.

### Mileage Rate Reimbursement

The following table shows the mileage reimbursement rates for privately owned vehicles: [Mileage Rate](#)

#### Mileage Reimbursement Rates for Privately Owned Vehicles

1/1/2019–12/31/2019	58.0 cents per mile
1/1/2020–12/31/2020	57.5 cents per mile
1/1/2021–12/31/2021	56.0 cents per mile

1/1/2022 – 6/30/2022	58.5 cents per mile
<b>7/1/2022 – 12/31/2022</b>	<b>62.5 cents per mile</b>

### **Alternate Worksite Mileage**

When an employee’s regular work assignment requires reporting to a second location other than headquarters (e.g., a training site), mileage reimbursement is limited to the actual mileage incurred less their normal commute distance.

### **Airport Dropoff**

When an employee is driven to a common carrier and no parking expenses are incurred during the employee’s absence, they may claim mileage reimbursement at double the number of miles from headquarters or residence, whichever is fewer, while the employee rides in the vehicle.

If travel commences or terminates one hour before or after normal work hours, or on a regularly scheduled day off, mileage may be computed from the residence.

Minimal parking expenses for pickup will be allowed, with justification and/or notation on the [TEC](#).

### **Motor Vehicle Accident Reporting**

All accidents involving a State-owned vehicle, or any vehicle being used on State business ([SAM section 0757](#)), must be reported. Report all accidents immediately to your manager and to the DCA Business Services Office. Accidents must be reported within 48 hours to the Office of Risk and Insurance Management on a Vehicle Accident Report [STD 270](#) form. State reporting requirements are in addition to a regular police report as required by law.

Accident reimbursement claims require special approval and processing. Therefore, contact the DCA Travel Unit for guidance.

### **Overtime and Callback Mileage**

Callback or scheduled overtime mileage incurred on a normal day off, from your home to established headquarters, is reimbursable for Non-represented employees and the reimbursement is a reportable fringe benefit. **Note: Overtime mileage for represented employees is not allowed for pre-scheduled overtime.**

### **State Vehicle Emergency Repairs**

Emergency State vehicle repairs can be reimbursed on a [TEC](#) with the appropriate receipt and written justification or explanation of the event. Repairs require Fleet

Administration approval. For non-emergency car repairs, the employee should have the vendor bill the program directly.

### **Taxis and Shuttles**

Taxis and shuttles should be used for trips within a reasonable distance (10 to 15 miles). Reimbursement can be made on a [TEC](#) for the actual cost of the expense with a receipt, or for no more than \$10 without a receipt. General Service charge cards are accepted for taxis and shuttle services within the Sacramento and Fresno areas. **Tips or gratuities to drivers are reimbursable up to \$2.00 or 20% whichever is greater.** Tips or gratuities for exceptional services, such as loading and/or unloading substantial luggage or multiple exam material, is allowable with written justification and receipt.

### **Uber and Lyft**

Per [CalHR PML2015-039, Assembly Bill 229 \(Stats. 2015, ch. 770\)](#), effective January 1, 2016 through December 31, 2018, Uber and Lyft are acceptable State travel modes of transportation. An original detailed receipt is required to be attached to the claim for reimbursement. (See [PML 2015-039](#).) **See above for changes on Tips.**

Zipcars are not authorized for use as State travel transportation.

### **Parking and Tolls ([SAM section 0755](#))**

Parking and tolls in excess of \$10 require a receipt and may be paid for:

- Day parking when the trip is away from the headquarters office and residence.
- Overnight public parking when the traveler is on travel status.
- Callback or scheduled overtime on a normal day off.

### **Commuting Transit and Vanpool**

Employees who commute to and from work via public transportation or qualifying vanpools may be eligible for up to a 75-percent discount or reimbursement on public transit passes up to a maximum reimbursement of \$100 per month for SEIU bargaining units 1, 2, 3, 4, 9,11, 12,14, 15, 17, 20, 21, effective November 1, 2019. Bargaining 2 & 12 effective August 18, 2021. For Excluded employees effective date is February 1, 2020. Reimbursement is based on actual cost supported by a receipt or proof of purchase. For more information, visit the CalHR webpage for [Miscellaneous Programs](#) related to State Employees, Benefits, and Compensation Plus.

Part-time employees' reimbursement may be prorated to correspond to their appropriate work schedule. Daily passes may be utilized for part-time employee reimbursement.

The State will pay \$135 per month to the primary driver of a qualifying vanpool consisting of 7 to 15 people in lieu of the vanpool/transit rider incentive for the bargaining units listed above. A qualifying vanpool must meet both IRS section 132 and CalHR 599.936 criteria. (See CalHR webpage for [Miscellaneous Programs](#).)

## **CHAPTER 4. BUSINESS EXPENSES AND RECEIPTS.**

### **Business Expenses**

Business expenses are costs that are necessary for the completion of State business.

Examples:

- Phone calls more than \$1 or calls totaling more than \$5. The Department phone log can be used for logging calls when there is no official receipt provided (See “Justification for Reimbursement for Telephone Charges” in the Appendix).
- Approved training request for all courses provided by outside vendors/entities and in-State conferences and conventions. Reimbursement for training classes will be processed after completion of the training class.
- When physical examinations are required for pre-employment or as a condition of employment, the State will provide or pay for them. The applicant must pay for any services beyond the approved level for such services. For information on the current rate, see Employee Physical Exams, [SAM section 0191](#).
- Excessive porter or baggage handling, such as for several boxes of exam materials, will be reimbursed with a receipt and justification.
- Professional licenses in occupational fields that may be required by the functions of a specific position or is beneficial to the performance of an employee's duties, for actual cost of the application or renewal fee.
- Each department, commission, board, or agency may reimburse an employee for up to the maximum allowed per BU Contract for membership dues in job-related professional societies or associations of the employee's choice or for a job-related professional license fee, in recognition of the professional nature of employees. Both parties agree and understand that a different amount of reimbursement, if any, may be provided to employees in the same or similar situation.

- State Bar Dues – [CalHR Rule 599.921](#)
  - Employee designation: Manager, supervisor, confidential, and excluded.
  - References: [2022 Bar Membership Dues](#) . Upon certification by the appointing power that the actual practice of law is required for the performance of duties of a specific position, employees shall be reimbursed for up to \$463 of the State Bar membership fee of \$515 for the cost of annual membership fees and specialty fees of the State Bar Association.
  - The State does not pay:
    - The \$5 contribution for the Legislative Activity option, line 21 of the State Bar coupon.
    - The \$45 contribution for the Legal Services Assistance option, line 23 of the State Bar coupon.
    - The \$2 contribution for the Elimination of Bias option, line 22 of the State Bar coupon.
    - Optional Donations for Access to Justice, California Bar Foundation, Conference for California Bar Associations, or California Supreme Court Historical Society; or
    - Penalties resulting from late payment of dues, unless the State is responsible for the late payment.

### **Valid Receipts**

A valid receipt consists of the establishment’s name, address, itemized expenses, including the total amount due and method of payment. When submitting a [TEC](#), the claimant is required to include original, itemized receipts for all State business expenses, unless specifically noted and accepted in another section of this Guide.

Reimbursement requires proof of payment by the employee. If the receipt does not show the employee paid for the expense, attach other viable information such as the canceled check, bank, or credit card statement. For security purposes, blacken out all nonrelated charges and only retain the employee’s name, bank name, and the specific charge you are claiming.

### **Required Receipts**

Receipts shall be submitted for every item of expense of \$1 or more, except as noted in this chapter.



DCA policy is for all receipts to be attached to the [TEC](#), whether paid directly to the vendor or establishment by the State or paid by the employee. Examples are airline itineraries, final rental car expense receipts, etc.

### **Receipts Not Required**

The employee must retain copies of all receipts, including those original receipts not required for reimbursement by the Department, for IRS purposes.

Receipts are NOT required for reimbursement of actual expenses as a result of conducting State business for the following expenses:

- Per diem meals and incidentals,
- Overtime meals,
- Up to the published railroad and bus fares of less than \$10 when travel is within the State, and
- Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi shuttle or hotel bus fares, and parking fees of \$10 or less for each continuous period of parking or each separate transportation expense.

### **Lost Receipts**

In the absence of a receipt, reimbursement will be limited to the nonreceipted amount or the published expense, when lower than the nonreceipted amount.

### **Odd-Size Receipts**

If receipts are small, tape them to an 8 ½-inch x 11-inch sheet of paper so they will be the same size as the travel claim. More than one receipt can be on a sheet of paper if they do not overlap. Do not tape the receipts to both sides of the paper.

## **Chapter 5. Reportable Tax Items.**

### **Introduction**

Various reimbursements of State business expenses and fringe benefits are subject to Federal and State income taxes and applicable Social Security and Medicare taxes. The Department is required to report qualifying business expense reimbursements as income to the State Controller's Office each month.

Note: It is the State and Department’s policy to adhere to all IRS reporting requirements.

## Reportable Items

The following items are the most common reportable employer-provided benefits

- Overtime meals;
- Callback mileage, including overtime mileage;
- Bicycle Commuter Program
- Meals on a one-day trip where there is no sleep period;
- Department-approved exceptions to the 50 miles travel status radius rule;
- Long-term assignments that exceed 30 consecutive days at one location for a period of more than one year. Contact the DCA Travel Unit for details when appropriate;
- The personal use of State vehicles for commute miles;
- Personal use of a State-provided electronic device;
- Travel advances that are not cleared within 30 days of the travel date; and
- Relocation: Contact the DCA Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) for details when appropriate.

Note: Any nonreceipted expense, such as meals and incidentals, becomes reportable *if* the IRS conducts an audit and finds no receipts in the employee’s file.

## Reportable Withholdings

Below is a grid showing the percentages of taxes withheld from each agency, along with an example of the withholdings based on a \$66 reporting item. The actual total amount withheld from the \$66 item is \$24.72 for a represented employee. This amount would be deducted from the employee’s next available pay warrant.

**Percentages of Taxes Withheld by Agency**  
(includes example withholdings based on a \$66 reporting item)

Type of Tax (W-2s)	Withholding Rate	Monthly Value	Actual Withholding
Federal	22.0%	\$66	\$14.52
State	6.6%	\$66	\$4.36
* SSI	6.2 %	\$66	\$4.10
Medicare	1.45 %	\$66	\$0.96
** SDI	1.2%	\$66	\$0.66

\*Supplemental Security Income: Not applicable to Safety or Peace Officer Retirement.

\*\*State Disability Insurance: Applicable to Service Employees International Union (SEIU)-represented employees only. (See [Payroll Procedure Manual \(PPM\) Withholding Requirements section N171](#) for most recent rates.)

The reportable reimbursements will be listed under “Other Income,” or will be noted as “Included in Box 1” on the employee’s W-2 form.

It is the employee’s responsibility to maintain all reportable receipts with their records for IRS audit purposes.

### Capturing Reportable Items

There are many ways of capturing and reporting reportable items each month.

Examples:

- Overtime meals, callback mileage, and meals on a one-day trip are captured at the time of the [TEC](#) audit, and reimbursement is made.
- Department-approved exemptions to the “50 miles travel status radius” rule and long-term assignments that exceed 30 consecutive days are captured at the time that paperwork is submitted for approval to the Executive Office and the reimbursement of the [TEC](#) is made.
- Reporting personal mileage and/or use of a State vehicle is the responsibility of the employee. The IRS has determined that normal commute miles to and from work in a State vehicle are to be considered personal use. Only employees whose primary responsibilities are investigative law enforcement activities while they are performing law enforcement duties fit the IRS guidelines for exemption from reporting personal use of State vehicles. However, when these employees commute to and from the office for their office days or do not perform qualifying law enforcement activities on the way to or from work, the commute is reportable. All other employees who are permanently or temporarily assigned State vehicles must report personal use and/or their normal commute use. Each employee who drives a State vehicle is required to submit a monthly Employee Certification, Personal Use of State Provided Vehicles Form, [Personal Use of](#)

[State-Provided Vehicle](#) to the DCA Accounting Office by the fifth day of the following month in which the personal use was incurred. Please note, this requirement applies to all employees who drive a State vehicle; it is not limited to those employees whose assigned cars are stored at home or in off-site parking.

- Reporting personal use of a State-provided electronic device is the responsibility of the employee. Each employee who uses State-provided equipment for any personal use should prepare a memo stating the type of usage and the actual or estimated cost of the usage to be reported. To avoid the reporting of this type of fringe benefit, the employee can submit a personal check with the memo to reimburse the Department for their personal use.
- All travel advances are to be temporary. Any outstanding travel advances over 90 days are considered long-term and should be treated as wages or compensation; therefore, reported as taxable income.
- Reporting “relocation” taxable items varies depending on the type of expenses that occur; i.e., moving of household goods, sale of residence, etc. For actual reporting requirements, contact the DCA Accounting Office’s Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) for details.
- Continuing Medical Education (CME) expense reimbursement is a taxable fringe benefit for part time, full time, and intermittent BU 16 represented employees. CME expense reimbursement has been considered a taxable fringe benefit by the IRS since the program was established by the CalHR and BU 16 representatives. This program does not meet the criteria to be non-taxable business expenses under Internal Revenue Code section 127. All reimbursements made under this program will be issued in advance as payroll checks near the beginning of each fiscal year.

## **Chapter 6. Out-of-State, Out-of-Country, and Amended Claims.**

### **Introduction**

There are additional requirements and/or approvals when filing out-of-State, out-of-country, or amended [TECs](#).

### **Out-of-State Travel (OST)**

Before any State employee may travel out-of-State on official State business, specific written approval must be given by the Director, the Agency Secretary, the Department of Finance, and the Governor’s Office. (See [SAM section 0710](#).)

Approval must be obtained if either one of the following conditions exist:

1. The employee is on State time, or
2. The employee is representing the State in an official capacity or is acting in such a capacity that it will be perceived that he or she is representing the State.

If either of these two criteria exist, approval is necessary regardless of whether the State is paying for the employee's travel expenses. The trips are limited to the approved number of persons, days, and funds as specified for each blanket request. Expenses exceeding the blanket limits will require an approved blanket substitution request to cover the overages prior to travel. Any cost incurred prior to the blanket approval will be at the employee's own expense.

OST expenses must be submitted separately from in-State travel and note the approved blanket number on the claim. Actual lodging expense, supported by a receipt and the standard meal and incidental reimbursement, may be claimed for travel outside of California. Contact the DCA Budget (go to [DCA home page](#), under Office of Administrative Services) or Accounting Office ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) if you do not know the blanket number or require additional information. Refer to [SAM 0760-0765](#).

### **Out-of-Country Travel**

Employees will be reimbursed for actual lodging expenses, supported by a receipt, and will be reimbursed for actual meal and incidental expenses subject to maximum rates in accordance with the published government rates for foreign travel for the dates of travel. Failure to furnish lodging receipts will limit reimbursement to meals only. The government rates change monthly. (See CalHR webpage for [Travel Reimbursements](#) for current reimbursement rates.)

There is no allowance for blanket substitution of funds or authority for out-of-country trips. Any expenses that exceed the individual trip authority or funds will be at the traveler's expense. Claims must be submitted separately with the approved individual out-of-country trip request number written on the claim. Contact the DCA Budget Office if you do not know the trip number or require additional information.

### **Amended Claims**

When filing an amended claim, the following steps should be taken:

1. Submit a new claim.
2. Write "AMENDED CLAIM" in uppercase letters at the top of the claim.
3. Claim only the amount not submitted on the original claim.
4. Attach a copy of the original claim to the new claim.

5. Attach any required information, receipts, or justification not submitted with the original claim.
6. Obtain all required approval signatures and submit the claim to Accounting Office Travel Unit for payment.

## Chapter 7. Travel and Evidence Advances.

### Travel Advances

Short-term advances may be issued prior to the time travel is performed, to employees who must travel on State business. (See [SAM 8116](#).)

- Submit the travel advance request on CalATERS Global. In the event of non-access to CalATERS Global, please complete the [Request for Travel Advance \(AISD-008\)](#) form and send it to the DCA Accounting Office within 10 to 15 working days prior to the date of travel. Original signatures are required.
- Per the Governor's order, all departments are to keep outstanding travel advance balances (accounts receivables) to a minimum. Because of this order, DCA has limited travel advance amounts to lodging, meals, and airport parking that are fixed expenses to keep the outstanding receivables amount at a minimum. The employee will receive reimbursement for other expenses after the processing of their [TEC](#).
- If the trip is canceled, the advance must be returned immediately to the Accounting Office. If the travel advance check is cashed, a personal check or cashiers must be submitted as payment.
- For employees who are not required to travel on more than one trip per month, additional advances will not be issued for future travel unless the outstanding advances have been cleared. Departments may issue additional travel advances for employees who are required to travel on multiple trips within a month. Additional advances will not be allowed if the employee does not submit a [TEC](#) or return the excess advance amount within ten days of each trip.
- All advances must be cleared by submitting a [TEC](#) within 10 days after the date of travel. If the advance exceeds the expense claim, to clear the advance, the employee must submit a check with the claim, money order payable to DCA, or cash for the difference. If the claim exceeds the advance, the employee will receive the balance due to them by check within 10 to 15 working days.

- Add a notation regarding the advance information in section 11 or in the Note Section on CalATERS Global of the [TEC](#). (Example: March travel advance \$200.) Do not deduct the advance amount from your claim total; the auditor will make the adjustment when the claim is processed for payment.
- Any outstanding advances of more than 15 days may be deducted from your next month's pay warrant per [SAM 8116.1](#). The DCA Accounting Office will notify the employee before this process occurs. The notification letter will allow the employee time to clear the advance balance. Failure to clear advances may preclude future advances being issued until the outstanding advances are cleared. Direct deposit will be canceled for those employees with uncleared balances to collect any advance balances not cleared within a reasonable time.
- Travel advances that are not cleared within 15 days must be reported as taxable income. (See [SAM 8116.3](#).) Taxes due will be withheld from the next available payroll warrant and reported as taxable income on the employee's W-2. When the advance is cleared, there is no method to refund the withheld taxes to the employee.
- Some restrictions apply to seasonal or part-time employees, including board and committee members, who may not be issued travel advances. Exception requests are granted by approval of the Chief Accounting Officer on a limited basis.

## Chapter 8. Filing Requirements.

### Claim Form and Correction Instructions

All Travel Expense Claims must be submitted on the CalATERS Global System. A [CalATERS Global Training Request](#) form should be completed and sent as an attachment to [CalATERS@dca.ca.gov](mailto:CalATERS@dca.ca.gov) to establish a CalATERS Global User ID and temporary password. There are two types of claims that can be submitted on the CalATERS Global System.

1. Regular TEC—Only one trip per claim should be entered on a Regular TEC. These claims consist of per diem, lodging, and mode of transportation cost to and from destinations. Expense reimbursements are determined by the date and time the trip started and/or ended. Therefore, this information must be entered for each trip. If a traveler traveled on more than one trip, each trip must be entered on a separate claim. The claim will be returned to the traveler or travel liaison for correction if more than one trip is entered on this type of claim.
2. Non-Travel Expense Claim—Consists of multiple days and months, up to a full fiscal year (July 1, 2021 through June 30, 2022). These claims consist of only parking, mileage, airfare, rental car, gas for rental car, business expenses, training, etc. This claim would not include meals, incidentals, or lodging. Please



make sure when submitting this type of claim the amount is \$10 or more for budget and department cost efficiency.

The CalATERS Global TEC Transmittal should have the proper report name, index number, month and year of travel, original signature of the approver, dates, times, amounts, mode of transportation, purpose, normal work hours, etc. Original detailed receipts showing proof of payment and justifications, when necessary, are required documentation for the claim. The original CalATERS Global TEC and required receipts should be sent to the Accounts Payable, Travel Unit for processing.

In the event the employee is new to the Department and does not have a CalATERS Global User ID established, a [TEC](#) can be completed to submit their first request for reimbursement of State-related travel expenses. The original and one legible copy should be submitted to the Accounts Payable, Travel Unit for processing. Keep a third copy for your records with any non-required original receipts. All TEC forms should be completed in ink or typewritten. The original signature of the claimant and the approving officer are required to be completed in ink in the appropriate area of the form. For minor corrections, line-out the incorrect information and write in the corrected information. The claimant must initial all corrections. Travel claims with correction fluid or correction tape in critical areas of the form affecting the reimbursement amount will not be accepted. Travel claims may be returned as auditable if submitted with numerous changes or if it is difficult to read.

### **When to Submit Travel Expense Claims**

TECs should be filed at least once a month, but not more than twice in one month. If the amount claimed for any one month does not exceed \$10, filing can be deferred until the next month's travel or until June 30, whichever comes first. Several trips may be entered on one TEC. Only one Regular Trip at a time can be submitted on CalATERS Global. When more than one trip is being listed on the TEC, a blank line should be left between each trip. Trips that start at the end of one month and extend into the next month should be submitted after the trip has concluded. Although it is acceptable to put several trips on one claim, the following expenses must be submitted on a separate TEC: Out of State, out of country, long-term assignment, evidence and relocation expenses. Please label the TEC header when filing reimbursement claims for other than short-term travel.

All claims for the current fiscal year must be submitted by the published year-end deadline. Do not combine fiscal years. If a trip overlaps June and July, two separate TEC or CalATERS Global claims must be completed and submitted, one for each month. However, they should be submitted together for audit purposes.

### **Required Information**

The TEC must be completed in its entirety, including heading, dates, time, amounts, mode of transportation, purpose, normal work hours, etc., and have the claimant's and the authorized approving officer's original signatures. Itemized expenses and original receipts showing proof of payment and justifications, when necessary, are required



documentation for the claim. The original TEC and required receipts should be sent to the Accounts Payable/Travel Unit for processing.

## Chapter 9. Completing a Travel Expense Claim.

### Introduction

The [TEC](#) requires various information, including employee information, trip information, reimbursement amounts, authorizations, and justifications be provided. This chapter provides a step-by-step description of what is required to complete a [TEC](#).

### Employee Information

This information describes to whom, classification, bargaining unit, and where expenses should be charged.

Field	Enter Into Field
<b>Claimant's Name</b>	First name, middle initial, last name
<b>Social Security Number or Employee Number*</b>	13-digit position number or write "on file"
<b>Department</b>	Department of Consumer Affairs
<b>Position</b>	Civil service classification (title)
<b>CB/ID Number</b>	Bargaining unit number for represented employees OR Confidential, exempt, board/committee member, volunteer, or other specific title
<b>Division or Bureau</b>	Board, committee, program, division, or unit name
<b>Index Number</b>	Index/PCA number (contact the DCA Accounting Office for assistance if you do not know your Index/PCA number)
<b>Residence Address* (including city, state, and ZIP code)</b>	Home address (do not use P.O. Box) <i>If confidential, contact the DCA Accounting Office for guidance.</i>
<b>Headquarters Address (city, state, and ZIP code)</b>	Complete headquarters (work) address
<b>Phone Number</b>	Office phone number (include area code)

\* Refers to the Privacy Statement provided on the reverse side of the form.

### Trip Information, Miscellaneous Information and Justifications, and Authorized Signatures

This section requests information regarding the when, where, and why the expenses occurred.

Field	Enter into Field																		
1	<b>Normal Work Hours:</b> Use the 24-hour clock																		
2	<b>Private Vehicle License Number:</b> Enter the license number of the private vehicle used on State business																		
3	<b>Mileage Rate Claimed:</b> Enter the rate claimed for private vehicle use																		
4	<b>Month/Year:</b> Month number (January = 1, December = 12) and four-digit																		
5	<b>Date:</b> Day of the month (one day per line) <b>Time:</b> Departure and return (using the 24-hour clock)																		
6	<b>Location Where Expenses Were Incurred:</b> (A brief statement describing the purpose may be entered immediately below the last entry for each trip.)																		
7	<b>Lodging:</b> Enter actual cost of lodging, plus tax (up to the maximum																		
8	<b>Meals:</b> Enter actual cost of meals (up to the maximum reimbursement)																		
9	<b>Incidentals:</b> Enter actual cost of incidentals (up to the maximum																		
10 (A)	<b>Transportation:</b> Enter the cost of transportation, if paid by employee																		
10 (B)	<b>Transportation:</b> Enter the method of transportation, using the following codes: <table border="1" data-bbox="503 1176 1494 1522"> <thead> <tr> <th>Type</th> <th>Code</th> </tr> </thead> <tbody> <tr> <td>Railway</td> <td>R</td> </tr> <tr> <td>Bus, air porter, light rail, Bay Area Rapid Transit (BART)</td> <td>B</td> </tr> <tr> <td>Commercial airline</td> <td>A</td> </tr> <tr> <td>Privately owned vehicle (motorcycles not allowed)</td> <td>PC</td> </tr> <tr> <td>Private air</td> <td>PA</td> </tr> <tr> <td>State car</td> <td>SC</td> </tr> <tr> <td>Rental car</td> <td>RC</td> </tr> <tr> <td>Taxi</td> <td>T</td> </tr> </tbody> </table>	Type	Code	Railway	R	Bus, air porter, light rail, Bay Area Rapid Transit (BART)	B	Commercial airline	A	Privately owned vehicle (motorcycles not allowed)	PC	Private air	PA	State car	SC	Rental car	RC	Taxi	T
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Privately owned vehicle (motorcycles not allowed)	PC																		
Private air	PA																		
State car	SC																		
Rental car	RC																		
Taxi	T																		
10 (C)	<b>Transportation:</b> Enter carfare, bridge road tolls, or parking expenses																		
10 (D)	<b>Transportation:</b> Enter the number of miles driven with private and State vehicles, and then enter the amount due for private vehicles																		
11	<b>Business Expense:</b> Enter any other expenses necessary for completion of State business, with justification as required. <u>Note:</u> Expenses more than \$25 require Office of Administrative Services authorization. The DCA Accounting Office will obtain signatures.																		
12	<b>Total Expenses for Day:</b> Enter the total expenses for that day																		
13	<b>Subtotals:</b> Enter the total expenses for each column																		

14	<p><b>Purpose of Trip, Remarks, and Details:</b> Enter the justification and miscellaneous information, such as:</p> <ul style="list-style-type: none"> <li>Explanation of business expenses</li> <li>Phone expenses, including place, party, and number called</li> <li>Receipt justification, if needed</li> <li>Justification for obtaining rental cars, other than a compact, or use of a noncontract vendor</li> <li>Travel advances received</li> </ul>
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## Appendix

### Resource Materials

Subject	Issue Date	Ex	Num
Short-Term Lodging Reimbursement Rates—Maximum Rates for All Represented and Excluded Employees	10/20/2016		<a href="#">Short-Term Lodging Reimbursement Rates</a>
Approval of Excess Lodging Rates	12/19/2013		<a href="#">PML 2013-044</a>  <a href="#">4.pdf</a>
FLSA Guidelines	04/16/2004		DCA DPM-PERS 02-06 <a href="http://inside.dca.ca.gov/documents/dpm_hr_02_06.pdf">http://inside.dca.ca.gov/documents/dpm_hr_02_06.pdf</a>
Travel and Relocation—Lodging Receipts	07/01/2014		<a href="http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx">www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx</a> CalHR PML 2013-022 <a href="http://www.calhr.ca.gov/travel-reimbursements">www.calhr.ca.gov/travel-reimbursements</a> <a href="#">Library/2013026.pdf</a>

Vanpool Incentives	7/23/2019	CalHR <a href="#">Commute Programs</a>
	09/27/2002	CalHR PML 2002-064 <a href="http://www.dot.ca.gov/hq/asc/travel/pdf/PML2002-064.pdf">http://www.dot.ca.gov/hq/asc/travel/pdf/PML2002-064.pdf</a>  CalHR PML 2002-021

The list below includes memos, policies, procedures, and websites with information regarding travel reimbursement rules and regulations.

### Useful Websites and Addresses

Useful Websites	Internet Addresses
<a href="#">Department of General Services State Administrative Manual Forms</a>	<a href="http://www.dgs.ca.gov">www.dgs.ca.gov</a> <a href="http://sam.dgs.ca.gov/TOC/700.aspx">http://sam.dgs.ca.gov/TOC/700.aspx</a> <a href="http://www.dgs.ca.gov/osp/Forms.aspx">www.dgs.ca.gov/osp/Forms.aspx</a>
<a href="#">California Department of Human Resources Bargaining Unit Contracts Personnel Management Letters (PMLs)</a>	<a href="https://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx">https://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx</a> <a href="http://www.calhr.ca.gov/Pages/home.aspx">www.calhr.ca.gov/Pages/home.aspx</a>
Travel Agency	<a href="#">Caltravelstore</a>

### List of Related Forms

The travel forms mentioned in this Travel Guide are available on the [Department of Consumer Affairs\(DCA\) Intranet](#) at <http://inside.dca.ca.gov/offices/accounting/travel.shtml> and in this Appendix.

Form	Number	<a href="#">DCA Intranet</a> and/or Internet Links
Authorization to Use Privately Owned Vehicles on State Business	STD 261	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf</a>
Cost Comparison Page	N/A	<a href="http://inside.dca.ca.gov/documents/cost_comparison.pdf">http://inside.dca.ca.gov/documents/cost_comparison.pdf</a>

Excess Lodging Rate Request/Approval	STD 255C	<a href="https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std255c.pdf">https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std255c.pdf</a>
Conference Attendance Request	N/A	<a href="http://inside.dca.ca.gov/documents/conf_attend.pdf">http://inside.dca.ca.gov/documents/conf_attend.pdf</a>
Hotel/Motel Transient Occupancy Tax Waiver	STD 236	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf</a>
Justification for Reimbursement for Postage Charges	AISD 12	<a href="http://inside.dca.ca.gov/documents/postal_charges.pdf">http://inside.dca.ca.gov/documents/postal_charges.pdf</a>
Justification for Reimbursement for Telephone Charges	AISD 11	<a href="http://inside.dca.ca.gov/documents/phone_charges.pdf">http://inside.dca.ca.gov/documents/phone_charges.pdf</a>
Request for Travel Advance	AISD 008	<a href="http://inside.dca.ca.gov/documents/travel_advance.pdf">http://inside.dca.ca.gov/documents/travel_advance.pdf</a>
Travel Advances and Travel Expenses Policy	SAM Ch. 8100	<a href="#">SAM Section 8116 Travel Advances and Travel Expenses</a>
Travel Expense Claim	STD 262a	<a href="http://inside.dca.ca.gov/documents/std262a.pdf">http://inside.dca.ca.gov/documents/std262a.pdf</a>

**TRAVEL EXPENSE CLAIM**  
*Use a separate form for each trip.*

Name: \_\_\_\_\_

Purpose of Travel:  Board Meeting  
 Committee Meeting  
 Other: \_\_\_\_\_

Address Departed From: \_\_\_\_\_

Departure Date: \_\_\_\_\_  
 Time travel began: \_\_\_\_\_  am  pm

Address Returned To: \_\_\_\_\_

Return Date: \_\_\_\_\_  
 Time travel ended: \_\_\_\_\_  am  pm

**EXPENSES**

Day 1      Day 2      Day 3      Day 4      Day 5      Day 6      Day 7

**MEALS:**

Breakfast (\$7.00)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lunch (\$11.00) <sup>1</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dinner (\$23.00)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b><u>INCIDENTALS</u></b> (\$5.00) <sup>2</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<b><u>LODGING</u></b> <sup>3</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
------------------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------

**TRANSPORTATION**<sup>4</sup> *Check all that apply*

- Personal Auto<sup>5</sup>  
 License Plate Number: \_\_\_\_\_  
 Mileage Round Trip: \_\_\_\_\_
- Airline<sup>6</sup>
- Car Rental and Fuel<sup>7</sup>
- Uber, Lyft
- Taxis, Shuttles, Ferries<sup>8</sup>
- Railroad & Bus<sup>9</sup>
- Parking
- Toll<sup>10</sup>  
 Location/Name of Toll Bridge: \_\_\_\_\_

**OTHER**

State-Related Business Expenses<sup>11</sup>

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<sup>1</sup> For travel less than 24 hours in duration, lunch is reimbursed for Board and Committee meetings only.

<sup>2</sup> Reimbursement of incidentals is allowed only for full 24-hours of travel.

<sup>3</sup> Attach original itemized receipt showing zero balance.

<sup>4</sup> Attach receipts and/or invoices for all methods of transportation.

<sup>5</sup> \$0.585 per mile, effective 1/1/2022

<sup>6</sup> Attach itinerary and/or receipt or ticket stub.

<sup>7</sup> Attach receipt and invoice for rental; attach fuel receipts. Effective 3/1/2020, car rentals are not required to be refueled.

<sup>8</sup> Up to \$10.00 reimbursement without receipt.

<sup>9</sup> Up to \$25.00 reimbursement without receipt.

<sup>10</sup> Up to \$10.00 reimbursement without receipt.

<sup>11</sup> Requires a written detailed explanation for reimbursement; must be itemized, show proof of payment, and be supported with a valid receipt.



Board of Behavioral Sciences



1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830  
www.bbs.ca.gov

Gavin Newsom, Governor  
State of California

Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

**PER DIEM CLAIM FORM FOR \_\_\_\_\_**  
(month / year)

<b>Name:</b>
<b>Address:</b>
<b>City, State, Zip:</b>

No Board activity claimed for month.

Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Hours																
Code																
Date	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Hours																
Code																

**Board Activity Codes**

- B - Board Meeting – includes teleconference meetings
- C - Committee Meeting
- P - Preparing for Meetings (Reading Packets, etc.)
- R - Reading Disciplinary Cases/ Hearing Transcripts
- T - Travel Day
- TRN - Training

I certify that on the above dates I was engaged in performing the above duties and that no part of the above claim has been paid, and that all services herein rendered were in accordance with the laws and regulations of the agency of the State for which compensation is claimed.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Executive Officer Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**EMAIL TO:** Christina Kitamura  
[Christina.kitamura@dca.ca.gov](mailto:Christina.kitamura@dca.ca.gov)





SUBJECT: Per Diem Policy	POLICY #B-15-2	DATE ADOPTED: August 28, 2015
	SUPERSEDES: N/A	PAGE: 1
DISTRIBUTE TO: All Board Members/Executive Officer	APPROVED BY:	<b>BOARD OF BEHAVIORAL SCIENCES</b>

The role and functions of a Board Member are vital to the ensure consumer protection. Each Board Member appointed to the Board of Behavioral Sciences will be compensated in accordance with Business and Professions Code section 103. This code section specifies that “*a Board Member will be compensated a per diem of \$100 for each day of duty actually spent in the discharge of official duties*”. Per diem is paid in eight (8) hour increments.

This policy specifies the activities that are considered official duties for which a Board Member would be compensated pursuant to Business and Professions Code section 103.

**Per Diem Activities:**

1. Board Meetings
2. Committee Meetings
3. Reading all meeting materials in preparation for meetings.
4. Attendance as an official representative of the Board (i.e. conferences, hearings).
5. Reading disciplinary cases and hearing transcripts.
6. Days of travel to and from meetings.

Any other activity for which per diem is requested shall be approved by the Board and/or Executive Officer. Should there be concern about the appropriateness of claiming work for per diem, the issue shall be resolved by the Deputy Director of Board Relations for the Department of Consumer Affairs.

All Board member Per Diem requests should be submitted to the Board office each month on the Board Member Per Diem form, no later than the 15<sup>th</sup> of each month.

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**Implementation:** Immediate

SUBJECT:	POLICY # B-15-3	DATE ADOPTED: <i>August 28, 2015</i>
Succession of Officers	SUPERSEDES: B-05-1	PAGE: 1 OF 1
DISTRIBUTE TO: All Board Members/Executive Officer	APPROVED BY: <b>BOARD OF BEHAVIORAL SCIENCES</b>	

The Board of Behavioral Sciences takes its mandate to protect the public with the utmost seriousness. Each member recognizes it is a privilege and an honor to serve as a member of the Board of Behavioral Sciences. It is the policy of the Board to adopt a policy that clearly states the appropriate succession of officers.

**SUCCESSION OF OFFICERS:**

If for any reason the Chairperson of the Board is unable to continue in his/her role as Chairperson, the Vice-Chairperson shall immediately assume the duties of Chairperson until the next election of officers.

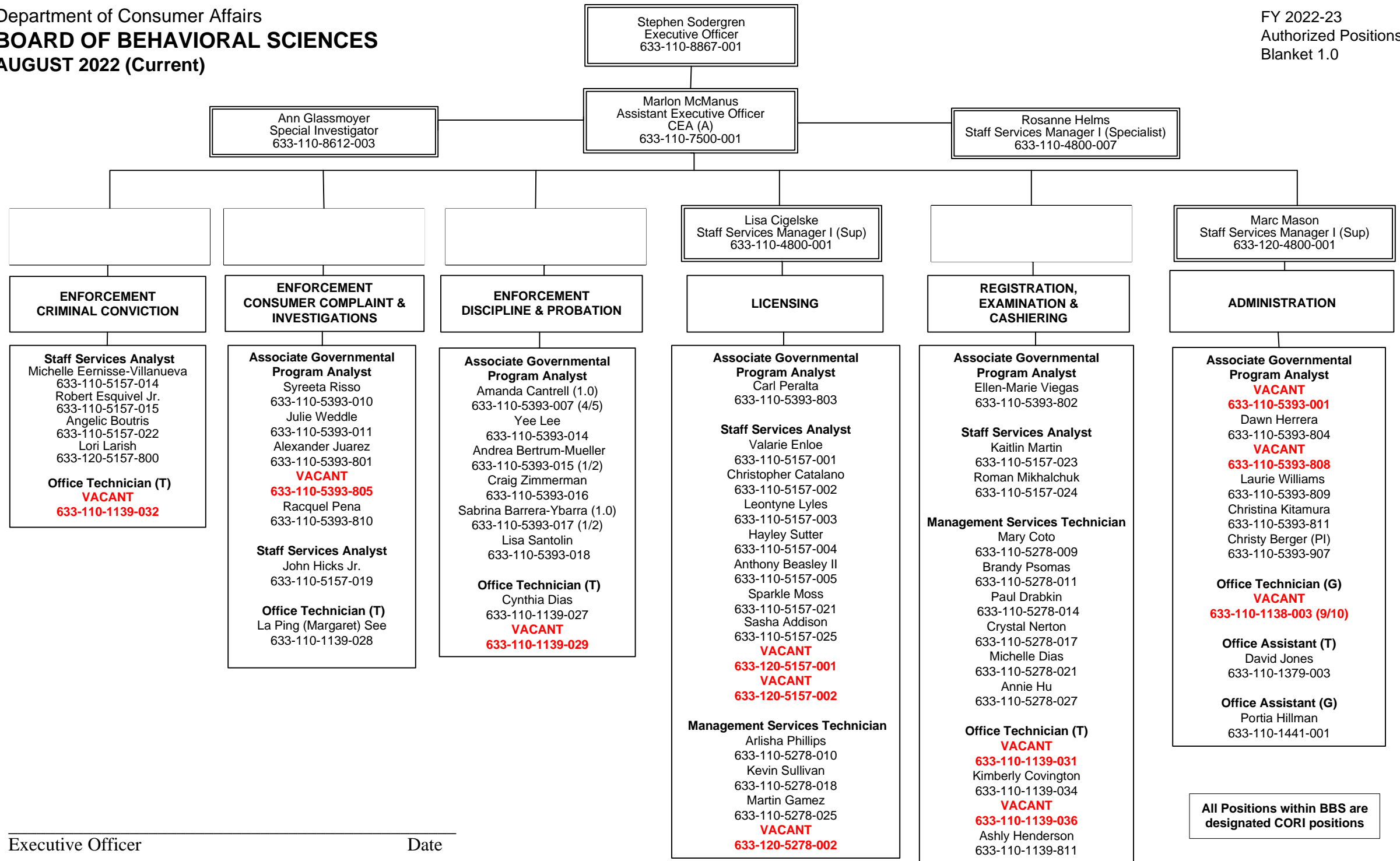
Nominations to fill the position of Vice-Chairperson may be made and voted on at the next scheduled Board Meeting.

**BACKGROUND:** Business and Professions Code Section 4990 (g) states “Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.” The law does not address a sudden or unexpected departure of the Chairperson and the Board requested a policy be in place to address the situation.

**IMPLEMENTATION:** Effective Immediately

Department of Consumer Affairs  
**BOARD OF BEHAVIORAL SCIENCES**  
**AUGUST 2022 (Current)**

FY 2022-23  
 Authorized Positions: 63.7  
 Blanket 1.0



All Positions within BBS are designated CORI positions

Executive Officer \_\_\_\_\_ Date \_\_\_\_\_

Classification & Recruitment (C&R) Analyst \_\_\_\_\_ Date \_\_\_\_\_



C A L I F O R N I A

# BOARD OF BEHAVIORAL SCIENCES

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## STRATEGIC PLAN 2022–2026

ADOPTED: SOLID PLANNING

STATE OF CALIFORNIA



DEPARTMENT OF CONSUMER AFFAIRS

SOLID TRAINING AND  
PLANNING SOLUTIONS



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# MEMBERS OF THE BOARD

**Massimiliano “Max” Disposti**, *Public Member—Chair*

**Crystal Anthony**, *LCSW Member*

**Ross Erlich**, *Public Member*

**Susan Friedman**, *Public Member*

**Diana Herweck**, *LPCC Member*

**Justin Huft**, *LMFT Member*

**Christopher C. Jones**, *LEP Member*

**Abigail Ortega**, *LCSW Member*

**Kelly Ranasinghe**, *Public Member*

**John Sovec**, *LMFT Member*

**Wendy Strack**, *Public Member*

**Annette Walker**, *Public Member*

**Yvette Casares Willis**, *Public Member*

**Gavin Newsom**, Governor

**Lourdes M. Castro Ramírez**, Secretary, Business, Consumer Services and Housing Agency

**Kimberly Kirchmeyer**, Director, Department of Consumer Affairs

**Steve Sodergren**, Executive Officer, Board of Behavioral Sciences



# MESSAGE FROM THE BOARD PRESIDENT

As president of the California Board of Behavioral Sciences, it is my honor to introduce the *2022–26 Strategic Plan* and to express my greatest appreciation for the work and contribution of the board members, staff, and stakeholders in developing this plan that will assist in guiding the Board during the next four years.

Events of the last few years have brought into clearer focus some of the challenges and opportunities the Board will need to consider when working toward ensuring the highest quality mental health for all Californians. The increased use of telehealth, spurred by the COVID-19 pandemic, has made it necessary to review current Board statutes and regulations to ensure consumer safety. Social unrest across California and the country has highlighted the need to ensure the Board is being equitable and inclusive in all its decision and policies. Additionally, the Board will need to explore ways in which to support the development of a culturally responsive mental health workforce that will be able to meet the increasing needs of Californians.

The *2022–26 Strategic Plan* emphasizes reducing unnecessary barriers to licensure, supporting a culturally responsive workforce, increasing access through technology, and Board accountability. The ongoing effort to create an environment that is efficient, streamlined, and technologically friendly will continue. As in the previous strategic plan, the focus will continue to be on licensing, examination, enforcement, legislation, and outreach and education.

The Board continues to have a strong commitment to *protect and serve Californians by setting, communicating, and enforcing standards for competent mental health practice*. Above all, the Board of Behavioral Sciences is dedicated to *consumer protection, accountability, transparency, customer service, integrity, quality, and respect*.

The Board continues to encourage the public to share and participate in this joint venture in maintaining the *highest quality of mental health care for all Californians*.

— Massimiliano “Max” Disposti

# ABOUT THE BOARD

## A PIONEERING BEGINNING

In 1945, California became the first state to register social workers with the formation of the Board of Social Work Examiners. Jump ahead 18 years to 1963, and this young regulatory agency received a new responsibility: administration of the Marriage, Family, and Child Counselor Act (later renamed the Social Worker and Marriage Counselor Act). New responsibilities meant a new name too. Appropriately, the Board was renamed the Social Worker and Marriage Counselor Qualification Board.

The 1960s proved to be a busy decade with the establishment of the Licensed Clinical Social Worker Program in 1967. Then in 1970, a licensing program for Educational Psychologists was added to the Board, inspiring a new name: the Board of Behavioral Science Examiners.

## CONTINUING CHANGE

The Board took its current name, the Board of Behavioral Sciences, on January 1, 1997. This name better represents the true mission and duties of the Board.

Effective July 1, 1999, the then Marriage, Family, and Child Counselor profession underwent a name change. All references in statute or regulation to “licensed marriage, family, and child counselor” or “marriage, family, and child counselor” were changed to “licensed marriage and family therapist” or “marriage and family therapist.” The Board discontinued regulating MFT and LCSW corporations on January 1, 2000. However, the corporations are still required to file their articles with the California secretary of state.

## THE BOARD FORGES AHEAD...

Focusing on its mission, The Board of Behavioral Sciences looks to continue its commitment to protect the consumers of California through effective enforcement, ensure credibility and high professional standards through examinations and licensing requirements, and provide excellent customer service to all its constituents.

## THE BBS WAY

- Be a person of integrity.
- Be professional and dedicated.
- Serve with excellence.

# MISSION, VISION, AND VALUES



## OUR MISSION

Protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practices.



## OUR VISION

All Californians are able to access the highest quality mental health services.



## OUR VALUES

Accountability  
Customer service  
Integrity  
Quality  
Respect



Board of Behavioral Sciences

# GOAL 1: LICENSING

*Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.*

- 1.1** Streamline the application process with online submission to decrease processing times.
- 1.2** Collaborate with the Department of Consumer Affairs' Organizational Improvement Office to review the application process and implement improvements to reduce processing times.
- 1.3** Partner with other agencies and stakeholder groups to reduce barriers to licensure and foster the development of a diverse and culturally responsive mental health workforce.
- 1.4** Increase communication to applicants and licensees to reduce common application or licensing maintenance errors.
- 1.5** Develop video presentations to increase understanding of the licensing process and the pathways to licensure.



# GOAL 2: EXAMINATION

*Administer fair, valid, comprehensive, and relevant licensing examinations.*

- 2.1** Identify and implement strategies to increase diversity of subject matter experts to ensure that examinations are culturally responsive and address diverse populations.
- 2.2** Improve the examination process to ensure timely and equitable access to licensure.
- 2.3** Review, report, and determine feasibility of adopting the use of the Association of Marital and Family Therapists Regulatory Boards (AMFTRB) national exam for the Licensed Marriage and Family Therapist (LMFT) Clinical exam.



# GOAL 3: ENFORCEMENT

*Protect the health and safety of consumers through the enforcement of laws.*

- 3.1** Develop and implement an effective communication process from open to close of a case to ensure applicants, complainants, and respondents are better informed about the status of their case.
- 3.2** Educate licensees, associates, and consumers about the enforcement process to increase awareness of the Board's enforcement role and responsibilities.
- 3.3** Complete review and make recommendations on the Board's existing enforcement statutes and regulations for clarity, cohesiveness, and equity.
- 3.4** Evaluate and establish internal policies and procedures related to enforcement issues to ensure an equitable process that reflects rehabilitation versus punitive measures for the purpose of consumer protection.
- 3.5** Create diversity in the pool of qualified enforcement Subject Matter Experts to ensure equitable enforcement proceedings.



# GOAL 4: LEGISLATION AND REGULATION

*Ensure the statutes, regulations, policies, and procedures strengthen the Board's mandates and mission.*

- 4.1** Implement statutes and regulations that comprehensively address telehealth and educate stakeholders, licensees, and consumers about telehealth.
- 4.2** Review current licensing requirements regarding registration, exam, and supervised experience timeframes and make recommendations for possible amendments to current statutes and regulations.
- 4.3** Review and update statutes and regulations related to additional coursework requirements for associates and the Continuing Education Unit requirements for licensees.
- 4.4** Modernize and clarify statutes and regulations related to advertising to ensure they keep up with current advertisement practices.



# GOAL 5: ORGANIZATIONAL EFFECTIVENESS

*Build an excellent organization through proper Board governance, effective leadership, and responsible management.*

- 5.1** Review current organizational structure to ensure efficient operations and to foster upward career mobility among staff.
- 5.2** Collaborate with the Department of Consumer Affairs' Organizational Improvement Office to review internal processes and implement improvements to better serve the stakeholders and the Board.
- 5.3** Advance transition to reduce the use of paper documents to promote environmental friendliness, reduce costs, and reduce processing times.
- 5.4** Formalize a communications plan that will ensure quicker responses to emerging concerns from stakeholders.





# GOAL 6: OUTREACH AND EDUCATION

*Engage stakeholders through continuous communication about the practice and regulation of the professions, and mental health care.*

- 6.1** Create a more robust consumer and licensing education program through videos, social media campaigns, and electronic publications to ensure understanding of new changes in laws and regulations.
- 6.2** Collaborate with entities that work with consumers to increase equitable and inclusive outreach to diverse populations.
- 6.3** Increase Board engagement with schools, training programs, public events, and relevant professional organizations to raise awareness of the Board's role and activities.
- 6.4** Identify and implement strategies to gain increased participation in Board meetings from a wider group of stakeholders.



# STRATEGIC PLANNING PROCESS

To understand the environment in which the Board operates and to identify factors that could impact the Board's success, the California Department of Consumer Affairs' SOLID planning unit conducted an environmental scan of the internal and external environments by collecting information through the following methods:

- Interviews were conducted with all 13 board members, the executive officer, and six members of board management during the month of April 2021 to assess the challenges and opportunities the Board is facing or will face in the upcoming years.
- Online surveys were sent to external stakeholders and Board staff on March 30, 2021, and closing on April 23, 2021. In the survey, external stakeholders and Board staff provided anonymous input regarding the challenges and opportunities the Board is facing or will face in the upcoming years. A total of 11 staff and 1,976 external stakeholders participated in the survey.

The most significant themes and trends identified from the environmental scan were discussed by Board members and the executive officer during two strategic planning sessions facilitated by SOLID planning on September 9, 2021, and October 4, 2021. This information guided the Board in the review of its mission, vision, and values while directing the strategic goals and objectives outlined in its new strategic plan.





Board of Behavioral Sciences

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STATE OF CALIFORNIA

**dca**

DEPARTMENT OF CONSUMER AFFAIRS



STATE OF CALIFORNIA

**dca**

DEPARTMENT OF CONSUMER AFFAIRS

SOLID TRAINING AND  
PLANNING SOLUTIONS

## ROBERTS RULES CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..."	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that..."	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

To: ...	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table..."	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

## PROCEDURE FOR HANDLING A MAIN MOTION

**NOTE:** Nothing goes to discussion without a motion being on the floor.

### Obtaining and assigning the floor

A member raises hand when no one else has the floor

- The chair recognizes the member by name

### How the Motion is Brought Before the Assembly

- The member makes the motion: *I move that (or "to") ...* and resumes his seat.
- Another member seconds the motion: *I second the motion* or *I second it* or *second*.
- The chair states the motion: *It is moved and seconded that ... Are you ready for the question?*

### Consideration of the Motion

1. Members can debate the motion.
2. Before speaking in debate, members obtain the floor.
3. The maker of the motion has first right to the floor if he claims it properly
4. Debate must be confined to the merits of the motion.
5. Debate can be closed only by order of the assembly (2/3 vote) or by the chair if no one seeks the floor for further debate.

### The chair puts the motion to a vote

1. The chair asks: *Are you ready for the question?* If no one rises to claim the floor, the chair proceeds to take the vote.
2. The chair says: *The question is on the adoption of the motion that ... As many as are in favor, say 'Aye'. (Pause for response.) Those opposed, say 'Nay'. (Pause for response.) Those abstained please say 'Aye'.*

### The chair announces the result of the vote.

1. *The ayes have it, the motion carries, and ...* (indicating the effect of the vote) or
2. *The nays have it and the motion fails*

### WHEN DEBATING YOUR MOTIONS

1. Listen to the other side
2. Focus on issues, not personalities
3. Avoid questioning motives
4. Be polite

# HOW TO ACCOMPLISH WHAT YOU WANT TO DO IN MEETINGS

## MAIN MOTION

You want to propose a new idea or action for the group.

- After recognition, make a main motion.
- Member: "Madame Chairman, I move that \_\_\_\_\_."

## AMENDING A MOTION

You want to change some of the wording that is being discussed.

- After recognition, "Madame Chairman, I move that the motion be amended by adding the following words \_\_\_\_\_."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words \_\_\_\_\_."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words, \_\_\_\_\_, and adding in their place the following words \_\_\_\_\_."

## REFER TO A COMMITTEE

You feel that an idea or proposal being discussed needs more study and investigation.

- After recognition, "Madame Chairman, I move that the question be referred to a committee made up of members Smith, Jones and Brown."

## POSTPONE DEFINITELY

You want the membership to have more time to consider the question under discussion and you want to postpone it to a definite time or day, and have it come up for further consideration.

- After recognition, "Madame Chairman, I move to postpone the question until \_\_\_\_\_."

## PREVIOUS QUESTION

You think discussion has gone on for too long and you want to stop discussion and vote.

- After recognition, "Madam President, I move the previous question."

## LIMIT DEBATE

You think discussion is getting long, but you want to give a reasonable length of time for consideration of the question.

- After recognition, "Madam President, I move to limit discussion to two minutes per speaker."

## **POSTPONE INDEFINITELY**

You want to kill a motion that is being discussed.

- After recognition, "Madam Moderator, I move to postpone the question indefinitely."

## **POSTPONE INDEFINITELY**

You are against a motion just proposed and want to learn who is for and who is against the motion.

- After recognition, "Madame President, I move to postpone the motion indefinitely."

## **RECESS**

You want to take a break for a while.

- After recognition, "Madame Moderator, I move to recess for ten minutes."

## **ADJOURNMENT**

You want the meeting to end.

- After recognition, "Madame Chairman, I move to adjourn."

## **PERMISSION TO WITHDRAW A MOTION**

You have made a motion and after discussion, are sorry you made it.

- After recognition, "Madam President, I ask permission to withdraw my motion."

## **CALL FOR ORDERS OF THE DAY**

At the beginning of the meeting, the agenda was adopted. The chairman is not following the order of the approved agenda.

- Without recognition, "Call for orders of the day."

## **SUSPENDING THE RULES**

The agenda has been approved and as the meeting progressed, it became obvious that an item you are interested in will not come up before adjournment.

- After recognition, "Madam Chairman, I move to suspend the rules and move item 5 to position 2."

## **POINT OF PERSONAL PRIVILEGE**

The noise outside the meeting has become so great that you are having trouble hearing.

- Without recognition, "Point of personal privilege."
- Chairman: "State your point."
- Member: "There is too much noise, I can't hear."



## COMMITTEE OF THE WHOLE

You are going to propose a question that is likely to be controversial and you feel that some of the members will try to kill it by various maneuvers. Also you want to keep out visitors and the press.

- After recognition, "Madame Chairman, I move that we go into a committee of the whole."

## POINT OF ORDER

It is obvious that the meeting is not following proper rules.

- Without recognition, "I rise to a point of order," or "Point of order."

## POINT OF INFORMATION

You are wondering about some of the facts under discussion, such as the balance in the treasury when expenditures are being discussed.

- Without recognition, "Point of information."

## POINT OF PARLIAMENTARY INQUIRY

You are confused about some of the parliamentary rules.

- Without recognition, "Point of parliamentary inquiry."

## APPEAL FROM THE DECISION OF THE CHAIR

Without recognition, "I appeal from the decision of the chair."

## Rule Classification and Requirements

Class of Rule	Requirements to Adopt	Requirements to Suspend
Charter	Adopted by majority vote or as proved by law or governing authority	Cannot be suspended
Bylaws	Adopted by membership	Cannot be suspended
Special Rules of Order	Previous notice & 2/3 vote, or a majority of entire membership	2/3 Vote
Standing Rules	Majority vote	Can be suspended for session by majority vote during a meeting
Modified Roberts Rules of Order	Adopted in bylaws	2/3 vote

***State of California***

**Department of Consumer Affairs**

**Board of Behavioral Sciences**

The seal of the California Board of Behavioral Sciences is a circular emblem. It features a central figure of a woman in classical attire holding a torch, standing on a rocky outcrop. The word "EUREKA" is inscribed above the figure. The outer ring of the seal contains the text "CALIFORNIA BOARD OF" at the top and "BEHAVIORAL SCIENCES" at the bottom, separated by small stars.

**UNIFORM STANDARDS RELATED  
TO SUBSTANCE ABUSE AND  
DISCIPLINARY  
GUIDELINES**

**Revised: October 2015**

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California, or from its web site at [www.bbs.ca.gov](http://www.bbs.ca.gov).

## INTRODUCTION

The Board of Behavioral Sciences (hereinafter “the Board”) is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. In keeping with its mandate, the Board has adopted the following uniform standards related to substance abuse and recommended guidelines for the intended use of those involved in the disciplinary process: Administrative Law Judges, respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

These guidelines consist of four parts:

I. Uniform Standards Related to Substance Abuse – for those licensees and registrants with a violation related to alcohol and/or a controlled substance, or whose license or registration is on probation due to a substance abuse violation;

II. Penalty Guidelines - an identification of the types of violations and range of penalties for which discipline may be imposed;

III. Model Disciplinary Orders - language for proposed terms and conditions of probation; and

IV. Board Policies and Guidelines – for various enforcement actions.

The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation.

These penalty guidelines apply only to the formal disciplinary process and do not apply to other alternatives available to the Board, such as citations and fines. See Business and Professions Code Section 125.9 and Title 16 California Code of Regulations Section 1886.

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# **I. Uniform Standards Related to Substance Abuse**

## **Uniform Standards For Licensees Or Registrants Whose License Or Registration Is On Probation Due To A Substance Abuse Violation**

The following standards shall apply in all cases in which a license or registration is placed on probation due, in part, to a substance abuse violation, unless the licensee or registrant rebuts that the violation is a substance abuse violation.

### **Clinical Diagnostic Evaluations**

Whenever a licensee or registrant is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

The following practice restrictions apply to each licensee or registrant who undergoes a clinical diagnostic evaluation:

1. The Board shall suspend the license or registration during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the Board.
2. While awaiting the results of a clinical diagnostic evaluation, the licensee or registrant shall be randomly drug tested at least two (2) times per week.

### **Clinical Diagnostic Evaluation Report**

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee or registrant has a substance abuse problem, whether the licensee or registrant is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice, restrictions, or other recommendations related to the licensee or registrant's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, business or professional relationship with the licensee or registrant. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee or registrant is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 calendar days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee or registrant is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee or registrant based on the application of the following criteria:

1. License or registration type;
2. Licensee or registrant's history;
3. Documented length of sobriety;
4. Scope and pattern of substance abuse;
5. Treatment history;
6. Medical history;
7. Current medical condition;
8. Nature, duration and severity of substance abuse problem; and
9. Whether the licensee or registrant is a threat to himself or herself or others.

No licensee or registrant shall be returned to practice until he or she has at least 30 calendar days of negative drug tests.

When determining if the licensee or registrant should be required to participate in inpatient, outpatient, or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license or registration type, licensee or registrant's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee or registrant is a threat to himself or herself or others.

### **Supervisor Requirements**

If the Board determines that a supervisor is necessary for a particular licensee or registrant, the supervisor must meet the following requirements to be considered for approval by the Board:

1. The supervisor shall not have a current or former financial, personal, business or professional relationship with the licensee or registrant, or other relationship that could reasonably be expected to compromise the ability of the supervisor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee or registrant's employer to serve as the supervisor, this requirement may be waived by the Board; however, under no circumstances shall a licensee or registrant's supervisor be an employee or supervisee of the licensee or registrant.

2. The supervisor's license scope of practice shall include the scope of practice of the licensee or registrant who is being monitored or be another health care professional if no supervisor with like scope of practice is available.
3. The supervisor shall be a current California licensed practitioner and have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The supervisor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee or registrant's disciplinary order and agrees to monitor the licensee or registrant as set forth by the Board.

The supervisor must adhere to the following required methods of monitoring the licensee or registrant:

1. Have a face-to-face contact with the licensee or registrant 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 or registrant's behavior, if applicable.
3. Review the licensee or registrant's work attendance.

Reporting by the supervisor to the Board shall be as follows:

1. Any suspected substance abuse must be orally reported to the Board and the licensee or registrant's employer within one (1) business day of occurrence. If the 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 48 hours of occurrence.
2. The supervisor shall complete and submit a written report directly to the Board monthly or as directed by the Board. The report shall include:
  - a. the licensee or registrant's name;
  - b. license or registration number;
  - c. supervisor's name and signature;
  - d. supervisor's license number;
  - e. worksite location(s);
  - f. dates licensee or registrant had face-to-face contact with supervisor;
  - g. worksite staff interviewed, if applicable;
  - h. attendance report;
  - i. any change in behavior and/or personal habits; and



- j. any indicators that can lead to suspected substance abuse.

The licensee or registrant shall complete the required consent forms and sign an agreement with the supervisor and the Board to allow the Board to communicate with the supervisor.

### **Chemical Dependency Support or Recovery Group Meetings**

If the Board requires a licensee or registrant to participate in chemical dependency support or recovery group meetings, the Board shall take the following into consideration when determining the frequency of required group meeting attendance:

1. the licensee or registrant's history;
2. the documented length of sobriety;
3. the recommendation of the clinical diagnostic evaluator;
4. the scope and pattern of substance abuse;
5. the licensee or registrant's treatment history; and
6. the nature, duration, and severity of substance abuse.

The group meeting facilitator of a chemical dependency support or recovery group that a Board licensee or registrant is required to participate in must meet the following requirements:

1. Have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
2. Be licensed or certified by the state or other nationally certified organizations to provide substance abuse recovery services;
3. Does not have a financial, personal, business or professional relationship with the licensee or registrant within the last year;
4. Must provide the Board a signed document showing the licensee or registrant's name, the group name, the date and location of the meeting, the licensee or registrant's attendance, and the licensee or registrant's level of participation and progress.
5. Must report to the Board any unexcused absence of a Board licensee or registrant being required to participate within 24 hours.

### **Major and Minor Violations**

Major violations include, but are not limited to, the following:

1. Failure to complete any Board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing more than one minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;

5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to report for drug and alcohol testing when ordered;
7. Testing positive for alcohol and/or a controlled substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee or registrant commits a major violation, the Board shall automatically suspend the license or registration and refer the matter for disciplinary action or other action as determined by the Board.

The consequences for a major violation include, but are not limited to, the following:

1. License or registration shall be suspended;
2. Licensee or registrant must undergo a new clinical diagnostic evaluation;
3. Licensee or registrant must test negative for at least one month of continuous drug testing before being allowed to resume practice;
4. Contract or agreement previously made with the Board shall be terminated; and
5. Licensee or registrant shall be referred for disciplinary action, such as suspension, revocation, or other action determined appropriate by the Board.

Minor violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;
3. Failure to contact a supervisor and/or monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or registrant or to the public.

If a licensee or registrant commits a minor violation, the Board shall determine what action is appropriate. The consequences for a minor violation include, but are not limited to, the following:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation and/or testing.

### **Positive Test for Alcohol and/or a Controlled Substance**

If a licensee or registrant tests positive for alcohol and/or a controlled substance, the Board shall do the following:

- Automatically suspend the license or registration;

- Immediately contact the licensee or registrant and inform him or her that his or her license or registration has been suspended and he or she may not practice until the suspension is lifted; and
- Immediately notify the licensee or registrant's employer that the license or registration has been automatically suspended, and that he or she may not practice until the suspension is lifted.

The Board should do the following, as applicable, to determine whether a positive test for alcohol and/or a controlled substance is evidence of prohibited use:

- Consult the specimen collector and the laboratory;
- Communicate with the licensee or registrant and/or treating physician; and
- Communicate with any treatment provider, including a group facilitator.

The Board shall immediately lift the suspension if the positive drug test is not found to be evidence of prohibited use.

### **Drug Testing Standards**

The drug testing standards below shall apply to each licensee or registrant subject to drug testing. At its discretion, the Board may use other testing methods in place of, or to supplement, drug and alcohol testing, if appropriate.

1. Drug testing may be required on any day, including weekends and holidays.
2. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.
3. Licensees or registrants shall be required to make daily contact as directed to determine if drug testing is required.
4. Licensees or registrants shall be drug tested on the date of notification as directed by the Board.
5. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
6. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
7. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
8. Collection of specimens shall be observed.
9. Prior to vacation or absence, alternative drug testing location(s) must be approved by the Board.

10. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

Nothing herein shall limit the Board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code Section 11522 or statutes applicable to the Board that contain different provisions for reinstatement or reduction of penalty.

### **Drug Testing Frequency Schedule**

The Board may order a licensee or registrant to drug test at any time. In addition, each licensee or registrant shall be tested randomly according to the following drug testing frequency schedule:

<b>Level</b>	<b>Year of Probation</b>	<b>Minimum Range Number of Random Tests</b>
I	Year 1	52-104 per year
II	Years 2 through 5	36-104 per year
III	After Year 5	Once per month*

\*If no positive drug tests in the previous 5 consecutive years.

The Board may increase the number of random tests required at its discretion. If the Board suspects or finds that a licensee or registrant has violated the prescribed testing program, or finds that a licensee or registrant has committed a major violation, it may re-establish the testing cycle by placing that licensee or registrant at the beginning of Level I. This is in addition to any other disciplinary action.

### **Drug Testing Frequency Schedule Exceptions**

The Board may make exceptions to the prescribed drug testing frequency schedule for the following reasons:

1. Licensee or Registrant Demonstrates Previous Testing and Sobriety

The licensee or registrant can demonstrate participation in a treatment or monitoring program which requires random testing, prior to being subject to testing by the Board. In such a case, the Board may give consideration to the previous testing by altering the testing frequency schedule so that it is equivalent to the standard.

## 2. Violations Outside of Employment

A licensee or registrant whose license or registration is placed on probation for a single conviction or incident, or two convictions or incidents, spanning greater than seven years from each other, where alcohol or drugs were a contributing factor, may bypass Level I and participate in Level II of the testing frequency schedule if the violations did not occur at work or on the way to or from work.

## 3. Not Employed in Health Care Field

The Board may reduce testing frequency to a minimum of twelve (12) times per year if the licensee or registrant is not practicing or working in any health care field. If reduced testing frequency is established for this reason, and the licensee or registrant returns to practice, the licensee or registrant shall notify and obtain approval from the Board. The licensee or registrant shall then be subject to Level I testing frequency for at least 60 days. If the licensee or registrant had not previously met the Level I frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant had previously met the Level I frequency standard, the licensee or registrant shall be subject to Level II testing after completing Level I testing for at least 60 days.

## 4. Tolling

The Board may postpone all testing for any person whose probation is placed in a tolling status if the overall length of the probationary period is also tolled. The licensee or registrant shall notify the Board upon his or her return to California and shall be subject to testing as provided in the testing frequency standard. If the licensee or registrant returns to practice and has not previously met the Level I testing frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant has previously met the Level I testing frequency standard, then Level II shall be in effect.

## 5. Substance Use Disorder Not Diagnosed

If a licensee or registrant is not diagnosed with a current substance use disorder, a lesser period of monitoring and toxicology screening may be adopted by the Board. This period may not be less than 24 times per year.

### **Criteria to Petition to Return to Practice**

In order to petition to return to full time practice, a licensee or registrant shall have demonstrated all of the following:

1. Sustained compliance with his or her current recovery program;
2. The ability to practice safely as evidenced by current work site reports, evaluations, and any other information related to his or her substance abuse;
3. Must have at least six (6) months of negative drug screening reports and two (2) positive supervisor reports; and
4. Complete compliance with the other terms and conditions of his or her program.

### **Criteria to Petition for Reinstatement to Unrestricted License or Registration**

In order to petition for reinstatement to a full and unrestricted license or registration, a licensee or registrant shall meet all of the following criteria:

1. Demonstrated sustained compliance with the terms of the disciplinary order (if applicable);
2. Demonstrated successful completion of a rehabilitation program (if required);
3. Demonstration of a consistent and sustained participation in activities that promote and support his or her recovery, including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities;
4. Demonstrated ability to practice safely; and
5. Continuous sobriety for at least three (3) to five (5) years.

## II. Penalty Guidelines

The following is an attempt to provide information regarding violations of statutes and regulations under the jurisdiction of the Board of Behavioral Sciences and the appropriate range of penalties for each violation. Each penalty listed is followed in parenthesis by a number, which corresponds with a number under the chapter "Model Disciplinary Orders." Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations. Optional conditions listed are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be imposed where appropriate. Except as provided in the Uniform Standards Related to Substance abuse, the Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982.26(k) LCSW: B&P § 4992.33 LEP: B&P § 4989.58 LPCC: B&P § 4999.90(k) GP: B&P § 729	Engaging in Sexual Contact with Client / Former Client	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> The law requires revocation/denial of license or registration.
MFT: B&P § 4982(aa)(1) LCSW: B&P § 4992.3(y)(1) LEP: B&P § 4989.54(y)(1) LPCC: B&P § 4999.90(z)(1)	Engaging In Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act occurred prior to or after registration or licensure. <b>or</b> Engaging in act described in Section 261, 286, 288a, or 289 of the Penal code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> The Board considers this reprehensible offense to warrant revocation/denial.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> The Board considers this reprehensible offense to warrant revocation/denial.
MFT: B&P § 4982(k), 4982.26 LCSW: B&P § 4992.3(l), 4992.33 CCR § 1881(f) LEP: B&P § 4989.58 B&P § 4989.54(n) LPCC: B&P § 4999.90(k) GP: B&P § 480, 726	Sexual Misconduct (Anything other than as defined in B&P Section 729)	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• Take and pass licensure examinations as a condition precedent to resumption of practice</li> <li>• 7 years probation</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric evaluation as a condition precedent to resumption of practice</li> <li>• Supervised practice</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> (See B&P 4982.26, 4989.58, 4992.33) The Board considers this reprehensible offense to warrant revocation/denial.



		<ul style="list-style-type: none"> <li>• Psychotherapy</li> <li>• Education</li> <li>• Take and pass licensure examination</li> <li>• Reimbursement of probation program</li> </ul> <p>And if warranted, enter and complete a rehabilitation program approved by the Board; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice, reimbursement of probation program costs.</p>	
<p>MFT: B&amp;P § 4982(k)  LCSW: B&amp;P § 4992.3(l)  CCR § 1881(f)  LEP: B&amp;P § 4989.54(n)  LPCC: B&amp;P § 4999.90(k)  GP: B&amp;P § 480</p>	<p>Commission of an Act Punishable as a Sexually Related Crime</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• Psychotherapy</li> <li>• 5 years probation; standard terms and conditions</li> <li>• Psychological/psychiatric evaluation as a condition precedent to the resumption of practice</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
<p>MFT: B&amp;P § 4982(c),  4982.1  LCSW: B&amp;P § 4992.3(c),  4992.35  LEP: , 4989.54(c)  LPCC: B&amp;P § 4999.90(c)  GP: B&amp;P § 480, 820</p>	<p>Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• 5 years probation; standard terms and conditions</li> <li>• Supervised practice</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul> <p><u>In addition:</u></p> <ul style="list-style-type: none"> <li>• MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

		<ul style="list-style-type: none"> <li>• PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice</li> <li>• CHEMICAL DEPENDENCY Random drug and alcohol testing, psychological/psychiatric /clinical diagnostic evaluation; supervised practice; therapy; rehabilitation program; abstain from controlled substances/use of alcohol; and if warranted: restricted practice.</li> </ul>	
<p>MFT: B&amp;P § 4982(c), 4982.1  LCSW: B&amp;P § 4992.3(c), 4992.35  LEP: B&amp;P § 4989.54(c), 4989.56  LPCC: B&amp;P § 4999.90(c)  GP: B&amp;P § 480</p>	Chemical Dependency / Use of Drugs With Client While Performing Services	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric clinical diagnostic evaluation and to implement any recommendations from that evaluation</li> <li>• Random drug and alcohol testing</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric/clinical diagnostic evaluation</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Rehabilitation program</li> <li>• Abstain from controlled substances/use of alcohol</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, psychotherapy; restricted practice</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
<p>MFT: B&amp;P § 4982(i)  LCSW: B&amp;P § 4992.3(j)  CCR § 1881(d)  LEP: B&amp;P § 4989.54(m)  LPCC: B&amp;P § 4999.90(i)  GP: B&amp;P § 480</p>	Intentionally / Recklessly Causing Physical or Emotional Harm to Client	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 90-120 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Take and pass licensure examinations</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, psychological/psychiatric evaluation; psychotherapy, restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration application</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(d) LCSW: B&P § 4992.3(d) CCR § 1881(m) LEP: B&P § 4989.54(k) LPCC: B&P § 4999.90(d) GP: B&P § 480	Gross Negligence / Incompetence	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension; 5 years probation</li> <li>• Standard terms and conditions; supervised practice</li> <li>• Education</li> <li>• Take and pass licensure examinations</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs;</li> </ul> And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982 CCR § 1845 LCSW: B&P § 4992.3 CCR § 1881 LEP: B&P § 4989.54 CCR § 1858 LPCC: B&P § 4999.90 GP: B&P § 125.6 480, 821	General Unprofessional Conduct	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery; reimbursement of probation program</li> </ul> And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice, law and ethics course.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<p align="center"><b>Statutes and Regulations</b></p> <p>Business and Professions Code: (B&amp;P)  Title 16, California Code of Regulations: (CCR)  General Provisions: (GP)  Penal Code: (PC)  Welfare and Institutions Code: (WI)</p>	<p align="center"><b>Violation Category</b></p>	<p align="center"><b>Minimum Penalty</b></p>	<p align="center"><b>Maximum Penalty</b></p>
<p>MFT: B&amp;P § 4980.40(e), 4982(a)  LCSW: B&amp;P § 4992.3(a), 4996.2(d), 4996.18(b)  LEP: B&amp;P § 4989.20(a)(3), 4989.54(a)  LPCC: B&amp;P § 4999.90(a)  GP: B&amp;P § 480, 490, 493</p>	<p>Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee / Registrant</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs (Costs and conditions of probation depend on the nature of the criminal offense).</li> </ul> <p>CRIMES AGAINST PEOPLE: Add: Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation program; restricted practice.</p> <p>DRUGS AND ALCOHOL: Add: Random drug and alcohol testing, psychological/psychiatric/clinical diagnostic evaluation; psychotherapy; supervised practice, rehabilitation program; abstain from controlled substances/use of alcohol, and if warranted: restricted practice.</p> <p>FISCAL AND PROPERTY CRIMES: Add: Restitution, and if warranted: psychotherapy; take and pass licensure exams; rehabilitation program; restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(j) LCSW: B&P § 4992.3(k) CCR § 1881(e) LEP: B&P § 4989.54(g) LPCC: B&P § 4999.90(j) GP: B&P § 480, 650, 810	Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Law and ethics course</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted. psychological/psychiatric evaluation; supervised practice; psychotherapy; take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4980.02, 4982(l), 4982(s), 4982(t) CCR § 1845(a), 1845(b) LCSW: B&P § 4992.3(m) 4996.9 CCR § 1881(g), 1881(h) LEP: B&P § 4989.14 4989.54(r) 1858(b) CCR § LPCC: B&P § 4999.90(l), 4999.90(s) 4999.90(t) GP: B&P § 480	Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted, psychological/psychiatric evaluation; supervised practice; psychotherapy, take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4989.54(h), 4989.54(i) LPCC: B&P § 4990.38 GP: B&P § 141, 480	Discipline by Another State or Governmental Agency	<ul style="list-style-type: none"> <li>• Determine the appropriate penalty by comparing the violation under the other state with California law.</li> </ul> And if warranted: take and pass licensure examinations as a condition precedent to practice; reimbursement of probation program costs.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(b) LCSW: B&P § 4992.3(b), B&P §4992.7 LEP: B&P § 4989.54(b) LPCC: B&P § 4999.90 (b) GP: B&P § 480, 498, 499	Securing or Attempting to Secure a License by Fraud	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration application;</li> <li>• Cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4980, 4982(f) CCR § 1845(a),  LCSW: B&P § 4992.3(f), 4996 1845(b) CCR § 1881(a) LEP: B&P § 4989.54(l) LPCC: B&P § 4999.90(f) GP: B&P § 480	Misrepresentation of License / Qualifications	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: take and pass licensure examinations.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982(q) LCSW: B&P § 4992.3(r) CCR § 1881(l) LEP: B&P § 4989.54(s) LPCC: B&P § 4999.90(q) GP: B&P § 123, 480, 496	Violates Exam Security / Subversion of Licensing Exam	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(g) LCSW: B&P § 4992.3(h), 4992.7 CCR § 1881(b) LEP: CCR § 1858(a) LPCC: B&P § 4999.90(g) GP: B&P § 119, 480	Impersonating Licensee / Allowing Impersonation	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 5 years probation</li> <li>• Supervised practice</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric evaluation</li> <li>• Psychotherapy</li> <li>• Cost recovery</li> <li>• Reimbursement of probation costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(h) LCSW: B&P § 4992.3(i) CCR § 1881(c) LEP: B&P § 4989.54 (t) LPCC: B&P § 4999.90(h) GP: B&P § 125, 480	Aiding and Abetting Unlicensed / Unregistered Activity	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: supervised practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(m) LCSW: B&P § 4992.3(n) CCR § 1881(i) LEP: B&P § 4989.54 (q) LPCC: B&P § 4999.90(m) GP: B&P § 480	Failure to Maintain Confidentiality	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Take and pass licensure exams</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 728 LCSW: B&P § 728 LPCC: B&P § 728 GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(r), 4982(t), 4982(u) CCR § 1833.1, 1845(b) LCSW: B&P § 4992.3(s) LEP: B&P § 4989.54(ab), CCR §  LPCC: B&P § 4999.90(r) 4999.90(t), 4999.90(u) 1858(b)	Improper Supervision of Trainee / Intern / Associate / Supervisee	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-90 days actual suspension</li> <li>• 2 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: supervised practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(e), 4982(u) LCSW: B&P § 4992.3(f), 4992.3(s) LEP: B&P § 4989.54(f) LPCC: B&P § 4999.90(e) GP: 4999.90(u) B&P § 480	Violations of the Chapter or Regulations by licensees or Registrants / Violations Involving Acquisition and Supervision of Required Hours of Experience	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• Registration on probation until exams are passed and license issued</li> <li>• License issued on probation for one year</li> <li>• Rejection of all illegally acquired hours</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(o) LCSW: B&P § 4992.3(p) CCR § 1881(n) LEP: B&P § 4989.54(p) LPCC: B&P § 4999.90 (o) GP: B&P § 650	Pay, Accept, Solicit Fee for Referrals	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> <li>• Law and Ethics course</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(n) LCSW: B&P § 4992.3(o) CCR § 1881(j) LEP: B&P § 4989.54(o) LPCC: B&P § 4999.90 (n)	Failure to Disclose Fees in Advance	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 2 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>
MFT: B&P § 4980.46, LCSW: B&P § 4992.3(q) CCR § 1881(k) LEP: B&P § 4989.54(e) LPCC: B&P § 4999.90(p) GP: B&P § 480, 651, 17500	False / Misleading / Deceptive / Improper Advertising	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>



<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(v) LCSW: B&P § 4992.3(t) LEP: B&P § 4989.54(j) LPCC: B&P § 4999.90(v)	Failure to Keep Records Consistent with Sound Clinical Judgment	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>
MFT: B&P § 4982(y) LCSW: B&P § 4992.3(w) LEP: B&P § 4989.54(x)	Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>
MFT: B&P § 4982(z) LCSW: B&P § 4992.3(x) LEP: B&P § 4989.54(d) LPCC: B&P § 4999.90(ac)	Failure To Comply With Section 2290.5 ( Telehealth)	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery;</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>

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### III. Model Disciplinary Orders

Model Disciplinary Orders are divided into two categories. The first category consists of **Optional Terms and Conditions of Probation** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the **Standard Terms and Conditions of Probation** which must appear in all Proposed Decisions and proposed stipulated agreements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-16) that are being imposed be listed first in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (17- 32).

#### Optional Terms and Conditions of Probation

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

1. Actual suspension
2. Psychological / Psychiatric evaluation
3. Psychotherapy
4. Clinical Diagnostic Evaluation
5. Supervised Practice
6. Education
7. Take and Pass licensure examinations
8. Rehabilitation Program
9. Abstain from Controlled Substances/Submit to Random Drug and Alcohol Testing
10. Abstain from Use of Alcohol /Submit to Random Drug and Alcohol Testing
11. Restricted Practice
12. Restitution
13. Physical Evaluation
14. Monitor Billing System
15. Monitor Billing System Audit
16. Law and Ethics Course

#### 1. Actual Suspension

A. Commencing from the effective date of this decision, respondent shall be suspended from the practice of \_\_\_\_\_ for a period of \_\_\_ days.

OR

B. Commencing from the effective date of this decision, respondent shall be suspended from the practice of \_\_\_\_\_ for a period of \_\_\_\_\_ days, and such additional time as may be necessary to obtain and review the clinical diagnostic, psychological or psychiatric evaluation, to implement any recommendations from that evaluation, and to successfully complete the required licensure examinations as a condition precedent to resumption of practice as outlined in condition #\_\_\_\_ (Take

and pass licensure examinations).

Respondent shall be responsible for informing his or her employer of the Board's decision, and the reasons for the length of suspension. Respondent shall submit documentation and/or evidence demonstrating satisfactory compliance with this condition. Prior to the lifting of the actual suspension of the license, the Board shall receive pertinent documentation confirming that respondent is safe to return to practice under specific terms and conditions as determined by the Board.

## **2. Psychological / Psychiatric Evaluation**

Within 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 complete a psychological or psychiatric evaluation by such licensed psychologists or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

Note: If supervised practice is not part of the order, and the evaluator finds the need for supervised practice, then the following term shall be added to the disciplinary order. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the respondent's practice will be supervised.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

*(FYI: The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation).*

## **3. Psychotherapy**

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within 15 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with respondent, and shall not be the respondent's supervisor. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if respondent's good faith attempts to secure face-to-face counseling are

unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that respondent provide written documentation of his or her good faith attempts to secure counseling via videoconferencing.

Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

*(FYI: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation).*

#### **4. Clinical Diagnostic Evaluation**

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her license or registration shall be automatically suspended for a minimum of one month pending the results of a clinical diagnostic evaluation. During such time, the Respondent shall submit to random drug testing at least two (2) times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent's license or registration shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one month of negative drug test results. Respondent shall comply with any restrictions or recommendations made by the Board as a result of the clinical diagnostic evaluation.

#### **5. Supervised Practice**

Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor. The supervisor shall be a current California licensed practitioner in

respondent's field of practice, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with respondent.

If respondent is unable to secure a supervisor in his or her field of practice due to the unavailability of mental health care professionals in the area, then the Board may consider the following options for satisfying this probationary term:

- (1) Permitting the respondent to receive supervision via videoconferencing; or,
- (2) Permitting respondent to secure a supervisor not in the respondent's field of practice.

The forgoing options shall be considered and exhausted by the Board in the order listed above. The Board may require that respondent provide written documentation of his or her good faith attempts to secure face-to-face supervision, supervision via videoconferencing or to locate a mental health professional that is licensed in the respondent's field of practice.

Respondent shall complete any required consent forms and sign an agreement with the supervisor and the Board regarding the Respondent and the supervisor's requirements and reporting responsibilities. Failure to file the required reports in a timely fashion shall be a violation of probation. Respondent shall give the supervisor access to respondent's fiscal and client records. Supervision obtained from a probation supervisor shall not be used as experience gained toward licensure.

If the supervisor is no longer available, respondent shall notify the Board within 15 days and shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. The supervisor shall not be the respondent's therapist.

[Optional - Respondent shall not practice until he/she has received notification that the Board has approved respondent's supervisor.]

## 6. Education

Respondent shall take and successfully complete the equivalency of \_\_\_\_ semester units in each of the following areas \_\_\_\_\_. All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, or professional clinical counselor or through a course approved by the Board. Classroom attendance must be specifically required. Course content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the decision respondent shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by the respondent. Units obtained for an approved course shall not be used for continuing education units required for renewal of licensure.

*(FYI: This term is appropriate when the violation is related to record keeping, which includes but is not limited to: recordkeeping, documentation, treatment planning, progress notes, security of records, billing and reporting requirements.)*

## **7. Take and Pass Licensure Examinations**

Respondent shall take and pass the licensure exam(s) currently required of new applicants for the license possessed by respondent. Respondent shall not practice until such time as respondent has taken and passed these examinations. Respondent shall pay the established examination fees. If respondent has not taken and passed the examination within twelve months from the effective date of this decision, respondent shall be considered to be in violation of probation.

## **8. Rehabilitation Program**

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more rehabilitation program(s). Respondent shall enter a rehabilitation and monitoring program within fifteen (15) days after notification of the board's approval of such program. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant. The respondent shall take all necessary steps to ensure that the rehabilitation program submits quarterly written reports to the Board addressing the respondent's treatment and progress in the program.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random drug and alcohol testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the respondent.

## **9. Abstain from Controlled Substances / Submit to Drug and Alcohol Testing**

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to random and directed drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and the supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

**10. Abstain from Use of Alcohol / Submit to Drug and Alcohol Testing**

Respondent shall completely abstain from the intake of alcohol during the period of probation.

Respondent shall immediately submit to random and directed drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and to the supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for alcohol and/or a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

**11. Restricted Practice**

Respondent's practice shall be limited to \_\_\_\_\_. Within 30 days from the effective date of the decision, respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify their supervisor of the restrictions imposed on their practice.

**12. Restitution**

Within 90 days of the effective date of this decision, respondent shall provide proof to the Board or its designee of restitution in the amount of \$\_\_\_\_\_ paid to \_\_\_\_\_.

**13. Physical Evaluation**

Within 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 complete a physical evaluation by such licensed physicians as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such physician shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a therapist and such other information



as the Board may require. Respondent shall execute a Release of Information authorizing the physician to release all information to the Board. Respondent shall comply with the recommendations of the physician.

If a physical evaluation indicates a need for medical treatment, within 30 days of notification by the Board, respondent shall submit to the Board or its designee the name and qualifications of the medical provider, and a treatment plan by the medical provider by which the respondent's physical treatment will be provided.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

#### **14. Monitor Billing System**

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more independent billing systems which monitor and document the dates and times of client visits. Respondent shall obtain the services of the independent billing system monitoring program within fifteen (15) days after notification of the board's approval of such program. Clients are to sign documentation stating the dates and time of services rendered by respondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system service shall submit quarterly written reports concerning respondent's cooperation with this system. The cost of the service shall be borne by respondent.

#### **15. Monitor Billing System Audit**

Within 60 days of the effective date of this decision, respondent shall provide to the Board or its designee the names and qualifications of three auditors. The Board or its designee shall select one of the three auditors to annually audit respondent's billings for compliance with the Billing System condition of probation. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices. The cost of the audits shall be borne by respondent. Failure to pay for the audits in a timely fashion shall constitute a violation of probation.

#### **16. Law and Ethics Course**

Respondent shall take and successfully complete the equivalency of two semester units in law and ethics. Course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, professional clinical counselor as defined in Sections 4980.40, 4996.18, 4999.32 or 4999.33 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations or through a course approved by the Board. Classroom attendance must be specifically required. Within 90 days of the effective date of this Decision, respondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course must be taken and completed within one year from the effective date of this Decision. The costs associated with the law and ethics course shall be paid by the respondent. Units obtained for an approved course in law and ethics shall not be used for continuing education

units required for renewal of licensure.

*(FYI: This term is appropriate when the licensee fails to keep informed about or comprehend the legal obligations and/or ethical responsibilities applicable to their actions. Examples include violations involving boundary issues, transference/countertransference, breach of confidentiality and reporting requirements.)*

## **Standard Terms and Conditions of Probation**

The sixteen standard terms and conditions generally appearing in every probation case are as follows:

17. Obey All Laws
18. File Quarterly Reports
19. Comply with Probation Program
20. Interviews with the Board
21. Failure to Practice
22. Change of Place of Employment or Place of Residence
23. Supervision of Unlicensed Persons
24. Notification to Clients
25. Notification to Employer
26. Violation of Probation
27. Maintain Valid License
28. License Surrender
29. Instruction of Coursework Qualifying for Continuing Education
30. Notification to Referral Services
31. Reimbursement of Probation Program
32. Cost Recovery

### **Specific Language for Standard Terms and Conditions of Probation** (To be included in all Decisions)

#### **17. Obey All Laws**

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

#### **18. File Quarterly Reports**

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether

he/she has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.

#### **19. Comply with Probation Program**

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

#### **20. Interviews with the Board**

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

#### **21. Failure to Practice**

In the event respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years.

#### **22. Change of Place of Employment or Place of Residence**

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

#### **23. Supervision of Unlicensed Persons**

While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision.

#### **24. Notification to Clients**

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee,

satisfactory evidence of compliance with this term of probation.

*(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).*

## **25. Notification to Employer**

Respondent shall provide each of his or her current or future employers, when performing services that fall within the scope of practice of his or her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

The Respondent shall provide to the Board the names, physical addresses, and telephone numbers of all employers, supervisors, and contractors.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor or contractor regarding the licensee or registrant's work status, performance, and monitoring.

## **26. Violation of Probation**

If respondent violates the conditions of his/her probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation/suspension) of respondent's license [or registration] provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's license [or registration] or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's license [or registration] shall be fully restored.

## **27. Maintain Valid License**

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.

## **28. License Surrender**

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal

acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

### **29. Instruction of Coursework Qualifying for Continuing Education**

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

### **30. Notification to Referral Services**

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

### **31. Reimbursement of Probation Program**

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$\_\_\_\_\_ per year.

### **32. Cost Recovery**

Respondent shall pay the Board \$\_\_\_\_\_ as and for the reasonable costs of the investigation and prosecution of Case No. \_\_\_\_\_. Respondent shall make such payments as follows: [Outline payment schedule.] Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the cost recovery payment for Case No. \_\_\_\_\_. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, respondent shall be considered to be in violation of probation. A period of non-practice by respondent shall not relieve respondent of his or her obligation to reimburse the board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

## **IV. BOARD POLICIES AND GUIDELINES**

### **Accusations**

The Board of Behavioral Sciences (Board) has the authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. The Board requests that this fact be included in the pleading and made part of the accusation.

### **Statement of Issues**

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee would be cause for license discipline.

### **Stipulated Settlements**

The Board will consider entering into stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. The respondent should be informed that in order to stipulate to settlement with the Board, he or she may be required to admit to the violations set forth in the Accusation. The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

### **Recommended Language for License Surrenders**

"Admission(s) made in the stipulation are made solely for the purpose of resolving the charges in the pending accusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation.

The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its decision and order.

#### **Contingency**

This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his/her counsel. By signing the stipulation, Respondent understands and agrees that he/she may not withdraw his/her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

Respondent fully understands that when the Board adopts the license surrender of respondent's license, respondent will no longer be permitted to practice as a \_\_\_\_\_ in California. Respondent further understands that the license surrender of his or her license, upon adoption, shall be considered to be a disciplinary action and shall become a part of respondent 's license history with the Board.

The respondent further agrees that with the adoption by the Board of his or her license surrender, respondent may not petition the Board for reinstatement of the surrendered license.

Respondent may reapply to the Board for licensure three years from the date of surrender and must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

Respondent understands that should he or she ever reapply for licensure as a \_\_\_\_\_ or should he or she ever apply for any other registration or licensure issued by the Board, or by the Board of Psychology, all of the charges contained in Accusation No. \_\_\_\_\_ shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication."

### **Recommended Language for Registration Applicants**

IT IS HEREBY ORDERED THAT Respondent \_\_\_\_\_ be issued a Registration as a \_\_\_\_\_. Said Registration shall be revoked. The revocation will be stayed and Respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

### **Recommended Language for Registrants**

IT IS HEREBY ORDERED THAT \_\_\_\_\_ Registration Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

### **Recommended Language for Licensees**

IT IS HEREBY ORDERED THAT \_\_\_\_\_ License Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if respondent is granted another registration or license regulated by the Board.

### ***Proposed Decisions***

The Board requests that proposed decisions include the following if applicable:

- A. Names and addresses of all parties to the action.
- B. Specific Code section violated with the definition of the code in the Determination of Issues.
- C. Clear description of the acts or omissions that constitute a violation.
- D. Respondent's explanation of the violation in the Findings of fact if he or she is present at the hearing.
- E. Explanation for deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the Order first list the Optional Terms and Conditions (1-16) followed by the Standard Terms and Conditions (17-32) as they may pertain to the

particular case. If the respondent fails to appear for his or her scheduled hearing or does not submit a notice of defense, such inaction shall result in a default decision to revoke licensure or deny application.

### **Reinstatement / Reduction of Penalty Hearings**

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Suspensions or Revocations identified in Title 16, California Code of Regulations Section 1814, and (2) the evidence presented by the petitioner of his or her rehabilitation. The Board is not interested in retrying the original revocation or probation case. The Board shall consider, pursuant to Section 1814, the following criteria of rehabilitation:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any acts committed subsequent to the acts or crimes under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the acts or crimes giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent, or immaterial.
- (7) Efforts made by the applicant either to correct a false statement once made on an application

or to conceal the truth concerning facts required to be disclosed.

- (8) Evidence, if any, of rehabilitation submitted by the licensee.

In the Petition Decision the Board requires a summary of the offense and the specific codes violated which resulted in the revocation, surrender, or probation of the license.

In petitioning for Reinstatement or Reduction of Penalty under Business and Professions Code Section 4982.2, the petitioner has the burden of demonstrating that he or she has the necessary and current qualifications and skills to safely engage in the practice of marriage and family therapy, clinical social work, educational psychology, or professional clinical counselor within the scope of current law, and accepted standards of practice. In reaching its determination, the Board considers various factors including the following:

- A. The original violations for which action was taken against the petitioner's license;
- B. Prior disciplinary and criminal actions taken against the petitioner by the Board, any State, local, or Federal agency or court;
- C. The petitioner's attitude toward his or her commission of the original violations and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts;
- D. The petitioner's documented rehabilitative efforts;
- E. Assessment of the petitioner's rehabilitative and corrective efforts;



F. In addition, the Board may consider other appropriate and relevant matters not reflected above.

If the Board should deny a request for reinstatement of a revoked license or reduction of penalty (modification or termination of probation), the Board requests the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial.

If a petitioner fails to appear for his or her scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the petitioner's presence and the Board will issue a decision based on the written evidence and oral presentations submitted.

SUBJECT: Board Member Attendance	POLICY # B-15-1	DATE ADOPTED: August 28, 2015
	SUPERSEDES: B-98-1	PAGE: 1
DISTRIBUTE TO: All Board Members	APPROVED BY:	<b>BOARD OF BEHAVIORAL SCIENCES</b>

Protection of the public is the highest priority for the Board of Behavioral Sciences (Board) in exercising its licensing, regulatory, and disciplinary functions. Each member recognizes it is a privilege and an honor to serve as a member of the Board of Behavioral Sciences. So that the Board can fulfill its consumer protection mandate and conduct the Board's business, consistent attendance at Board and Committee Meetings is critical.

**Attendance:**

1. All Board members should attend all required quarterly board meetings, and any special board meetings.
2. All Board members should attend all required committee meetings for each committee to which the Board member has been assigned.
3. A "meeting" shall mean the entirety, from the date and time of the beginning of the meeting as set forth on the official agenda for said meeting, until the official adjournment of the meeting.

**Absences:**

If a Board member has been absent from more than two consecutive Board meetings, a letter will be sent to the appointing authority regarding the absences.

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**Implementation:** Immediate

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# **GUIDE TO THE BAGLEY-KEENE OPEN MEETING ACT**

**(Includes Amendments through January 1, 2017)**

**Prepared by:**

**DIVISION OF LEGAL AFFAIRS  
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# BAGLEY-KEEN OPEN MEETING ACT

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**GUIDE TO THE  
BAGLEY-KEENE OPEN MEETING ACT  
(Includes Amendments through January 1, 2017)**

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

**I. PUBLIC POLICY TO CONDUCT PEOPLE’S BUSINESS OPENLY**

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

## **II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS**

### **A. Definition of a "Meeting"**

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

### **B. Exemptions from Definition of Meeting**

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

### **C. Board and Committee Meetings**

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

**[Restriction on Attendance at Committee Meetings]** The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)



Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that “Members of the board who are not members of this committee may be attending the meeting only as observers.”

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of “state body” in Section 11121(c).”

### **III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS**

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a “special” meeting, or an “emergency” meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

#### **A. Regularly Scheduled Meetings**

##### **1. Who May Hold a Regularly Scheduled Meeting**

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

##### **2. Purposes for Which the Meeting May be Held**

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board’s licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

### **3. Notice Requirements for a Regularly Scheduled Meeting**

#### **a. Board Meetings**

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting \_\_\_\_\_ at (916) \_\_\_\_\_ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

\* \* \*

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

**[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]**

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

#### **b. Committee, Subcommittee or Task Force Meetings**

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.

Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

#### **4. Specific Requirements for Regularly-Scheduled Meetings**

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

#### **5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting**

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

### **B. "Special" Meetings**

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

#### **1. Who May Hold a Special Meeting**

A board, committee, subcommittee or task force may hold a special meeting.

#### **2. Purposes for Which a Special Meeting May be Held**

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

”(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider ‘pending litigation’ as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

\* \* \*

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

### **3. Notice Requirements for a Special Meeting**

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 “would impose a substantial hardship on the state body or where immediate action is required to protect the public interest.” (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency’s meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

**[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]**

#### **4. Specific Requirements During Special Meetings**

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

#### **5. Specific Prohibitions on Holding a Special Meeting**

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

### **C. "Emergency" Meetings**

#### **1. Who May Hold an Emergency Meeting**

A board, committee, subcommittee or task force may hold an emergency meeting.

#### **2. Purposes for Which an Emergency Meeting May be Held**

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

“(2) Crippling disaster that severely impairs public health or safety, or both.” (§11125.5(b))

### **3. Notice Requirements for an Emergency Meeting**

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

### **4. Specific Requirements for an Emergency Meeting**

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- \* Minutes of the meeting
- \* A list of persons notified, or attempted to be notified, of the meeting
- \* Any action taken at the meeting
- \* A copy of the rollcall vote on action taken (§11125.5(d))

### **5. Specific Prohibitions on Holding an Emergency Meeting**

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

## **IV. CLOSED SESSIONS**

### **A. Purposes for Which Closed Session Can be Held**

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:



## **1. Personnel Matters**

A board may meet in closed session to ". . . consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing . . . which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

## **2. Examination Matters**

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

### **3. Matters Affecting Individual Privacy**

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

**CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.**

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

### **4. Administrative Disciplinary Matters**

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

#### **5. Board of Accountancy Matters**

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

#### **6. Pending Litigation**

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

#### **7. Response to Confidential Final Draft Audit Report**

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

## **8. Threat of Criminal or Terrorist Activity**

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

## **9. Advisory Bodies/Committees May Meet in Closed Session**

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126((f), (4)-(6))

## **10. Open Session Otherwise Required**

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

## **B. Notice and Reporting Requirements for Closed Sessions**

### **1. Notice of Closed Session**

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

## **2. Reporting After a Closed Session**

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

“Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.”

## **C. Other Procedural Requirements for Closed Sessions**

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

“A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed.” (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that “We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed.” (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

## **V. MEETING BY TELECONFERENCING**

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

"(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

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

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

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

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

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

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

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

## **VI. DELIBERATIONS AND VOTING**

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

### **A. Seriatim Calls to Individual Agency Members Prohibited**

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4<sup>th</sup> 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members “to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency.” (Emphasis added.) (§11122.5(b))

### **B. E-Mail Prohibition**

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

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

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



agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

### **C. Secret Ballot Prohibited**

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

### **D. Voting by Proxy Prohibited**

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

### **E. Use of Electronic Devices During Meeting**

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

## **F. Voting by Mail on Administrative Disciplinary Matters**

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

## **G. Recording and Reporting Votes**

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

## **VII. MISCELLANEOUS PROVISIONS**

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

### **A. Conforming Board Member's Conduct**

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

### **B. Providing Open Meeting Act to New Board Members**

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

### **C. Prohibition on Placing Conditions on Public's Attendance**

#### **1. Sign-in**

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

## **2. Discrimination in Admittance to Meeting Facility**

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

## **3. Access for the Disabled**

All meetings must be accessible to the disabled. (§11131)

## **4. Charging a Fee or Requiring a Purchase for Access**

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

## **D. Agency Recording of the Proceedings**

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

## **E. Public's Right to Record the Proceedings**

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

## **F. Media Broadcast of the Proceedings**

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

## **G. Webcasting**

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

“While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.”

## **H. Taking Agenda Items Out of Order**

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that “All times indicated and the order of business are approximate and subject to change,” to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that “Items scheduled for a particular day may be moved to an earlier day to facilitate the board’s business.” Again, the purpose may not be to frustrate public or other input.

## **I. Opportunity for Public Comment at Meetings**

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency’s discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

## **VIII. DISCLOSURE OF DOCUMENTS**

### **A. Documents Distributed Prior to the Meeting**

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

### **B. Documents Distributed During the Meeting**

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

### **C. Charging a Fee for Public Documents**

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

## **IX. PENALTIES**

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

# Department of Consumer Affairs Travel Guide

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Office of Administrative Services  
Accounts Payable  
Travel Unit



July 2024

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**Disclaimer:** *Bargaining Contracts, California Department of Human Resources (CalHR), Departmental Policy and the State Administrative Manual (SAM) sets forth the information contained in this Travel Guide. If any of the information within conflicts with the most recent provisions set forth by the said mentioned above, then those provisions will supersede this Travel Guide. Information provided in this Travel Guide is routinely updated by various control agencies. The traveler or user of this Travel Guide must always make sure they have the most current information. Click on the web links to view the most current information.*

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## Chapter 1: Introduction and Definitions

### Introduction

The purpose of the Department of Consumer Affairs Travel Guide (Guide) is to provide and define the basic travel reimbursement rules for employees who are required to travel on official State business, methods of travel that are available, and how to use them, in accordance with the State Bargaining Contracts, California Department of Human Resources (CalHR) travel rules for state officers and employees pursuant to Sections 599.615 through 599.638.1 of Article 2 of Subchapter 1 of Chapter 3 of Division 1 of Title 2 of the California Code of Regulations, and the *State Administrative Manual (SAM)*, Chapter 700. If any of the information herein conflicts with the most recent provisions set forth by the bargaining contracts or legal provisions cited above, then those provisions will supersede this Guide. In addition, information provided in this Guide is routinely updated by various control agencies. The traveler or user of this Guide must always make sure they have the most current information.

Note: The travel reimbursement program is subject to Internal Revenue Service (IRS) requirements. There are no flat reimbursement rates. All items claimed must be for the actual amount of the expense, up to the maximum rates allowed for all State officers, employees, and agents of the State traveling on official State business.

### Who can file a claim?

All Department of Consumer Affairs (DCA and/or Department) employees and any agent of the State (listed below) may request a travel advance and/or travel reimbursement using the appropriate Department forms and the CalATERS Global System. Certain restrictions may apply (see reference-related section for specific requirements).

Statutory Board Members are individuals appointed to serve on boards or commissions established by law. Members are appointed by the Governor, Legislature, or Department Head. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Non-statutory Board Members are individuals appointed to serve on boards, commissions, committees, or task forces that are created by agency secretaries, department directors, executive officers, or board members on an as-needed basis to fulfill the Department's mission. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Proctors are intermittent hires through the State Personnel Board. Proctors administer written or physical agility exams for civil service classification. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Volunteers are individuals who voluntarily perform services for the State without pay. The volunteer must sign an Oath of Allegiance, which is kept on file at the Department with the Volunteer Service Agreement. Volunteers will be reimbursed for necessary travel expenses at the rate negotiated for State employees performing comparable duties.

### **Terms**

Short-Term Travel: Expenses incurred at least 50 miles (one-way) from headquarters and/or residence when applicable and is fewer than 31 consecutive days.

Long-Term Travel: Travel that is in excess of 30 consecutive days becomes long-term travel. Specific reimbursement rates and reporting requirements apply; contact your Travel Liaison.

Per Diem Expenses: Meals, lodging, and all appropriate incidental expenses incurred may be claimed when conducting State business while on travel status.

Transportation Expenses: Various modes of transportation used while on official State business; for example, airfare, vehicle, taxi, and shuttle expenses.

Business Expenses: Charges necessary to the completion of official State business, such as business phone calls, emergency clothing, and emergency supplies. All purchases shall be justified, and if the total business expense is more than \$25, the claim must be approved by the DCA Accounting Administrator II.

Conference or Convention: A meeting with a formal agenda of persons to discuss or consult on specific work-related subjects with the purpose of exchanging views, providing lectures or dialogue, or providing or gaining skills and/or information for the good of the State. Requires an approved conference attendance request prior to attending and must be attached to the [Travel Expense Claim \(TEC\) \(STD 262 A\)](#).

Non-State Sponsored Conference: Planned, arranged, and funded by an outside entity.

State-Sponsored Conference: Planned, arranged, and funded by State agencies for the benefit of the State and/or outside parties for the purpose of conducting State business.

### **Policies**

Official Established Headquarters: Shall be designated for each State officer and employee and defined as the place where the officer or employee spends the largest portion of their regular workdays or working time, or the place to which they return upon completion of special assignments. In some instances, however, it may be in the best interest of the Department to designate either an employee's residence address or an assigned geographic area as their headquarters. Home-as-headquarters and

geographic area designations will be based upon a determination of “economic merit” for geographic and logistical circumstances where the State benefits from such a determination, either in increased efficiencies or reduced costs.

Signature Authority: The signature of the approving officer certifies that the traveler is authorized to travel, the expenses incurred were to conduct official State business, and that the items claimed are appropriate and keeping within the rules that govern State business travel. Typically, the approving officer would be the traveling employee’s immediate supervisor.

### Travel Approvals (Updated July 2023)

Type of Travel	Who Must Approve?	Date to DCA	Forms Required	Submittal Recipient/ Questions
Conference Attendance	<ul style="list-style-type: none"> <li>EOs, Bureau Chiefs or Deputy Directors</li> <li>DCA Deputy Director of Administrative Services</li> </ul>	One month prior to travel	<ul style="list-style-type: none"> <li><a href="#">Conference Attendance Request</a></li> <li>Conference Agenda</li> <li>Justification Memo</li> <li>All documents supporting the necessity &amp; mission criticality of the travel</li> <li>EO or AEO signature required</li> </ul>	<p><b>Nicole Le</b> Deputy Director, Administrative Services (916) 574-8301 <a href="mailto:Nicole.Le@dca.ca.gov">Nicole.Le@dca.ca.gov</a></p>
Mission Critical In-State Travel	<ul style="list-style-type: none"> <li>EOs, Bureau Chiefs or Deputy Directors</li> </ul>	<p>N/A</p> <p><i>Delegated Authority; Not Submitted to DCA for Approval</i></p>	<ul style="list-style-type: none"> <li>Approvers retain: <ul style="list-style-type: none"> <li>Justification Memo</li> <li>Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>EO, Bureau Chief or Deputy Director approval signatures</li> </ul> </li> </ul> <p><i>NOTE: If the travel is in-state and to a conference, the conference attendance process is to be followed.</i></p>	<p><b>Kam Khatra</b> Accounting Administrator II (279) 895-1347 <a href="mailto:Kam.Khatra@dca.ca.gov">Kam.Khatra@dca.ca.gov</a></p>

Out-of-Country	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Budget Office</li> <li>• DCA Director</li> <li>• Agency Secretary</li> <li>• Governor's Office</li> </ul>	Three months prior to travel	<ul style="list-style-type: none"> <li>• Out-of-State Travel Memo Template</li> <li>• <a href="#">STD. 257 Approval Request Form</a></li> <li>• Cost Breakdown Document</li> <li>• Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>• EO signature required</li> </ul>	<p><b>Taylor Schick</b> Chief Fiscal Officer (279) 278-5834 <a href="mailto:Taylor.Schick@dca.ca.gov">Taylor.Schick@dca.ca.gov</a></p> <p><b>Melissa Gear</b> Deputy Director, Board &amp; Bureau Relations (916) 574-8301 <a href="mailto:Melissa.Gear@dca.ca.gov">Melissa.Gear@dca.ca.gov</a></p>
Out-of-State	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Budget Office</li> <li>• DCA Director</li> <li>• Agency Secretary</li> <li>• Governor's Office</li> </ul>	Two months prior to travel	<ul style="list-style-type: none"> <li>• Out-of-State Travel Memo Template</li> <li>• <a href="#">STD. 257 Approval Request Form</a></li> <li>• Cost Breakdown Document</li> <li>• Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>• EO signature required</li> </ul>	<p><b>Taylor Schick</b> Chief Fiscal Officer (279) 278-5834 <a href="mailto:Taylor.Schick@dca.ca.gov">Taylor.Schick@dca.ca.gov</a></p> <p><b>Melissa Gear</b> Deputy Director, Board &amp; Bureau Relations</p>
Travel Advance Exception Request	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Deputy Director, Board &amp; Bureau Services</li> <li>• DCA Accounting Office</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>• Advance approval in the CALATERS System (<b>Christine Lally</b>)</li> <li>• <a href="#">Travel Advance Exception Approval Request Form</a> (Kam Khatra)</li> </ul>	<p><b>Melissa Gear</b> Deputy Director, Board &amp; Bureau Relations</p> <p><b>Kam Khatra</b> Accounting Administrator</p>
50-Mile Exemption Request	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Accounting Office</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>• Bulleted Memo</li> <li>• Additional Detail: <ul style="list-style-type: none"> <li>- Start and end time of the meeting(s)</li> <li>- Mileage from traveler's house to the meeting site</li> <li>- Estimated Commute Time</li> </ul> </li> <li>• EO or AEO signature required</li> </ul>	<p><b>Kam Khatra</b> Accounting Administrator</p>

Excess Lodging Request	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Accounting Office</li> <li>• California Department of Human Resources (CalHR)</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>• <a href="#">Excess Lodging Form</a></li> <li>• Three lodging quotes</li> <li>• Justification as to why the proposed lodging is needed</li> <li>• Traveler or manager's signature required</li> </ul> <p>Note: CalHR approval required for lodging over \$250.</p>	<b>Kam Khatra</b> Accounting Administrator
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The Deputy Director of Board Relations approves Board Presidents' [TECs](#). Once they have been reviewed and initialed by the Executive Officer, the Board President shall approve the Executive Officer's and the Board Members' travel claims. In the absence of the Board President, the Board Vice President shall approve the Executive Officer's and the Board Members' travel claims.

The Deputy Director of the Office of Administrative Services approves Bureau and Board Presidents', Bureau Chiefs', Division Chiefs', and Deputy Directors' travel advances, expense claims, conference requests, and authorized signature forms. The Deputy Director of the Office of Administrative Services also approves all exception-to-travel status for board and bureau and Travel Advance Requests for non-salaried employees. In the absence of the Board President, the Board Vice President shall approve the Executive Officers' and the Board Members' travel claims.

In the extended absence of either the Deputy Director of Board and Bureau Services or the Deputy Director of the Office of Administrative Services, either can approve the above for boards and bureaus.

All approving officers must have a signature card on file with the Accounting Office before approving a claim.

Note: See DCA policy, form, and procedures posted on the ["Accounting" page of the DCA Intranet](#) regarding authorized signatures.

## Chapter 2. Per Diem Allowances

### Introduction

The State provides for reimbursement of actual and necessary out-of-pocket expenses while traveling on State business. When determining the appropriate amount of reimbursement allowed for meals, lodging, and incidentals, two criteria need to be

considered: distance and time. Employees on travel status must be at least 50 miles from home and/or headquarters. The most direct route determines this distance.

For short-term travel status per diem (meals, lodging, and incidentals), several factors need to be considered, such as:

- The bargaining unit of the employee (represented or excluded).
- Geographical location of travel must be at least 50 miles (one-way) from where the trip begins at headquarters and/or home. Factors include: Which is the closest distance? Is travel during normal working hours or not? Is it a second worksite?
- The timeframe in which the trip started and stopped.
- The type and location of facilities used for lodging.

### Lodging Rates

Short-term reimbursement rates for lodging expenses are as follows. Please review your Bargaining Unit Contract on [CalHR](#) website for current rates.

<b>For Excluded/Exempt, BU 1 through BU 21</b>		
<b>Lodging</b>	<b>Maximum Lodging Reimbursement Rate Through December 31, 2023</b>	<b>Maximum Lodging Reimbursement Rate Effective January 1, 2024</b>
Statewide (except for those listed below)	\$90 plus taxes/resort fees on the entire cost of the lodging rate.	\$107 plus taxes/resort fees on the entire cost of the lodging rate.
Alameda	\$140 plus taxes/resort fees on the entire cost of the lodging rate.	\$189 plus taxes/resort fees on the entire cost of the lodging rate.
City of Santa Monica	\$150 plus taxes/resort fees on the entire cost of the lodging rate.	\$270 plus taxes/resort fees on the entire cost of the lodging rate.
Los Angeles, Orange, Ventura Counties, and Edwards AFB, excluding the City of Santa Monica	\$120 plus taxes/resort fees on the entire cost of the lodging rate.	\$169 plus taxes/resort fees on the entire cost of the lodging rate.
Marin	\$110 plus taxes/resort fees on the entire cost of the lodging rate.	\$166 plus taxes/resort fees on the entire cost of the lodging rate.
Monterey	\$125 plus taxes/resort fees on the entire cost of the lodging rate.	\$184 plus taxes/resort fees on the entire cost of the lodging rate.



Napa	\$95 plus taxes/resort fees on the entire cost of the lodging rate.	\$195 plus taxes/resort fees on the entire cost of the lodging rate.
Riverside	\$95 plus taxes/resort fees on the entire cost of the lodging rate.	\$142 plus taxes/resort fees on the entire cost of the lodging rate.
Sacramento	\$95 plus taxes/resort fees on the entire cost of the lodging rate.	\$145 plus taxes/resort fees on the entire cost of the lodging rate.
San Diego	\$125 plus taxes/resort fees on the entire cost of the lodging rate.	\$194 plus taxes/resort fees on the entire cost of the lodging rate.
San Francisco	\$250 plus taxes/resort fees on the entire cost of the lodging rate.	\$270 plus taxes/resort fees on the entire cost of the lodging rate.
San Mateo	\$140 plus taxes/resort fees on the entire cost of the lodging rate.	\$222 plus taxes/resort fees on the entire cost of the lodging rate.
Santa Clara	\$140 plus taxes/resort fees on the entire cost of the lodging rate.	\$245 plus taxes/resort fees on the entire cost of the lodging rate.

Lodging facilities include commercial hotels and motels and residential property—short term rental, that are reserved for fewer than 30 days. (See [CalHR PML-2015-039](#), Assembly Bill 229 (Stats. 2015, ch. 770), effective January 1, 2016 through December 31, 2018.) All rates for reimbursement are limited to State-contracted lodging rates. (See [CalHR Travel Reimbursements](#).)

### **Delegation of Authority to Departments to Approve Certain Excess Lodging Rate Requests**

Typically, state employees who are required to travel for official state business must submit Excess Lodging Rate Requests for advance approval of lodging rates that exceed the state’s maximum lodging reimbursement rates.

Effective September 19, 2023, CalHR delegates authority to departments to make determinations regarding Excess Lodging Rate Requests up to \$350 per night as follows, for:

- Requests submitted prior to the travel dates.
- Requests submitted after the travel dates (after-the-fact requests).

Excess Lodging Rate Requests are required if the requested lodging rate is more than the state rate. As noted above, CalHR’s Travel Reimbursements page lists the current state rates

for all excluded and all represented employees. All Excess Lodging Rate Requests for amounts above the delegated amount of \$350 per night will continue to require CalHR approval in advance, unless the purpose of the travel is to respond to:

- A State of Emergency declared by the Governor as noted in the “Blanket Excess Lodging Requests – Declared Emergency” language above.
- An emergency circumstance for which the department has an approved general blanket exemption from CalHR as noted in the “Blanket Excess Lodging Rate Requests – General Exemption” language above.

For exceptional circumstances that may require after-the-fact submission, after-the-fact Excess Lodging Rate Requests over \$350 per night require CalHR approval, unless the purpose of the travel is to respond to:

- A State of Emergency declared by the Governor as noted in the “Blanket Excess Lodging Requests – Declared Emergency” language above.
- An emergency circumstance for which the department has an approved general blanket exemption from CalHR as noted in the “Blanket Excess Lodging Rate Requests – General Exemption” language above.

All Excess Lodging Rate Requests, including after-the-fact requests and group requests, approved by a department in accordance with this delegation shall be included in the department’s Annual Excess Lodging Report submission to CalHR.

Departments should continue to follow their current processes for completing and submitting Excess Lodging Rate Requests to CalHR.

CalHR may modify the delegated approval authority to departments, as appropriate.

### **Hotel Tax Waiver**

The [Hotel/Motel Transient Occupancy Tax Waiver, STD 236 \(New 9-91\)](#), is available on the [DCA Intranet](#) Travel Home Page and should be used whenever possible. This form must be completed in advance and given to the hotel for its records. In most cases, employees must ask for the exemption at time of reservation. Some hotels will not honor the tax waiver.

### **Acceptable Receipts**

Lodging receipt must indicate the establishment’s name, address, and check-in/check-out dates and times, number of occupancies, room rate, taxes, and method of payment.

In the rare event where an employee chooses to use a third-party vendor (such as Priceline.com, Expedia.com, Travelocity.com, Hotels.com, etc.) to make travel arrangements, the following instructions must be strictly adhered to:

- Employees who request reimbursement for receipts from third-party vendors for lodging expenses related to a State-approved relocation or for lodging expenses incurred while traveling on State business, must provide a valid receipt from the third-party vendor and the commercial lodging establishment where the employee stayed.

Both receipts are required to properly substantiate a valid business expense.

### Sharing a Room

When sharing a room with another State employee, each person can claim half the room rate, or one employee can claim the entire amount and reference the other person in the comment section. Both employees should file their travel expense claims ([TECs](#)) at the same time and a copy of the other's claim should be attached to their own.

### Meal Rates

There are no flat reimbursement rates. All items claimed are to be for the actual amount of the expense, up to the following maximum reimbursement amounts listed below. The employee (or agent of the State) shall not claim reimbursement for any meals provided by or included in the cost of the hotel stay, airfare, and conference or convention registration fee and/or provided by the terms stated in a State contract. Please review your Bargaining Unit Contract on [CalHR, Travel Reimbursements](#) website for current rates.

Excluded and/or exempt employees and represented employees in Bargaining Units (BU) 1 through 21, please review your existing MOU for current rates (see following table).

Expense	Reimbursement Rate for Actual Expense Through December 31, 2023	Reimbursement Rate for Actual Expense Effective January 1, 2024
Breakfast	Up to \$7	Up to \$13
Lunch	Up to \$11	Up to \$15
Dinner	Up to \$23	Up to \$26
Incidental	Up to \$5	Up to \$5

### Fewer Than 24 Hours

The following table shows conditions under which a represented or non-represented employee may be reimbursed for meals while on travel status, if the trip is fewer than 24 hours:

Starts Trip on OR Before	Returns from Trip on OR After	Entitled To
6 a.m.	9 a.m.	Breakfast
4 p.m.	7 p.m.	Dinner

Note: Board and committee members are entitled to meals, including lunch, on a one-day trip only when attending official scheduled board or committee meetings. These meal expenses are excused from the travel status mileage requirement, but all-time requirements are applicable; for example, start trip at or before 11:00 a.m. and end at or after 2 p.m. to claim lunch. In addition, meals on trips of fewer than 24 hours will be reported as a taxable fringe benefit as required by the IRS.

### More Than 24 Hours

If a trip is more than 24 hours, but fewer than 31 consecutive days, a represented or non-represented employee is entitled to breakfast, lunch, and dinner for every full 24-hour period while on travel status. The following table shows the meal entitlements for the last fractional period:

Starts Trip on OR Before	Returns from Trip on OR After	Entitled To
6 a.m.	8 a.m.	Breakfast
11 a.m.	2 p.m.	Lunch
5 p.m.	7 p.m.	Dinner

### Incidentals

Incidental reimbursement is allowed for every full 24 hours of travel up to the maximum amount allowed per Bargaining Unit Contract for actual necessary expenses. Incidentals include expenses for fees and tips for services such as porters, baggage carriers, and hotel staff. No other items may be claimed as an incidental cost. (See [CalHR PML 2015-003](#) and [IRS Publication 463](#).)

### **Business-Related Meals**

In rare instances, the cost of business-related meal expenses may be allowed. It must be clearly shown that it was impractical to conduct the State's business during working hours and that the meal took place in conditions beyond the employee's control. Justification should be provided on the [TEC](#).

The statement must include the purpose or goal of each business-related meal and the unusual conditions that justify payment. The employee may claim expenses not to exceed the breakfast, lunch, or dinner allowance, whichever meal was consumed. The amount must be supported by a voucher or receipt for represented employees. Claims must include the establishment, the persons in attendance, and the business conducted during the meal period. No reimbursement is allowed for the meal if the employee claims per diem for that day.

Allowable meals may include Participants from different cities hold a luncheon to allow one or more of them to make connections on a scheduled flight; an employee is required to go to lunch as a member of a group, such as a board or commission where official business is conducted; the meeting does not adjourn during the lunch and the employee has no choice of place to eat.

Non-allowable meals include: Two or more employees go to lunch together and continue their business as an incidental to the meal; the meal is strictly for public relations purposes; departments call meetings with their own and/or other department employees to conduct State business; the meeting could have taken place during regular working hours.

### **Receipts**

Although the Department does not require receipts for most meals or incidentals, except as noted above, the traveler must retain all their meal and incidental receipts for IRS purposes.

### **Overtime Meals and Rates**

Overtime meal reimbursement is allowed when the employee works two excess hours, either consecutive or contiguous to regular scheduled work hours. Rates and terms are defined by each bargaining unit contract as stated below. In determining the overtime hours worked for meal compensation, do not include any breaks for meals. Only one meal allowance may be claimed each day unless the employee has worked a minimum of 16 hours. For every six additional hours worked in excess of ten hours, another meal allowance may be claimed, not to exceed three overtime meals within 24 hours.

<b>Bargaining Unit</b>	<b>Rate</b>	<b>Consecutive*</b>	<b>Contiguous*</b>
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10	\$7.50	X	
1, 4, 11 & 14	\$8.00		X
2, 7, 9, 12, 16 & 19	\$8.00	X	
Excluded & 21 (exempt FLSA)	\$8.00	X	

### Definitions

**Consecutive:** Works either two hours before or two hours after normal work hours on a regular scheduled workday; works two hours more than normal work hours on weekends, holidays, or regular scheduled day off (RDO).

**Contiguous:** Works two or more hours more than the number of hours worked on regular scheduled workday.

**Excluded:** Work Week Group Exempt (WWGE) and Represented Employees Exempt from Fair Labor Standards Act (FLSA) are only entitled to overtime meals for extended arduous work.

### Arduous Work OT Meal

**Meals for Extended Arduous Work:** On those rare occasions when an employee who is in a Work Week Group other than Work Week Group 2 would be required to physically or mentally work ten hours or more (not including any breaks for meals) for an extended period. The employee, with approval of the appointing authority, may claim the actual cost of an arduous work meal up to \$8. Such meals should only be approved when the work schedule is consistently in excess of a normal full-time schedule. Occasional extra hours worked, consistent with the nature of other than a Work Week Group 2 schedule, do not meet the criteria for Extended Arduous Work Meals.

### Excess Lodging Policy and Procedure

Request for reimbursement of lodging expenses in excess of the State-specified rates, excluding taxes, must be received ten days prior to the trip. Approval is required from the DCA Accounting Administrator II up to \$250 and CalHR if more than \$250. Please note that although DCA has been delegated authority to make determinations regarding Excess Lodging Rate Requests up to \$250 per night, the Excess Lodging Rate Form (STD 255C) has been updated to reflect the increased amount. The [Excess Lodging Rate Request \(STD 255C\)](#) form located on [DCA Intranet](#) should be completed and contain the following:

- A list of at least three hotels contacted using the Concur CI Azumano website to obtain State rate lodging. Contact additional hotels if no State rate hotels are found within the work area.

- Supporting documentation that a reasonable effort was made to locate lodging at State-specified rates. Using only higher-rate hotels in the documentation cannot be considered reasonable efforts.
- Explain any applicable reasons for the State business need for an exception to the State's standard lodging rate.
- Obtain all required signatures and submit the request to the DCA Travel Unit at least ten working days prior to the trip, when possible.
- Employees who incur expenses in excess of standard reimbursement will be responsible for the difference if the excess lodging request is denied.
- Attach agendas for any approved conference or convention that would assist in the travel justification.

#### **Reasonable Accommodation**

A reasonable accommodation can be obtained with supporting documentation through DCA Office of Human Resources Health & Safety Unit when travel requirements are a hardship to the employee for medical reasons. Please obtain the reasonable accommodation approval prior to the trip. (See [Health & Safety Unit, Reasonable Accommodation, DCA Intranet.](#))

#### **Exception to Travel Status Policy**

It is the policy of the DCA to adhere to the rules and regulations as defined by the CalHR regarding the approval of requests for reimbursement within 50 miles of the employee's home and headquarters when conducting official State business. Extreme acts of God and nature that place the employee in harm's way are automatic and will be approved after the fact, when fully documented ([SAM section 0715, CalHR PML 93-28.](#))

Note: All exceptions to travel status reimbursements will be reported as a taxable fringe benefit as required by the IRS.

#### **Exception Authority, Limits, and Criteria**

The CalHR delegated the exception to travel status authority to the Director of the DCA, who delegated the authority to the Chief Accounting Officer. There is no other allowable signature authority for this delegation. This delegation is extended with the provision that it will be administered according to the criteria, considerations, and record-keeping requirements as stated below. All exceptions are subject to audit by CalHR. Exceptions are to be granted in advance of the occurrence by the appointing power.

This delegation does not extend to the approval of meals or lodging at either the home or headquarters location. There is no allowance for any increase in the standard short-term travel reimbursement rates for meals and lodging or partial exceptions, such as lodging allowance without meals. When exceptions meet all the requirements and are granted by the Chief Accounting Officer, the employee is entitled to full short-term travel reimbursement rates. This exception is not to be used in lieu of overtime for one-day travel.

Exception requests will be considered under a limited number of circumstances when the employee is required to be away from their home and headquarters locations for more than a single day, but fewer than 50 miles. These include the nature of the work performed, the hours of work, or the apparent road and/or weather conditions make it impractical for the employee to return home or to the headquarters location at night.

The CalHR has guidelines for an exception approval criterion that includes reasonable commute mileage. State departments are expected to demonstrate that every consideration has been given to minimize the cost to the State through responsible planning and scheduling.

### **Exception Process**

A written request must be submitted in advance of the occurrence to the Accounting Office for review and approval by the Chief Accounting Officer. The Executive Officer or the Division/Bureau/Program Chief must approve all exception requests. Requests must contain the following information for each attendee:

- Name and classification of employee(s) requesting exception. If the time period and reason for expense are the same, submit a group request listing each employee's name, classification, the time period, and reason.
- Home and Headquarters address with distance to location of the event.
- Name and address of the location where expenses will be incurred.
- Name of the sponsor of the event.
- Reason(s) for the exception request; attempts made to reduce the costs.
- Amount of the anticipated expenses, including tax.
- For a conference or convention with more than one attendee, explain why one employee could not achieve the goal and attach a training and development request with approval.

Note: Provide copies of the agenda, conference/convention announcements, and map/mileage printouts. Once the exception request has been processed, a copy will be forwarded to the requesting office by the DCA Accounting Office. The requesting office



must maintain a record of each request for the standard five-year record retention schedule.

## **Chapter 3. Transportation.**

### **Introduction**

The cost of transportation while on official State business should be accomplished by using the most economical means for the State, according to the [SAM section 0700 \(General Policy\)](#).

All transportation costs related to State business travel should be entered on all [TECs](#).

Transportation expenses consist of:

- Commercial airfares;
- Private vehicle use;
- Commercial rental car use;
- Gasoline for State or rental cars;
- Taxis, shuttles, or streetcar fares;
- Transportation Network Companies (TNT) – Uber and Lyft;
- Parking of State, rental, or privately-owned vehicles;
- Bridge and road tolls;
- Emergency repairs (State cars only); and
- Commuting transit/vanpool (employee benefit) use.

### **Supervisor's Responsibility**

It is the supervisor's responsibility to ensure the method chosen for travel on State business is in the best interest of the State and not for the employee's convenience.

### **Determining the Most Economical Mode of Travel**

When determining the most economical mode of transportation, the following costs should be considered:

- Employee's time;
- Expenses for transportation (airline, bus, train, parking, shuttle, tolls, etc.);
- Expenses for meals, incidentals, lodging, and any other State business expense;
- Urgency of the situation.
- If the employee must carry specialized equipment.
- Number of stops and amount of equipment.
- Number of people to be transported (is it more economical?).
- Driving time one-way (is it more than two hours?).
- Availability of transportation to and from the destination; and
- Overtime wages.

#### **Cost Comparison**

Reimbursement will be made for the mode of transportation which is in the best interest of the State, considering direct expenses as well as the employee's time. If the employee chooses a more expensive mode of transportation, reimbursement will be for the least expensive mode of travel. Expenses incurred at the travel destination will be reimbursed based on the actual business expenses incurred while at that location.

A [cost comparison](#) must:

- Be completed and attached to the [TEC](#), showing both methods of travel.
- Include the least costly methods of travel for those expenses being substituted.
- Include only the expenses of traveling from one location to another. Do not include any worksite expenses. Expenses incurred onsite are to be claimed separately.
- An employee choosing to use a more expensive mode of transportation will only be reimbursed for the amount it would have cost for the most economical mode of travel.
- A [cost comparison](#) showing actual cost incurred versus the most economical mode and cost must be submitted with an employee's [TEC](#). The [cost comparison form](#) is provided in Appendix A for your convenience.

### Example of Cost Comparison

The most common cost comparison is when the employee chooses to drive their personal vehicle versus using normal air transportation. For example, when an employee drives (having obtained supervisor's prior approval) to Los Angeles from Sacramento, the comparison is computed from the point the employee would normally have left on travel status in Sacramento to the point of landing in Los Angeles. Please note all cost comparisons should be calculated using the current mileage rate and State rates for airfare if applicable.

Air Costs		Vehicle Costs	
Ticket roundtrip	\$216.00	Mileage: City-to-city roundtrip:	
Mileage to/from airport		30 miles x 67.0 cents per mile= \$20.10	720 miles x 67.0 cents per mile = <b>\$482.40</b>
Parking	<u>\$22.00</u>		
Total	\$258.10		

### Reimbursement

The least expensive method of transportation will be reimbursed on the [TEC](#). The time requirement for meals and lodging would be allowed for the time the employee would have left and returned had they flown. Additional meal and lodging expenses incurred as a result of using an alternative method of transportation is at the employee's own expense.

### Exception

An exception to the least-expensive requirement would be if an employee has a reasonable accommodation approval through the Department [Health & Safety Unit](#), which prevents the employee from specific modes of travel, such as air travel.

Request guidance from the Accounting Office Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) when special circumstances arise prior to commencing the trip.

### Direct and Indirect Travel Arrangements

All travel arrangements for air, auto rental, and lodging for official State business must be made through the Department's approved travel agency, Concur CI Azumano.

### Air Travel

Before making airline reservations, be aware of the contract rates and where to book your flights. The State contracted rate includes airfare for origination and destination points known as city pairs for within California, out-of-State, and international

destinations. The contract rates are unrestricted one-way fares and are not subject to limited seating.

When booking on Southwest Airlines, you should only select “Want to Get Away”. You should never select Business Class-type flights; if selected, you will be responsible for the difference in cost.

The 2020-24 contract fares are with United Airlines and Southwest Airlines. You must purchase your airline tickets through the CI Azumano, the certified State travel agency, using your Department’s centralized US Bank Business Travel Account (BTA). The CI Azumano website contains the online booking tool Concur Travel (formerly Cliqbook), the online booking tool for all airline travel.

All travel arrangements for official State business must be made through the Department’s approved travel agency, CI Azumano (

[www.caltravel.ciazumano.com](http://www.caltravel.ciazumano.com)

Current Airfare Contract: DGS TB #20-03 Airfare for Official State Business; July 1, 2024 – June 30, 2025

Air Travel: [SAM section 741](#).

Airline Itinerary Requirements: [SAM section 8422.114](#).

### **Airport Parking**

Employees parking at the airport must use the most economical parking available. However, if the board, bureau, or division determines that additional parking costs above the lowest-cost option are in the best interest of the State, a justification explaining the necessity for the additional cost shall be submitted with the employee’s [TEC](#). Without a receipt, reimbursement is limited to \$10. Please note, [TECs](#) submitted without the required justification may be cut by the State Controller’s Office. (See [CalHR PML 2007-024](#).)

Agencies/departments may consider the following items when determining if additional parking costs are in the best interest of the State:

- The direct expense; and
- The officer’s or employee’s time.

Please contact your Department’s Travel Liaison to initiate the start of your CI Azumano profile. You must complete your registration before booking your travel.

Please use the links below for training and more information:

After the initial profile setup, you'll access the reservation system at

[www.caltravel.ciazumano.com](http://www.caltravel.ciazumano.com)

- . Click on “Concur Login” to complete your profile.
- [Concur Travel Demo](#) (video) and [Concur Interactive Training](#).
- Concur Travel FAQs: [Concur Travel Booking Tool Training, Guides](#)

For security reasons, every traveler will need to contact their board or bureau Travel Liaison to initiate their CI Azumano profile. Your user ID is your Department e-mail address. You must use your Department e-mail address as your user ID to have access to our Department’s company ID. This e- mail address will be your user ID for future access to the reservation system. After you receive your temporary password, you can complete your profile and book your trips. In addition, you’ll need to change the temporary password to ensure your account is secure. Once you’ve established a user ID and password, the system will request that you complete the profile. After you’ve completed the profile, you must save the information before you attempt to book a trip. The CI Azumano has a travel reservation guide and video to help; they are provided on the website and link above.

### **Non-Employee Reservations (Airfare and Lodging)**

You can make reservations for non-State employees conducting State business for your program, such as subject matter experts, volunteers, witnesses, or contractors, and receive State rates when using the DCA State-contracted travel service agency. One-time travelers should be booked as a guest traveler; no profile should or needs to be established.

### **Frequent Flyer Programs**

Employees who earn travel premiums (frequent flier miles/points) while on official State business may use these travel premiums for their personal use. The value of these premiums will not be reimbursed to the employee if used for State business. (See [PML 2005–051](#).)

### **Receipts**

Airline itinerary or passenger receipts should include the traveler's name, dates and times of travel, destination, and amount of airfare. This document must be submitted with the employee's [TEC](#). The cost should always be entered on the claim as “Commercial Airfare,” and “Department Paid” should be selected for payment type.

### **Privately Owned Aircraft Usage [SAM 0743](#) and [0746](#)**

Travel on official State business may be by privately owned, rented, or leased aircraft whenever this is the least costly means or is in the best interest of the State.

Employees must first obtain supervisor and agency approval. Employee pilots shall certify at least yearly to their employing agency that they have the required liability insurance during the period of official travel. These required limits are shown on [STD 265 \(New 2-91\)](#). Use [STD 265](#) for certification and insurance. (See [SAM section 0746](#).)

In all cases, the aircraft must be certified in accordance with Federal Aviation Administration regulations and properly equipped for the type of flying to be performed.

State employees who pilot aircraft on official State business must meet the requirements of CalHR Rule 599.628 and [SAM section 0747](#).

Reimbursement for use of privately-owned aircraft: [SAM section 0744](#)

The reimbursement rate for employee privately owned aircraft is \$1.74 per statute mile effective Jan.1, 2023 to Dec 31, 2023 [Private Aircraft Mileage](#). Mileage is computed on the shortest air route from origin to destination, using airways whenever possible. Enter "Air Miles" and mileage on the [TEC](#). For expenses other than mileage, substantiate the expense with a voucher. Landing and parking fees are paid except at the site where the aircraft is normally stored.

#### **State-Owned, Privately Owned, and Commercially Owned Rental Vehicle Use**

Agencies determine who will drive on official State business and the vehicle type to be used: State-owned, privately owned, or commercially owned vehicles. The definition of "use of a State vehicle in the conduct of State business" includes the use of State vehicles "when driven in the performance of, or necessary to, or in the course of, the duties of State employment and shall include the operation of State-owned or leased vehicles as commute vehicles in a carpool or vanpool program authorized by a State agency." ([SAM section 0750](#).)

State vehicles may be authorized when two or more employees are traveling together; the trip includes intermediate stops not feasible for public transportation; the schedule of public carriers does not fit the itinerary; transportation is not available at the destination; or an employee must carry specialized tools, books, etc.

Privately owned vehicles may be used by employees on official State business if this is approved by the DCA. If the use is not less costly, the supervisor may authorize the use, but the payment will be for the less-costly alternative. No agency will require an employee to use their privately-owned vehicle unless this is a formal condition for employment.

The following circumstances are prohibited uses of State vehicles:

- Using the State vehicle for anything other than conducting State business.
- Carrying in the vehicle non-Departmental employees, friends, or family members.
- Using the vehicle for private or recreational use.

**Commercially owned rental vehicles** may be rented when a State vehicle is not available and automobile travel is essential. The employee must return the rental car at the end of each work week State business is concluded. Refer to the [Department of General Services \(DGS\) website](#) to view the rental car contract and ensure adherence to State policy. (See Appendix.)

### Commercial Rental Cars

Transportation Services: [SAM Section 4100](#)

CalHR Policies for Method of Travel: [Travel Reimbursements - CalHR](#)

[DGS State Fleet Handbook \(revised May 2008\), at Page 5.](#)

DGS Rental Car Policies and Procedures: [Car Rental Resources for State Travel](#)

The State contract vendor for rental vehicles is Enterprise Rent a Car. The [current contract](#) is effective March 2019. Click on [www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx](http://www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx) for more information.

[Commercial Car Rental Car Rates](#) as of March 1, 2019: [http://inside.dca.ca.gov/documents/travel\\_rental\\_19-01.pdf](http://inside.dca.ca.gov/documents/travel_rental_19-01.pdf)[RentingaVehicle.aspx](#) for more information.

The rental of alternative fuel vehicles is encouraged, and their rental rate should be the same.

Here's a link to the complete [rental car contract](#).

### Car Rental Reservation Information

Rental Car reservation must be made on [Concur CalTravelStore](#) ([www.caltravel.ciazumano.com](http://www.caltravel.ciazumano.com)).

**Commented [LK1]:** FYI - There is a different link that points to the Travel Store

To receive the contract rate, employees are required to provide a current driver license and a second form of identification (ID) to ensure a smooth delivery of service when

renting a vehicle. Acceptable second forms of ID can be an employee issued ID badge, a business card, a copy of a travel itinerary booked through CI Azumano or Concur (the online reservation tool), or an authorization letter on Department letterhead. Reservations are required to be made in advance on Concur.

Employees must NOT:

- Extend rental agreements for personal business and pay the difference. When extending business trips for personal reasons, the employee must stop the State rental agreement and initiate a new personal rental agreement.
- Agree to purchase insurance. Insurance is included in the State contracted rates.
- Agree to purchase the fuel service option or prepaid fuel (i.e., a flat refueling rate).
- Agree to purchase higher rate, non-economy cars.
- Carry unauthorized, non-State employees in a rental or State vehicle. If travel plans change, please cancel the reservation.

### **Insurance**

The State contract includes insurance and employees should not accept additional insurance. Employees using a noncontracted vendor may not have insurance included in their rental rate. The employee will be personally responsible for the insurance costs when choosing to use a noncontracted vendor.

In the event an at-fault accident occurs when renting a noncontract vehicle, the employee and the Department may be legally responsible for all damages sustained by others as well as property damage to the rental vehicle. More information on SAM Insurance and Surety Bonds is available at [SAM section 2400](#).

### **Receipts**

DCA policy requires the final rental car receipt be attached to the expense reimbursement claim (STD 262 or CalATERS), whether charged to the Department or paid by the employee. The receipt must indicate the amount charged and payment method. Pre-calculations or reservation agreements are not acceptable. (See [SAM section 8422.115](#); [https://www.dgsapps.dgs.ca.gov/documents/sam/SamPrint/new/sam\\_master/sam\\_master\\_file/chap8400/8422.115.pdf](https://www.dgsapps.dgs.ca.gov/documents/sam/SamPrint/new/sam_master/sam_master_file/chap8400/8422.115.pdf).)

### **Forms of Payment**



The contract requires use of the Corporate Rental Business Traveler Account (CRBTA). Use of cash or the traveler’s personal credit card will not guarantee the State contract rate or the State’s insurance coverage.

A [Short-Term Vehicle Justification Form](#), signed by the employee's supervisor will be required for the following “exceptions” for State departments to submit to the State Controller’s Office (SCO):

- Renting a vehicle larger than compact/intermediate size;
- Renting a vehicle from a noncontracted vendor;
- Needing physical or medical accommodations; and

All employees **are not** required to refuel the rental car vehicle prior to returning. When refueling the rental car, the employee must submit a detailed gasoline receipt for reimbursement. Gasoline receipts must show the date of purchase, method of payment, and an expense breakdown: number of gallons, price per gallon, and extended total purchased amount. Prepaid fuel receipts are not acceptable for reimbursement.

The SCO approval form should be attached to the invoice and travel expense claim associated with the justification. State departments are no longer required to receive approval from the DGS Statewide Travel Program. The Short-Term Vehicle Justification Form is available on the DGS website.

Rates include unlimited mileage and are not subject to blackout dates. Contracted vehicle rates information is available on the [DCA Intranet, Travel Bulletin](#). Examples of vehicles are listed in parentheses shown on the list below. The Maximum Cap Rate (MCR) includes the base rate, all fees, all charges, in addition to airport fees, vehicle license fees and, State, city and county, or local surcharges that apply to the commercial car rental industry as a whole and identified by airport. Sales tax and refueling charges are not included in the contract rate.

**Short-Term Commercial Car Rental Cost Table**  
**Base Rate with \$300,000 Insurance for Short-Term Rentals**  
 (Effective March 1, 2024 – February 2025)

Vehicle Class Type	Daily	Weekly
<b>Compact</b> (Nissan Versa, Toyota Yaris)	\$40.54	\$170.28
<b>Mid-Size/Intermediate</b> (Toyota Corolla, Nissan Sentra)	\$40.54	\$170.28
<b>Full-Size</b> (Chevy Impala, Nissan Altima)	\$41.89	\$175.92

<b>FWD/Sport Utility Vehicle</b> (Ford Escape, Jeep Liberty)	\$59.07	\$295.35
<b>Minivan</b> (Chrysler Town and Country, Dodge Grand Caravan)	\$59.07	\$295.35
<b>Pick-Up Trucks</b> (Chevy Silverado, Ford F150)	\$69.81	\$322.20
<b>Plug-In Hybrid Electric Vehicle/Zero Emission Vehicle</b> (Nissan Leaf, Chevy Volt)	\$58.00	\$289.98
<b>Hybrid Electric Vehicle</b>	\$50.48	\$252.39

Note: The State of New York is exempt from the Base Rate listed above. Such rates are subject to open market rates quoted at time of actual car rental.

#### Private Vehicle Authorization and Use

The SAM requires that before any employee, including a board member, uses a privately owned vehicle to conduct State business, that employee must obtain authorization in writing from his or her supervisor and certify that the vehicle will be operated in compliance with [SAM section 0753](#). An Authorization to Use Privately Owned Vehicles on State Business form ([STD 261](#)) should be completed and on file with the immediate supervisor. The [STD 261](#) form must be updated and re-signed annually.

Employees should be aware that the insurance maintained by the State is for the liability above the amount of the employees' policies. All employees driving on State business must carry evidence of liability insurance coverage. Mileage rates paid to employees include an amount that reimburses employees for maintaining minimum insurance coverage.

#### Mileage Rate Reimbursement

The following table shows the mileage reimbursement rates for privately owned vehicles: [Mileage Rate](#)

##### Mileage Reimbursement Rates for Privately Owned Vehicles

1/1/2022 – 6/30/2022	58.5 cents per mile
7/1/2022 – 12/31/2022	62.5 cents per mile
1/1/2023 – 12/31/2023	65.5 cents per mile
Effective 1/1/2024	67.0 cents per mile

### **Alternate Worksite Mileage**

When an employee's regular work assignment requires reporting to a second location other than headquarters (e.g., a training site), mileage reimbursement is limited to the actual mileage incurred less their normal commute distance.

### **Airport Dropoff**

When an employee is driven to a common carrier and no parking expenses are incurred during the employee's absence, they may claim mileage reimbursement at double the number of miles from headquarters or residence, whichever is fewer, while the employee rides in the vehicle. If travel commences or terminates one hour before or after normal work hours, or on a regularly scheduled day off, mileage may be computed from the residence.

Minimal parking expenses for pickup will be allowed, with justification and/or notation on the [TEC](#).

### **Motor Vehicle Accident Reporting**

All accidents involving a State-owned vehicle, or any vehicle being used on State business ([SAM section 0757](#)), must be reported. Report all accidents immediately to your manager and to the DCA Business Services Office. Accidents must be reported within 48 hours to the Office of Risk and Insurance Management on a Vehicle Accident Report [STD 270](#) form. State reporting requirements are in addition to a regular police report as required by law.

Accident reimbursement claims require special approval and processing. Therefore, contact the DCA Travel Unit for guidance.

### **Overtime and Callback Mileage**

Callback or scheduled overtime mileage incurred on a normal day off, from your home to established headquarters, is reimbursable for Non-represented employees and the reimbursement is a reportable fringe benefit. **Note: Overtime mileage for represented employees is not allowed for pre-scheduled overtime.**

### **State Vehicle Emergency Repairs**

Emergency State vehicle repairs can be reimbursed on a [TEC](#) with the appropriate receipt and written justification or explanation of the event. Repairs require Fleet Administration approval. For non-emergency car repairs, the employee should have the vendor bill the program directly.

## Taxis and Shuttles

Taxis and shuttles should be used for trips within a reasonable distance (10 to 15 miles). Reimbursement can be made on a [TEC](#) for the actual cost of the expense with a receipt, or for no more than \$10 without a receipt. General Service charge cards are accepted for taxi and shuttle services within the Sacramento and Fresno areas. **Tips or gratuities to drivers are reimbursable up to \$2.00 or 20% whichever is greater.** Tips or gratuities for exceptional services, such as loading and/or unloading substantial luggage or multiple exam material, is allowable with written justification and receipt.

## Uber and Lyft

Per [CalHR PML2015-039, Assembly Bill 229 \(Stats. 2015, ch. 770\)](#), effective January 1, 2016 through December 31, 2018, Uber and Lyft are acceptable State travel modes of transportation. An original detailed receipt is required to be attached to the claim for reimbursement. (See [PML 2015-039](#).) **See above for changes on Tips.**

Zipcars are not authorized for use as State travel transportation.

## Parking and Tolls ([SAM section 0755](#))

Parking and tolls in excess of \$10 require a receipt and may be paid for:

- Day parking when the trip is away from the headquarters office and residence.
- Overnight public parking when the traveler is on travel status.
- Callback or scheduled overtime on a normal day off.

## Commuting Transit and Vanpool

*Employees who commute to and from work via public transportation or qualifying vanpools may be eligible for up to a 100-percent discount or reimbursement on public transit passes up to the monthly exclusion amount provided by the IRS. Reimbursement is based on actual cost supported by a receipt or proof of purchase.*

Mass transit and vanpool subsidy increases apply to the following eligible employees, including employees headquartered out of state:

Bargaining Unit and Related Excluded	Effective Date
R02,S02,M02,R09,S09,M09,R18,S18,M18	October 1, 2022

R08,S08,M08, and related CEA* positions	December 1, 2022
R13 and S13	August 2, 2022
R1, R3, R4, R6, R7, R11, R12, R14, R15, R17, R19, R20, R21, and all excluded employees, regardless of CBID	October 1, 2023
R16	July 1, 2024

\*CEAs must be directly tied to BU8.

The mass transit and vanpool subsidy increases are as follows:

- Public transit (mass transit) passes
  - 100 percent discount on public transit passes sold by state agencies, up to the monthly exclusion amount provided by the Internal Revenue Service (IRS).
  - 100 percent reimbursement on public transit passes purchased by state employees, up to the monthly exclusion amount provided by the IRS.
- Vanpool drivers and riders
  - 100 percent reimbursement on the monthly fee, up to the monthly exclusion amount provided by the IRS.

For 2022 and 2023, the maximum monthly exclusion amount provided by the IRS is \$280 and \$300, respectively.

Effective January 1, 2024, the maximum monthly rate was increased to \$315, without tax consequences.

The combined maximum allowable monthly exclusion amount for employees who are eligible to claim both mass transit and vanpool shall not exceed the combined IRS maximum monthly exclusion amount.

Part-time employees' reimbursement may be prorated to correspond to their appropriate work schedule. Daily passes may be utilized for part-time employee reimbursement.

The State will pay \$135 per month to the primary driver of a qualifying vanpool consisting of 7 to 15 people in lieu of the vanpool/transit rider incentive for the bargaining units listed above. A qualifying vanpool must meet both IRS section 132 and CalHR 599.936 criteria. (See CalHR webpage for [Miscellaneous Programs](#).)

## CHAPTER 4. BUSINESS EXPENSES AND RECEIPTS.

### Business Expenses

Business expenses are costs that are necessary for the completion of State business.

Examples:

- Phone calls more than \$1 or calls totaling more than \$5. The Department phone log can be used for logging calls when there is no official receipt provided (See “Justification for Reimbursement for Telephone Charges” in the Appendix).
- Approved training request for all courses provided by outside vendors/entities and in-State conferences and conventions. Reimbursement for training classes will be processed after completion of the training class.
- When physical examinations are required for pre-employment or as a condition of employment, the State will provide or pay for them. The applicant must pay for any services beyond the approved level for such services. For information on the current rate, see Employee Physical Exams, [SAM section 0191](#).
- Excessive porter or baggage handling, such as for several boxes of exam materials, will be reimbursed with a receipt and justification.
- Professional licenses in occupational fields that may be required by the functions of a specific position or is beneficial to the performance of an employee’s duties, for actual cost of the application or renewal fee.
- Each department, commission, board, or agency may reimburse an employee for up to the maximum allowed per BU Contract for membership dues in job-related professional societies or associations of the employee’s choice or for a job-related professional license fee, in recognition of the professional nature of employees. Both parties agree and understand that a different amount of reimbursement, if any, may be provided to employees in the same or similar situation.
- State Bar Dues – [CalHR Rule 599.921](#)
  - Employee designation: Manager, supervisor, confidential, and excluded.
  - References: [2022 Bar Membership Dues](#). Upon certification by the appointing power that the actual practice of law is required for the performance of duties of a specific position, employees shall be reimbursed for up to \$463 of the State Bar membership fee of \$515 for the cost of annual membership fees and specialty fees of the State Bar Association.
  - The State does not pay:
    - The \$5 contribution for the Legislative Activity option, line 21 of the State Bar coupon.

- The \$45 contribution for the Legal Services Assistance option, line 23 of the State Bar coupon.
- The \$2 contribution for the Elimination of Bias option, line 22 of the State Bar coupon.
- Optional Donations for Access to Justice, California Bar Foundation, Conference for California Bar Associations, or California Supreme Court Historical Society; or
- Penalties resulting from late payment of dues, unless the State is responsible for the late payment.

### **Valid Receipts**

A valid receipt consists of the establishment's name, address, itemized expenses, including the total amount due and method of payment. When submitting a [TEC](#), the claimant is required to include original, itemized receipts for all State business expenses, unless specifically noted and accepted in another section of this Guide.

Reimbursement requires proof of payment by the employee. If the receipt does not show the employee paid for the expense, attach other viable information such as the canceled check, bank, or credit card statement. For security purposes, blacken out all nonrelated charges and only retain the employee's name, bank name, and the specific charge you are claiming.

### **Required Receipts**

Receipts shall be submitted for every item of expense of \$1 or more, except as noted in this chapter.

DCA policy is for all receipts to be attached to the [TEC](#), whether paid directly to the vendor or establishment by the State or paid by the employee. Examples are airline itineraries, final rental car expense receipts, etc.

### **Receipts Not Required**

The employee must retain copies of all receipts, including those original receipts not required for reimbursement by the Department, for IRS purposes.

Receipts are NOT required for reimbursement of actual expenses as a result of conducting State business for the following expenses:

- Per diem meals and incidentals.
- Overtime meals.
- Railroad and bus fares of less than \$25 when travel is wholly within the State.
- Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi, shuttle or hotel bus fares, and parking fees of \$10 or less for each continuous period of parking or each separate transportation expense.

#### **Lost Receipts**

In the absence of a receipt, reimbursement will be limited to the nonreceipted amount or the published expense, when lower than the nonreceipted amount.

#### **Odd-Size Receipts**

If receipts are small, tape them to an 8 ½-inch x 11-inch sheet of paper so they will be the same size as the travel claim. More than one receipt can be on a sheet of paper if they do not overlap. Do not tape the receipts to both sides of the paper.

## **Chapter 5. Reportable Tax Items.**

### **Introduction**

Various reimbursements of State business expenses and fringe benefits are subject to Federal and State income taxes and applicable Social Security and Medicare taxes. The Department is required to report qualifying business expense reimbursements as income to the State Controller's Office each month.

Note: It is the State and Department's policy to adhere to all IRS reporting requirements.

### **Reportable Items**

The following items are the most common reportable employer-provided benefits:

- Overtime meals;
- Callback mileage, including overtime mileage;
- Bicycle Commuter Program
- Meals on a one-day trip where there is no sleep period;



- Department-approved exceptions to the 50 miles travel status radius rule;
- Long-term assignments that exceed 30 consecutive days at one location for a period of more than one year. Contact the DCA Travel Unit for details when appropriate;
- The personal use of State vehicles for commute miles;
- Personal use of a State-provided electronic device;
- Travel advances that are not cleared within 30 days of the travel date; and
- Relocation: Contact the DCA Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) for details when appropriate.

**Note:** Any nonreceipted expense, such as meals and incidentals, becomes reportable *if* the IRS conducts an audit and finds no receipts in the employee’s file.

### Reportable Withholdings

Below is a grid showing the percentages of taxes withheld from each agency, along with an example of the withholdings based on a \$66 reporting item. The actual total amount withheld from the \$66 item is \$24.72 for a represented employee. This amount would be deducted from the employee’s next available pay warrant.

#### Percentages of Taxes Withheld by Agency

(includes example withholdings based on a \$66 reporting item)

Type of Tax (W-2s)	Withholding Rate	Monthly Value	Actual Withholding
Federal	22.0%	\$66	\$14.52
State	6.6%	\$66	\$4.36
* SSI	6.2 %	\$66	\$4.10
Medicare	1.45 %	\$66	\$0.96
** SDI	1.1%	\$66	\$0.66

\*Supplemental Security Income: Not applicable to Safety or Peace Officer Retirement.

\*\*State Disability Insurance: Applicable to Service Employees International Union (SEIU)-represented employees only. (See [Payroll Procedure Manual \(PPM\) Withholding Requirements section N171](#) for most recent rates.)

The reportable reimbursements will be listed under “Other Income,” or will be noted as “Included in Box 1” on the employee’s W-2 form.

It is the employee's responsibility to maintain all reportable receipts with their records for IRS audit purposes.

### **Capturing Reportable Items**

There are many ways of capturing and reporting reportable items each month.

Examples:

- Overtime meals, callback mileage, and meals on a one-day trip are captured at the time of the [TEC](#) audit, and reimbursement is made.
- Department-approved exemptions to the "50 miles travel status radius" rule and long-term assignments that exceed 30 consecutive days are captured at the time that paperwork is submitted for approval to the Executive Office and the reimbursement of the [TEC](#) is made.
- Reporting personal mileage and/or use of a State vehicle is the responsibility of the employee. The IRS has determined that normal commute miles to and from work in a State vehicle are to be considered personal use. Only employees whose primary responsibilities are investigative law enforcement activities while they are performing law enforcement duties fit the IRS guidelines for exemption from reporting personal use of State vehicles. However, when these employees commute to and from the office for their office days or do not perform qualifying law enforcement activities on the way to or from work, the commute is reportable. All other employees who are permanently or temporarily assigned State vehicles must report personal use and/or their normal commute use. Each employee who drives a State vehicle is required to submit a monthly Employee Certification, Personal Use of State Provided Vehicles Form, [Personal Use of State-Provided Vehicle](#) to the DCA Accounting Office by the fifth day of the following month in which the personal use was incurred. Please note, this requirement applies to all employees who drive a State vehicle; it is not limited to those employees whose assigned cars are stored at home or in off-site parking.
- Reporting personal use of a State-provided electronic device is the responsibility of the employee. Each employee who uses State-provided equipment for any personal use should prepare a memo stating the type of usage and the actual or estimated cost of the usage to be reported. To avoid the reporting of this type of fringe benefit, the employee can submit a personal check with the memo to reimburse the Department for their personal use.
- All travel advances are to be temporary. Any outstanding travel advances over 90 days are considered long-term and should be treated as wages or compensation; therefore, reported as taxable income.

- Reporting “relocation” taxable items varies depending on the type of expenses that occur; i.e., moving of household goods, sale of residence, etc. For actual reporting requirements, contact the DCA Accounting Office’s Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) for details.
- Continuing Medical Education (CME) expense reimbursement is a taxable fringe benefit for part time, full time, and intermittent BU 16 represented employees. CME expense reimbursement has been considered a taxable fringe benefit by the IRS since the program was established by the CalHR and BU 16 representatives. This program does not meet the criteria to be non-taxable business expenses under Internal Revenue Code section 127. All reimbursements made under this program will be issued in advance as payroll checks near the beginning of each fiscal year.

## **Chapter 6. Out-of-State, Out-of-Country, and Amended Claims.**

### **Introduction**

There are additional requirements and/or approvals when filing out-of-State, out-of-country, or amended [TECs](#).

### **Out-of-State Travel (OST)**

Before any State employee may travel out-of-State on official State business, specific written approval must be given by the Director, the Agency Secretary, the Department of Finance, and the Governor’s Office. (See [SAM section 0710](#).)

Approval must be obtained if either one of the following conditions exist:

1. The employee is on State time, or
2. The employee is representing the State in an official capacity or is acting in such a capacity that it will be perceived that he or she is representing the State.

If either of these two criteria exist, approval is necessary regardless of whether the State is paying for the employee’s travel expenses. The trips are limited to the approved number of persons, days, and funds as specified for each blanket request. Expenses exceeding the blanket limits will require an approved blanket substitution request to cover the overages prior to travel. Any cost incurred prior to the blanket approval will be at the employee’s own expense.

OST expenses must be submitted separately from in-State travel and note the approved blanket number on the claim. Actual lodging expense, supported by a receipt and the standard meal and incidental reimbursement, may be claimed for travel

outside of California. Contact the DCA Budget (go to [DCA home page](#), under Office of Administrative Services) or Accounting Office ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) if you do not know the blanket number or require additional information. Refer to [SAM 0760–0765](#).

### **Out-of-Country Travel**

Employees will be reimbursed for actual lodging expenses, supported by a receipt, and will be reimbursed for actual meal and incidental expenses subject to maximum rates in accordance with the published government rates for foreign travel for the dates of travel. Failure to furnish lodging receipts will limit reimbursement to meals only. The government rates change monthly. (See CalHR webpage for [Travel Reimbursements](#) for current reimbursement rates.)

There is no allowance for blanket substitution of funds or authority for out-of-country trips. Any expenses that exceed the individual trip authority or funds will be at the traveler's expense. Claims must be submitted separately with the approved individual out-of-country trip request number written on the claim. Contact the DCA Budget Office if you do not know the trip number or require additional information.

### **Amended Claims**

When filing an amended claim, the following steps should be taken:

1. Submit a new claim.
2. Write "AMENDED CLAIM" in uppercase letters at the top of the claim.
3. Claim only the amount not submitted on the original claim.
4. Attach a copy of the original claim to the new claim.
5. Attach any required information, receipts, or justification not submitted with the original claim.
6. Obtain all required approval signatures and submit the claim to Accounting Office Travel Unit for payment.

## **Chapter 7. Travel and Evidence Advances.**

### **Travel Advances**

Short-term advances may be issued prior to the time travel is performed, to employees who must travel on State business. (See [SAM 8116](#).)

- Submit the travel advance request on CalATERS Global. In the event of non-access to CalATERS Global, please complete the [Request for Travel Advance \(AISD-008\)](#) form and send it to the DCA Accounting Office within 10 to 15 working days prior to the date of travel. Original signatures are required.
- Per the Governor's order, all departments are to keep outstanding travel advance balances (accounts receivables) to a minimum. Because of this order, DCA has limited travel advance amounts to lodging, meals, and airport parking that are fixed expenses to keep the outstanding receivables amount at a minimum. The employee will receive reimbursement for other expenses after the processing of their [TEC](#).
- If the trip is canceled, the advance must be returned immediately to the Accounting Office. If the travel advance check is cashed, a personal check or cashiers must be submitted as payment.
- For employees who are not required to travel on more than one trip per month, additional advances will not be issued for future travel unless the outstanding advances have been cleared. Departments may issue additional travel advances for employees who are required to travel on multiple trips within a month. Additional advances will not be allowed if the employee does not submit a [TEC](#) or return the excess advance amount within ten days of each trip.
- All advances must be cleared by submitting a [TEC](#) within 10 days after the date of travel. If the advance exceeds the expense claim, to clear the advance, the employee must submit a check with the claim, money order payable to DCA, or cash for the difference. If the claim exceeds the advance, the employee will receive the balance due to them by check within 10 to 15 working days.
- Add a notation regarding the advance information in section 11 or in the Note Section on CalATERS Global of the [TEC](#). (Example: March travel advance \$200.) Do not deduct the advance amount from your claim total; the auditor will make the adjustment when the claim is processed for payment.
- Any outstanding advances of more than 15 days may be deducted from your next month's pay warrant per [SAM 8116.1](#). The DCA Accounting Office will notify the employee before this process occurs. The notification letter will allow the employee time to clear the advance balance. Failure to clear advances may preclude future advances being issued until the outstanding advances are cleared. Direct deposit will be canceled for those employees with uncleared balances to collect any advance balances not cleared within a reasonable time.
- Travel advances that are not cleared within 15 days must be reported as taxable income. (See [SAM 8116.3](#).) Taxes due will be withheld from the next available payroll warrant and reported as taxable income on the employee's W-

2. When the advance is cleared, there is no method to refund the withheld taxes to the employee.
- Some restrictions apply to seasonal or part-time employees, including board and committee members, who may not be issued travel advances. Exception requests are granted by approval of the Chief Accounting Officer on a limited basis.

## Chapter 8. Filing Requirements.

### Claim Form and Correction Instructions

All Travel Expense Claims must be submitted on the CalATERS Global System. A [CalATERS Global Training Request](#) form should be completed and sent as an attachment to [CalATERS@dca.ca.gov](mailto:CalATERS@dca.ca.gov) to establish a CalATERS Global User ID and temporary password. There are two types of claims that can be submitted on the CalATERS Global System.

1. **Regular TEC**—Only one trip per claim should be entered on a Regular TEC. These claims consist of per diem, lodging, and mode of transportation cost to and from destinations. Expense reimbursements are determined by the date and time the trip started and/or ended. Therefore, this information must be entered for each trip. If a traveler traveled on more than one trip, each trip must be entered on a separate claim. The claim will be returned to the traveler or travel liaison for correction if more than one trip is entered on this type of claim.
2. **Non-Travel Expense Claim**—Consists of multiple days and months, up to a full fiscal year (July 1, 2021 through June 30, 2022). These claims consist of only parking, mileage, airfare, rental car, gas for rental car, business expenses, training, etc. This claim would not include meals, incidentals, or lodging. Please make sure when submitting this type of claim the amount is \$10 or more for budget and department cost efficiency.

The CalATERS Global TEC Transmittal should have the proper report name, index number, month and year of travel, original signature of the approver, dates, times, amounts, mode of transportation, purpose, normal work hours, etc. Original detailed receipts showing proof of payment and justifications, when necessary, are required documentation for the claim. The original CalATERS Global TEC and required receipts should be sent to the Accounts Payable, Travel Unit for processing.

In the event the employee is new to the Department and does not have a CalATERS Global User ID established, a [TEC](#) can be completed to submit their first request for reimbursement of State-related travel expenses. The original and one legible copy should be submitted to the Accounts Payable, Travel Unit for processing. Keep a third copy for your records with any non-required original receipts. All TEC forms should be completed in ink or typewritten. The original signature of the claimant and the approving

officer are required to be completed in ink in the appropriate area of the form. For minor corrections, line-out the incorrect information and write in the corrected information. The claimant must initial all corrections. Travel claims with correction fluid or correction tape in critical areas of the form affecting the reimbursement amount will not be accepted. Travel claims may be returned as auditable if submitted with numerous changes or if it is difficult to read.

### **When to Submit Travel Expense Claims**

TECs should be filed at least once a month, but not more than twice in one month. If the amount claimed for any one month does not exceed \$10, filing can be deferred until the next month's travel or until June 30, whichever comes first. Several trips may be entered on one TEC. Only one Regular Trip at a time can be submitted on CalATERS Global. When more than one trip is being listed on the TEC, a blank line should be left between each trip. Trips that start at the end of one month and extend into the next month should be submitted after the trip has concluded. Although it is acceptable to put several trips on one claim, the following expenses must be submitted on a separate TEC: Out of State, out of country, long-term assignment, evidence and relocation expenses. Please label the TEC header when filing reimbursement claims for other than short-term travel.

All claims for the current fiscal year must be submitted by the published year-end deadline. Do not combine fiscal years. If a trip overlaps June and July, two separate TEC or CalATERS Global claims must be completed and submitted, one for each month. However, they should be submitted together for audit purposes.

### **Required Information**

The TEC must be completed in its entirety, including heading, dates, time, amounts, mode of transportation, purpose, normal work hours, etc., and have the claimant's and the authorized approving officer's original signatures. Itemized expenses and original receipts showing proof of payment and justifications, when necessary, are required documentation for the claim. The original TEC and required receipts should be sent to the Accounts Payable/Travel Unit for processing.

## **Chapter 9. Completing a Travel Expense Claim.**

### **Introduction**

The [TEC](#) requires various information, including employee information, trip information, reimbursement amounts, authorizations, and justifications be provided. This chapter provides a step-by-step description of what is required to complete a [TEC](#).

### **Employee Information**

This information describes to whom, classification, bargaining unit, and where expenses should be charged.

Field	Enter Into Field
Claimant's Name	First name, middle initial, last name
Social Security Number or Employee Number*	13-digit position number or write "on file"
Department	Department of Consumer Affairs
Position	Civil service classification (title)
CB/ID Number	Bargaining unit number for represented employees OR Confidential, exempt, board/committee member, volunteer, or other specific title
Division or Bureau	Board, committee, program, division, or unit name
Index Number	Index/PCA number (contact the DCA Accounting Office for assistance if you do not know your Index/PCA number)
Residence Address* (including city, state, and ZIP code)	Home address (do not use P.O. Box) <i>If confidential, contact the DCA Accounting Office for guidance.</i>
Headquarters Address (city, state, and ZIP code)	Complete headquarters (work) address
Phone Number	Office phone number (include area code)

\* Refers to the Privacy Statement provided on the reverse side of the form.

### Trip Information, Miscellaneous Information and Justifications, and Authorized Signatures

This section requests information regarding the when, where, and why the expenses occurred.

Field	Enter into Field
1	<b>Normal Work Hours:</b> Use the 24-hour clock
2	<b>Private Vehicle License Number:</b> Enter the license number of the private vehicle used on State business
3	<b>Mileage Rate Claimed:</b> Enter the rate claimed for private vehicle use
4	<b>Month/Year:</b> Month number (January = 1, December = 12) and four-digit



5	<b>Date:</b> Day of the month (one day per line) <b>Time:</b> Departure and return (using the 24-hour clock)																		
6	<b>Location Where Expenses Were Incurred:</b> (A brief statement describing the purpose may be entered immediately below the last entry for each trip.)																		
7	<b>Lodging:</b> Enter actual cost of lodging, plus tax (up to the maximum)																		
8	<b>Meals:</b> Enter actual cost of meals (up to the maximum reimbursement)																		
9	<b>Incidentals:</b> Enter actual cost of incidentals (up to the maximum)																		
10 (A)	<b>Transportation:</b> Enter the cost of transportation, if paid by employee																		
10 (B)	<b>Transportation:</b> Enter the method of transportation, using the following codes: <table border="1" data-bbox="381 745 1133 1003"> <thead> <tr> <th>Type</th> <th>Code</th> </tr> </thead> <tbody> <tr> <td>Railway</td> <td>R</td> </tr> <tr> <td>Bus, air porter, light rail, Bay Area Rapid Transit (BART)</td> <td>B</td> </tr> <tr> <td>Commercial airline</td> <td>A</td> </tr> <tr> <td>Privately owned vehicle (motorcycles not allowed)</td> <td>PC</td> </tr> <tr> <td>Private air</td> <td>PA</td> </tr> <tr> <td>State car</td> <td>SC</td> </tr> <tr> <td>Rental car</td> <td>RC</td> </tr> <tr> <td>Taxi</td> <td>T</td> </tr> </tbody> </table>	Type	Code	Railway	R	Bus, air porter, light rail, Bay Area Rapid Transit (BART)	B	Commercial airline	A	Privately owned vehicle (motorcycles not allowed)	PC	Private air	PA	State car	SC	Rental car	RC	Taxi	T
Type	Code																		
Railway	R																		
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Private air	PA																		
State car	SC																		
Rental car	RC																		
Taxi	T																		
10 (C)	<b>Transportation:</b> Enter carfare, bridge road tolls, or parking expenses																		
10 (D)	<b>Transportation:</b> Enter the number of miles driven with private and State vehicles, and then enter the amount due for private vehicles																		
11	<b>Business Expense:</b> Enter any other expenses necessary for completion of State business, with justification as required. <u>Note:</u> Expenses more than \$25 require Office of Administrative Services authorization. The DCA Accounting Office will obtain signatures.																		
12	<b>Total Expenses for Day:</b> Enter the total expenses for that day																		
13	<b>Subtotals:</b> Enter the total expenses for each column																		
14	<b>Purpose of Trip, Remarks, and Details:</b> Enter the justification and miscellaneous information, such as: Explanation of business expenses Phone expenses, including place, party, and number called Receipt justification, if needed Justification for obtaining rental cars, other than a compact, or use of a noncontract vendor Travel advances received																		

## Appendix

### Resource Materials

Subject	Issue Date	Ex	Num
---------	------------	----	-----

Short-Term Lodging Reimbursement Rates—Maximum Rates for All Represented and Excluded Employees	10/20/2016	<a href="#">Short-Term Lodging Reimbursement Rates</a>
Approval of Excess Lodging Rates	12/19/2013	PML 2013-044 <a href="#">4.pdf</a>
FLSA Guidelines	04/16/2004	DCA DPM-PERS 02-06 <a href="http://inside.dca.ca.gov/documents/dpm_hr_02_06.pdf">http://inside.dca.ca.gov/documents/dpm_hr_02_06.pdf</a>
Travel and Relocation—Lodging Receipts	07/01/2014	<a href="http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx">www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx</a> CalHR PML 2013-022 <a href="http://www.calhr.ca.gov/travel-reimbursements-library/2013026.pdf">www.calhr.ca.gov/travel-reimbursements-library/2013026.pdf</a>
Vanpool Incentives	7/23/2019  09/27/2002	CalHR <a href="#">Commute Programs</a>  CalHR PML 2002-064 <a href="http://www.dot.ca.gov/hq/asc/travel/pdf/PML2002-064.pdf">http://www.dot.ca.gov/hq/asc/travel/pdf/PML2002-064.pdf</a>  CalHR PML 2002-021

The list below includes memos, policies, procedures, and websites with information regarding travel reimbursement rules and regulations.

#### Useful Websites and Addresses

Useful Websites	Internet Addresses
Department of General Services State Administrative Manual Forms	<a href="http://www.dgs.ca.gov">www.dgs.ca.gov</a> <a href="http://sam.dgs.ca.gov/TOC/700.aspx">http://sam.dgs.ca.gov/TOC/700.aspx</a> <a href="http://www.dgs.ca.gov/osp/Forms.aspx">www.dgs.ca.gov/osp/Forms.aspx</a>

California Department of Human Resources	<a href="https://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx">https://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx</a>
Bargaining Unit Contracts Personnel Management Letters (PMLs)	<a href="http://www.calhr.ca.gov/Pages/home.aspx">www.calhr.ca.gov/Pages/home.aspx</a>
Travel Agency	<a href="#">Caltravelstore</a>

Commented [LK2]: This also points to the Travel Store

### List of Related Forms

The travel forms mentioned in this Travel Guide are available on the [Department of Consumer Affairs\(DCA\) Intranet](#) at <http://inside.dca.ca.gov/offices/accounting/travel.shtml> and in this Appendix.

Form	Number	<a href="#">DCA Intranet</a> and/or Internet Links
Authorization to Use Privately Owned Vehicles on State Business	STD 261	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf</a>
Cost Comparison Page	N/A	<a href="http://inside.dca.ca.gov/documents/cost_comparison.pdf">http://inside.dca.ca.gov/documents/cost_comparison.pdf</a>
Excess Lodging Rate Request/Approval	STD 255C	<a href="https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std255c.pdf">https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std255c.pdf</a>
Conference Attendance Request	N/A	<a href="http://inside.dca.ca.gov/documents/conf_attend.pdf">http://inside.dca.ca.gov/documents/conf_attend.pdf</a>
Hotel/Motel Transient Occupancy Tax Waiver	STD 236	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf</a>
Justification for Reimbursement for Postage Charges	AISD 12	<a href="http://inside.dca.ca.gov/documents/postal_charges.pdf">http://inside.dca.ca.gov/documents/postal_charges.pdf</a>
Justification for Reimbursement for Telephone Charges	AISD 11	<a href="http://inside.dca.ca.gov/documents/phone_charges.pdf">http://inside.dca.ca.gov/documents/phone_charges.pdf</a>
Request for Travel Advance	AISD 008	<a href="http://inside.dca.ca.gov/documents/travel_advance.pdf">http://inside.dca.ca.gov/documents/travel_advance.pdf</a>
Travel Advances and Travel Expenses Policy	SAM Ch. 8100	<a href="#">SAM Section 8116 Travel Advances and Travel Expenses</a>
Travel Expense Claim	STD 262a	<a href="http://inside.dca.ca.gov/documents/std262a.pdf">http://inside.dca.ca.gov/documents/std262a.pdf</a>



**TRAVEL EXPENSE CLAIM**  
*Use a separate form for each trip.*

Name: \_\_\_\_\_

Purpose of Travel:  Board Meeting  
 Committee Meeting  
 Other: \_\_\_\_\_

Address Departed From: \_\_\_\_\_

Departure Date: \_\_\_\_\_  
 Time travel began: \_\_\_\_\_  am  pm

Address Returned To: \_\_\_\_\_

Return Date: \_\_\_\_\_  
 Time travel ended: \_\_\_\_\_  am  pm

**EXPENSES**

Day 1      Day 2      Day 3      Day 4      Day 5      Day 6      Day 7

**MEALS:**

Breakfast (\$7.00)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lunch (\$11.00) <sup>1</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dinner (\$23.00)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b><u>INCIDENTALS</u></b> (\$5.00) <sup>2</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------

<b><u>LODGING</u></b> <sup>3</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
------------------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------

**TRANSPORTATION**<sup>4</sup> *Check all that apply*

- Personal Auto<sup>5</sup>  
 License Plate Number: \_\_\_\_\_  
 Mileage Round Trip: \_\_\_\_\_
- Airline<sup>6</sup>
- Car Rental and Fuel<sup>7</sup>
- Uber, Lyft
- Taxis, Shuttles, Ferries<sup>8</sup>
- Railroad & Bus<sup>9</sup>
- Parking
- Toll<sup>10</sup>  
 Location/Name of Toll Bridge: \_\_\_\_\_

**OTHER**

State-Related Business Expenses<sup>11</sup>

---

<sup>1</sup> For travel less than 24 hours in duration, lunch is reimbursed for Board and Committee meetings only.

<sup>2</sup> Reimbursement of incidentals is allowed only for full 24-hours of travel.

<sup>3</sup> Attach original itemized receipt showing zero balance.

<sup>4</sup> Attach receipts and/or invoices for all methods of transportation.

<sup>5</sup> \$0.585 per mile, effective 1/1/2022

<sup>6</sup> Attach itinerary and/or receipt or ticket stub.

<sup>7</sup> Attach receipt and invoice for rental; attach fuel receipts. Effective 3/1/2020, car rentals are not required to be refueled.

<sup>8</sup> Up to \$10.00 reimbursement without receipt.

<sup>9</sup> Up to \$25.00 reimbursement without receipt.

<sup>10</sup> Up to \$10.00 reimbursement without receipt.

<sup>11</sup> Requires a written detailed explanation for reimbursement; must be itemized, show proof of payment, and be supported with a valid receipt.



Board of Behavioral Sciences



1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830  
www.bbs.ca.gov

Gavin Newsom, Governor  
State of California

Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

**PER DIEM CLAIM FORM FOR \_\_\_\_\_**  
(month / year)

<b>Name:</b>
<b>Address:</b>
<b>City, State, Zip:</b>

No Board activity claimed for month.

Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Hours																
Code																
Date	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Hours																
Code																

**Board Activity Codes**

- B - Board Meeting – includes teleconference meetings
- C - Committee Meeting
- P - Preparing for Meetings (Reading Packets, etc.)
- R - Reading Disciplinary Cases/ Hearing Transcripts
- T - Travel Day
- TRN - Training

I certify that on the above dates I was engaged in performing the above duties and that no part of the above claim has been paid, and that all services herein rendered were in accordance with the laws and regulations of the agency of the State for which compensation is claimed.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Executive Officer Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**EMAIL TO:** Christina Kitamura  
[Christina.kitamura@dca.ca.gov](mailto:Christina.kitamura@dca.ca.gov)





SUBJECT: Per Diem Policy	POLICY #B-15-2	DATE ADOPTED: August 28, 2015
	SUPERSEDES: N/A	PAGE: 1
DISTRIBUTE TO: All Board Members/Executive Officer	APPROVED BY:	<b>BOARD OF BEHAVIORAL SCIENCES</b>

The role and functions of a Board Member are vital to the ensure consumer protection. Each Board Member appointed to the Board of Behavioral Sciences will be compensated in accordance with Business and Professions Code section 103. This code section specifies that “*a Board Member will be compensated a per diem of \$100 for each day of duty actually spent in the discharge of official duties*”. Per diem is paid in eight (8) hour increments.

This policy specifies the activities that are considered official duties for which a Board Member would be compensated pursuant to Business and Professions Code section 103.

**Per Diem Activities:**

1. Board Meetings
2. Committee Meetings
3. Reading all meeting materials in preparation for meetings.
4. Attendance as an official representative of the Board (i.e. conferences, hearings).
5. Reading disciplinary cases and hearing transcripts.
6. Days of travel to and from meetings.

Any other activity for which per diem is requested shall be approved by the Board and/or Executive Officer. Should there be concern about the appropriateness of claiming work for per diem, the issue shall be resolved by the Deputy Director of Board Relations for the Department of Consumer Affairs.

All Board member Per Diem requests should be submitted to the Board office each month on the Board Member Per Diem form, no later than the 15<sup>th</sup> of each month.

---

**Implementation:** Immediate

SUBJECT:	POLICY # B-15-3	DATE ADOPTED: <i>August 28, 2015</i>
Succession of Officers	SUPERSEDES: B-05-1	PAGE: 1 OF 1
DISTRIBUTE TO: All Board Members/Executive Officer	APPROVED BY: <b>BOARD OF BEHAVIORAL SCIENCES</b>	

The Board of Behavioral Sciences takes its mandate to protect the public with the utmost seriousness. Each member recognizes it is a privilege and an honor to serve as a member of the Board of Behavioral Sciences. It is the policy of the Board to adopt a policy that clearly states the appropriate succession of officers.

**SUCCESSION OF OFFICERS:**

If for any reason the Chairperson of the Board is unable to continue in his/her role as Chairperson, the Vice-Chairperson shall immediately assume the duties of Chairperson until the next election of officers.

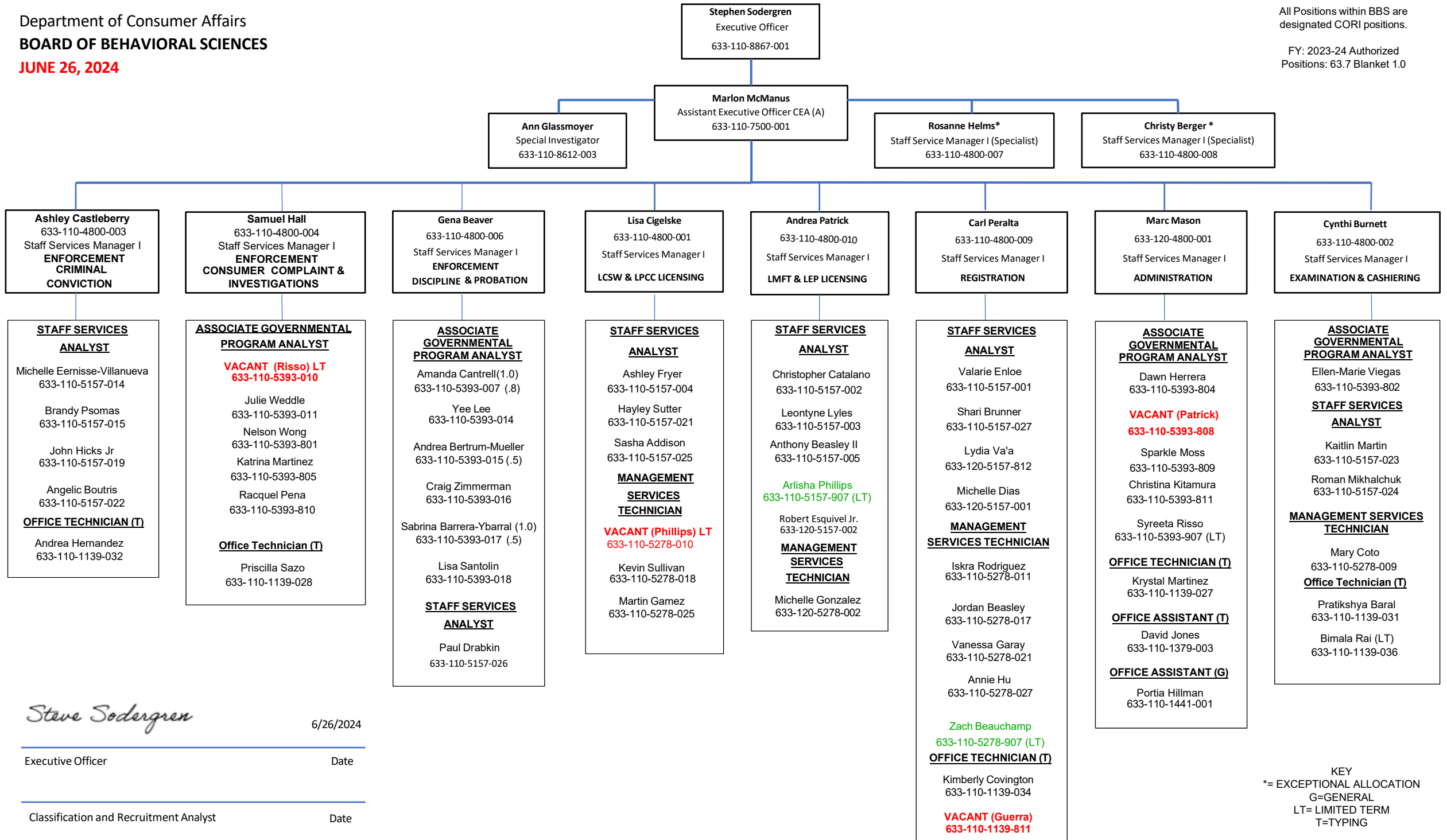
Nominations to fill the position of Vice-Chairperson may be made and voted on at the next scheduled Board Meeting.

**BACKGROUND:** Business and Professions Code Section 4990 (g) states “Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.” The law does not address a sudden or unexpected departure of the Chairperson and the Board requested a policy be in place to address the situation.

**IMPLEMENTATION:** Effective Immediately

Department of Consumer Affairs  
**BOARD OF BEHAVIORAL SCIENCES**  
**JUNE 26, 2024**

All Positions within BBS are designated CORI positions.  
 FY: 2023-24 Authorized Positions: 63.7 Blanket 1.0



*Steve Sodergren*

6/26/2024

Executive Officer

Date

Classification and Recruitment Analyst

Date

KEY  
 \*= EXCEPTIONAL ALLOCATION  
 G=GENERAL  
 LT=LIMITED TERM  
 T=TYPING



C A L I F O R N I A

# BOARD OF BEHAVIORAL SCIENCES

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## STRATEGIC PLAN 2022–2026

ADOPTED: SOLID PLANNING

STATE OF CALIFORNIA



DEPARTMENT OF CONSUMER AFFAIRS

SOLID TRAINING AND  
PLANNING SOLUTIONS



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# MEMBERS OF THE BOARD

**Massimiliano “Max” Disposti**, *Public Member—Chair*

**Crystal Anthony**, *LCSW Member*

**Ross Erlich**, *Public Member*

**Susan Friedman**, *Public Member*

**Diana Herweck**, *LPCC Member*

**Justin Huft**, *LMFT Member*

**Christopher C. Jones**, *LEP Member*

**Abigail Ortega**, *LCSW Member*

**Kelly Ranasinghe**, *Public Member*

**John Sovec**, *LMFT Member*

**Wendy Strack**, *Public Member*

**Annette Walker**, *Public Member*

**Yvette Casares Willis**, *Public Member*

**Gavin Newsom**, Governor

**Lourdes M. Castro Ramírez**, Secretary, Business, Consumer Services and Housing Agency

**Kimberly Kirchmeyer**, Director, Department of Consumer Affairs

**Steve Sodergren**, Executive Officer, Board of Behavioral Sciences

# MESSAGE FROM THE BOARD PRESIDENT

As president of the California Board of Behavioral Sciences, it is my honor to introduce the *2022–26 Strategic Plan* and to express my greatest appreciation for the work and contribution of the board members, staff, and stakeholders in developing this plan that will assist in guiding the Board during the next four years.

Events of the last few years have brought into clearer focus some of the challenges and opportunities the Board will need to consider when working toward ensuring the highest quality mental health for all Californians. The increased use of telehealth, spurred by the COVID-19 pandemic, has made it necessary to review current Board statutes and regulations to ensure consumer safety. Social unrest across California and the country has highlighted the need to ensure the Board is being equitable and inclusive in all its decision and policies. Additionally, the Board will need to explore ways in which to support the development of a culturally responsive mental health workforce that will be able to meet the increasing needs of Californians.

The *2022–26 Strategic Plan* emphasizes reducing unnecessary barriers to licensure, supporting a culturally responsive workforce, increasing access through technology, and Board accountability. The ongoing effort to create an environment that is efficient, streamlined, and technologically friendly will continue. As in the previous strategic plan, the focus will continue to be on licensing, examination, enforcement, legislation, and outreach and education.

The Board continues to have a strong commitment to *protect and serve Californians by setting, communicating, and enforcing standards for competent mental health practice*. Above all, the Board of Behavioral Sciences is dedicated to *consumer protection, accountability, transparency, customer service, integrity, quality, and respect*.

The Board continues to encourage the public to share and participate in this joint venture in maintaining the *highest quality of mental health care for all Californians*.

— Massimiliano “Max” Disposti



# ABOUT THE BOARD

## A PIONEERING BEGINNING

In 1945, California became the first state to register social workers with the formation of the Board of Social Work Examiners. Jump ahead 18 years to 1963, and this young regulatory agency received a new responsibility: administration of the Marriage, Family, and Child Counselor Act (later renamed the Social Worker and Marriage Counselor Act). New responsibilities meant a new name too. Appropriately, the Board was renamed the Social Worker and Marriage Counselor Qualification Board.

The 1960s proved to be a busy decade with the establishment of the Licensed Clinical Social Worker Program in 1967. Then in 1970, a licensing program for Educational Psychologists was added to the Board, inspiring a new name: the Board of Behavioral Science Examiners.

## CONTINUING CHANGE

The Board took its current name, the Board of Behavioral Sciences, on January 1, 1997. This name better represents the true mission and duties of the Board.

Effective July 1, 1999, the then Marriage, Family, and Child Counselor profession underwent a name change. All references in statute or regulation to “licensed marriage, family, and child counselor” or “marriage, family, and child counselor” were changed to “licensed marriage and family therapist” or “marriage and family therapist.” The Board discontinued regulating MFT and LCSW corporations on January 1, 2000. However, the corporations are still required to file their articles with the California secretary of state.

## THE BOARD FORGES AHEAD...

Focusing on its mission, The Board of Behavioral Sciences looks to continue its commitment to protect the consumers of California through effective enforcement, ensure credibility and high professional standards through examinations and licensing requirements, and provide excellent customer service to all its constituents.

## THE BBS WAY

- Be a person of integrity.
- Be professional and dedicated.
- Serve with excellence.

# MISSION, VISION, AND VALUES



## OUR MISSION

Protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practices.



## OUR VISION

All Californians are able to access the highest quality mental health services.



## OUR VALUES

Accountability  
Customer service  
Integrity  
Quality  
Respect



Board of Behavioral Sciences

# GOAL 1: LICENSING

*Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.*

- 1.1** Streamline the application process with online submission to decrease processing times.
- 1.2** Collaborate with the Department of Consumer Affairs' Organizational Improvement Office to review the application process and implement improvements to reduce processing times.
- 1.3** Partner with other agencies and stakeholder groups to reduce barriers to licensure and foster the development of a diverse and culturally responsive mental health workforce.
- 1.4** Increase communication to applicants and licensees to reduce common application or licensing maintenance errors.
- 1.5** Develop video presentations to increase understanding of the licensing process and the pathways to licensure.



# GOAL 2: EXAMINATION

*Administer fair, valid, comprehensive, and relevant licensing examinations.*

- 2.1** Identify and implement strategies to increase diversity of subject matter experts to ensure that examinations are culturally responsive and address diverse populations.
- 2.2** Improve the examination process to ensure timely and equitable access to licensure.
- 2.3** Review, report, and determine feasibility of adopting the use of the Association of Marital and Family Therapists Regulatory Boards (AMFTRB) national exam for the Licensed Marriage and Family Therapist (LMFT) Clinical exam.



# GOAL 3: ENFORCEMENT

*Protect the health and safety of consumers through the enforcement of laws.*

- 3.1** Develop and implement an effective communication process from open to close of a case to ensure applicants, complainants, and respondents are better informed about the status of their case.
- 3.2** Educate licensees, associates, and consumers about the enforcement process to increase awareness of the Board's enforcement role and responsibilities.
- 3.3** Complete review and make recommendations on the Board's existing enforcement statutes and regulations for clarity, cohesiveness, and equity.
- 3.4** Evaluate and establish internal policies and procedures related to enforcement issues to ensure an equitable process that reflects rehabilitation versus punitive measures for the purpose of consumer protection.
- 3.5** Create diversity in the pool of qualified enforcement Subject Matter Experts to ensure equitable enforcement proceedings.



# GOAL 4: LEGISLATION AND REGULATION

*Ensure the statutes, regulations, policies, and procedures strengthen the Board's mandates and mission.*

- 4.1** Implement statutes and regulations that comprehensively address telehealth and educate stakeholders, licensees, and consumers about telehealth.
- 4.2** Review current licensing requirements regarding registration, exam, and supervised experience timeframes and make recommendations for possible amendments to current statutes and regulations.
- 4.3** Review and update statutes and regulations related to additional coursework requirements for associates and the Continuing Education Unit requirements for licensees.
- 4.4** Modernize and clarify statutes and regulations related to advertising to ensure they keep up with current advertisement practices.



# GOAL 5: ORGANIZATIONAL EFFECTIVENESS

*Build an excellent organization through proper Board governance, effective leadership, and responsible management.*

- 5.1** Review current organizational structure to ensure efficient operations and to foster upward career mobility among staff.
- 5.2** Collaborate with the Department of Consumer Affairs' Organizational Improvement Office to review internal processes and implement improvements to better serve the stakeholders and the Board.
- 5.3** Advance transition to reduce the use of paper documents to promote environmental friendliness, reduce costs, and reduce processing times.
- 5.4** Formalize a communications plan that will ensure quicker responses to emerging concerns from stakeholders.





# GOAL 6: OUTREACH AND EDUCATION

*Engage stakeholders through continuous communication about the practice and regulation of the professions, and mental health care.*

- 6.1** Create a more robust consumer and licensing education program through videos, social media campaigns, and electronic publications to ensure understanding of new changes in laws and regulations.
- 6.2** Collaborate with entities that work with consumers to increase equitable and inclusive outreach to diverse populations.
- 6.3** Increase Board engagement with schools, training programs, public events, and relevant professional organizations to raise awareness of the Board's role and activities.
- 6.4** Identify and implement strategies to gain increased participation in Board meetings from a wider group of stakeholders.





# STRATEGIC PLANNING PROCESS

To understand the environment in which the Board operates and to identify factors that could impact the Board's success, the California Department of Consumer Affairs' SOLID planning unit conducted an environmental scan of the internal and external environments by collecting information through the following methods:

- Interviews were conducted with all 13 board members, the executive officer, and six members of board management during the month of April 2021 to assess the challenges and opportunities the Board is facing or will face in the upcoming years.
- Online surveys were sent to external stakeholders and Board staff on March 30, 2021, and closing on April 23, 2021. In the survey, external stakeholders and Board staff provided anonymous input regarding the challenges and opportunities the Board is facing or will face in the upcoming years. A total of 11 staff and 1,976 external stakeholders participated in the survey.

The most significant themes and trends identified from the environmental scan were discussed by Board members and the executive officer during two strategic planning sessions facilitated by SOLID planning on September 9, 2021, and October 4, 2021. This information guided the Board in the review of its mission, vision, and values while directing the strategic goals and objectives outlined in its new strategic plan.





Board of Behavioral Sciences

---

1625 N. Market Blvd., Suite S-200  
Sacramento, CA 95834

[WWW.BBS.CA.GOV](http://WWW.BBS.CA.GOV)

STATE OF CALIFORNIA

**dca**

DEPARTMENT OF CONSUMER AFFAIRS



STATE OF CALIFORNIA

**dca**

DEPARTMENT OF CONSUMER AFFAIRS

SOLID TRAINING AND  
PLANNING SOLUTIONS



## ROBERTS RULES CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..."	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that..."	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

To: ...	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table..."	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

## PROCEDURE FOR HANDLING A MAIN MOTION

**NOTE:** Nothing goes to discussion without a motion being on the floor.

### Obtaining and assigning the floor

A member raises hand when no one else has the floor

- The chair recognizes the member by name

### How the Motion is Brought Before the Assembly

- The member makes the motion: *I move that (or "to") ...* and resumes his seat.
- Another member seconds the motion: *I second the motion* or *I second it* or *second*.
- The chair states the motion: *It is moved and seconded that ... Are you ready for the question?*

### Consideration of the Motion

1. Members can debate the motion.
2. Before speaking in debate, members obtain the floor.
3. The maker of the motion has first right to the floor if he claims it properly
4. Debate must be confined to the merits of the motion.
5. Debate can be closed only by order of the assembly (2/3 vote) or by the chair if no one seeks the floor for further debate.

### The chair puts the motion to a vote

1. The chair asks: *Are you ready for the question?* If no one rises to claim the floor, the chair proceeds to take the vote.
2. The chair says: *The question is on the adoption of the motion that ... As many as are in favor, say 'Aye'. (Pause for response.) Those opposed, say 'Nay'. (Pause for response.) Those abstained please say 'Aye'.*

### The chair announces the result of the vote.

1. *The ayes have it, the motion carries, and ...* (indicating the effect of the vote) or
2. *The nays have it and the motion fails*

### WHEN DEBATING YOUR MOTIONS

1. Listen to the other side
2. Focus on issues, not personalities
3. Avoid questioning motives
4. Be polite

# HOW TO ACCOMPLISH WHAT YOU WANT TO DO IN MEETINGS

## MAIN MOTION

You want to propose a new idea or action for the group.

- After recognition, make a main motion.
- Member: "Madame Chairman, I move that \_\_\_\_\_."

## AMENDING A MOTION

You want to change some of the wording that is being discussed.

- After recognition, "Madame Chairman, I move that the motion be amended by adding the following words \_\_\_\_\_."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words \_\_\_\_\_."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words, \_\_\_\_\_, and adding in their place the following words \_\_\_\_\_."

## REFER TO A COMMITTEE

You feel that an idea or proposal being discussed needs more study and investigation.

- After recognition, "Madame Chairman, I move that the question be referred to a committee made up of members Smith, Jones and Brown."

## POSTPONE DEFINITELY

You want the membership to have more time to consider the question under discussion and you want to postpone it to a definite time or day, and have it come up for further consideration.

- After recognition, "Madame Chairman, I move to postpone the question until \_\_\_\_\_."

## PREVIOUS QUESTION

You think discussion has gone on for too long and you want to stop discussion and vote.

- After recognition, "Madam President, I move the previous question."

## LIMIT DEBATE

You think discussion is getting long, but you want to give a reasonable length of time for consideration of the question.

- After recognition, "Madam President, I move to limit discussion to two minutes per speaker."

## **POSTPONE INDEFINITELY**

You want to kill a motion that is being discussed.

- After recognition, "Madam Moderator, I move to postpone the question indefinitely."

## **POSTPONE INDEFINITELY**

You are against a motion just proposed and want to learn who is for and who is against the motion.

- After recognition, "Madame President, I move to postpone the motion indefinitely."

## **RECESS**

You want to take a break for a while.

- After recognition, "Madame Moderator, I move to recess for ten minutes."

## **ADJOURNMENT**

You want the meeting to end.

- After recognition, "Madame Chairman, I move to adjourn."

## **PERMISSION TO WITHDRAW A MOTION**

You have made a motion and after discussion, are sorry you made it.

- After recognition, "Madam President, I ask permission to withdraw my motion."

## **CALL FOR ORDERS OF THE DAY**

At the beginning of the meeting, the agenda was adopted. The chairman is not following the order of the approved agenda.

- Without recognition, "Call for orders of the day."

## **SUSPENDING THE RULES**

The agenda has been approved and as the meeting progressed, it became obvious that an item you are interested in will not come up before adjournment.

- After recognition, "Madam Chairman, I move to suspend the rules and move item 5 to position 2."

## **POINT OF PERSONAL PRIVILEGE**

The noise outside the meeting has become so great that you are having trouble hearing.

- Without recognition, "Point of personal privilege."
- Chairman: "State your point."
- Member: "There is too much noise, I can't hear."

## COMMITTEE OF THE WHOLE

You are going to propose a question that is likely to be controversial and you feel that some of the members will try to kill it by various maneuvers. Also you want to keep out visitors and the press.

- After recognition, "Madame Chairman, I move that we go into a committee of the whole."

## POINT OF ORDER

It is obvious that the meeting is not following proper rules.

- Without recognition, "I rise to a point of order," or "Point of order."

## POINT OF INFORMATION

You are wondering about some of the facts under discussion, such as the balance in the treasury when expenditures are being discussed.

- Without recognition, "Point of information."

## POINT OF PARLIAMENTARY INQUIRY

You are confused about some of the parliamentary rules.

- Without recognition, "Point of parliamentary inquiry."

## APPEAL FROM THE DECISION OF THE CHAIR

Without recognition, "I appeal from the decision of the chair."

## Rule Classification and Requirements

Class of Rule	Requirements to Adopt	Requirements to Suspend
Charter	Adopted by majority vote or as proved by law or governing authority	Cannot be suspended
Bylaws	Adopted by membership	Cannot be suspended
Special Rules of Order	Previous notice & 2/3 vote, or a majority of entire membership	2/3 Vote
Standing Rules	Majority vote	Can be suspended for session by majority vote during a meeting
Modified Roberts Rules of Order	Adopted in bylaws	2/3 vote



***State of California***

**Department of Consumer Affairs**

**Board of Behavioral Sciences**

The seal of the California Board of Behavioral Sciences is a circular emblem. It features a central figure, likely a personification of justice or a scholar, holding a scale and a book. The figure is set against a background of a landscape with mountains and a sun. The words "CALIFORNIA BOARD OF" are arched across the top, and "EUREKA" is written in the center. The bottom part of the seal is partially obscured by the title text.

**UNIFORM STANDARDS RELATED  
TO SUBSTANCE ABUSE AND  
DISCIPLINARY  
GUIDELINES**

**Revised: October 2015**

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California, or from its web site at [www.bbs.ca.gov](http://www.bbs.ca.gov).

## INTRODUCTION

The Board of Behavioral Sciences (hereinafter “the Board”) is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. In keeping with its mandate, the Board has adopted the following uniform standards related to substance abuse and recommended guidelines for the intended use of those involved in the disciplinary process: Administrative Law Judges, respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

These guidelines consist of four parts:

I. Uniform Standards Related to Substance Abuse – for those licensees and registrants with a violation related to alcohol and/or a controlled substance, or whose license or registration is on probation due to a substance abuse violation;

II. Penalty Guidelines - an identification of the types of violations and range of penalties for which discipline may be imposed;

III. Model Disciplinary Orders - language for proposed terms and conditions of probation; and

IV. Board Policies and Guidelines – for various enforcement actions.

The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation.

These penalty guidelines apply only to the formal disciplinary process and do not apply to other alternatives available to the Board, such as citations and fines. See Business and Professions Code Section 125.9 and Title 16 California Code of Regulations Section 1886.

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# **I. Uniform Standards Related to Substance Abuse**

## **Uniform Standards For Licensees Or Registrants Whose License Or Registration Is On Probation Due To A Substance Abuse Violation**

The following standards shall apply in all cases in which a license or registration is placed on probation due, in part, to a substance abuse violation, unless the licensee or registrant rebuts that the violation is a substance abuse violation.

### **Clinical Diagnostic Evaluations**

Whenever a licensee or registrant is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

The following practice restrictions apply to each licensee or registrant who undergoes a clinical diagnostic evaluation:

1. The Board shall suspend the license or registration during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the Board.
2. While awaiting the results of a clinical diagnostic evaluation, the licensee or registrant shall be randomly drug tested at least two (2) times per week.

### **Clinical Diagnostic Evaluation Report**

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee or registrant has a substance abuse problem, whether the licensee or registrant is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice, restrictions, or other recommendations related to the licensee or registrant's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, business or professional relationship with the licensee or registrant. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee or registrant is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 calendar days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee or registrant is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee or registrant based on the application of the following criteria:

1. License or registration type;
2. Licensee or registrant's history;
3. Documented length of sobriety;
4. Scope and pattern of substance abuse;
5. Treatment history;
6. Medical history;
7. Current medical condition;
8. Nature, duration and severity of substance abuse problem; and
9. Whether the licensee or registrant is a threat to himself or herself or others.

No licensee or registrant shall be returned to practice until he or she has at least 30 calendar days of negative drug tests.

When determining if the licensee or registrant should be required to participate in inpatient, outpatient, or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license or registration type, licensee or registrant's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee or registrant is a threat to himself or herself or others.

### **Supervisor Requirements**

If the Board determines that a supervisor is necessary for a particular licensee or registrant, the supervisor must meet the following requirements to be considered for approval by the Board:

1. The supervisor shall not have a current or former financial, personal, business or professional relationship with the licensee or registrant, or other relationship that could reasonably be expected to compromise the ability of the supervisor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee or registrant's employer to serve as the supervisor, this requirement may be waived by the Board; however, under no circumstances shall a licensee or registrant's supervisor be an employee or supervisee of the licensee or registrant.

2. The supervisor's license scope of practice shall include the scope of practice of the licensee or registrant who is being monitored or be another health care professional if no supervisor with like scope of practice is available.
3. The supervisor shall be a current California licensed practitioner and have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The supervisor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee or registrant's disciplinary order and agrees to monitor the licensee or registrant as set forth by the Board.

The supervisor must adhere to the following required methods of monitoring the licensee or registrant:

1. Have a face-to-face contact with the licensee or registrant 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 or registrant's behavior, if applicable.
3. Review the licensee or registrant's work attendance.

Reporting by the supervisor to the Board shall be as follows:

1. Any suspected substance abuse must be orally reported to the Board and the licensee or registrant's employer within one (1) business day of occurrence. If the 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 48 hours of occurrence.
2. The supervisor shall complete and submit a written report directly to the Board monthly or as directed by the Board. The report shall include:
  - a. the licensee or registrant's name;
  - b. license or registration number;
  - c. supervisor's name and signature;
  - d. supervisor's license number;
  - e. worksite location(s);
  - f. dates licensee or registrant had face-to-face contact with supervisor;
  - g. worksite staff interviewed, if applicable;
  - h. attendance report;
  - i. any change in behavior and/or personal habits; and

- j. any indicators that can lead to suspected substance abuse.

The licensee or registrant shall complete the required consent forms and sign an agreement with the supervisor and the Board to allow the Board to communicate with the supervisor.

### **Chemical Dependency Support or Recovery Group Meetings**

If the Board requires a licensee or registrant to participate in chemical dependency support or recovery group meetings, the Board shall take the following into consideration when determining the frequency of required group meeting attendance:

1. the licensee or registrant's history;
2. the documented length of sobriety;
3. the recommendation of the clinical diagnostic evaluator;
4. the scope and pattern of substance abuse;
5. the licensee or registrant's treatment history; and
6. the nature, duration, and severity of substance abuse.

The group meeting facilitator of a chemical dependency support or recovery group that a Board licensee or registrant is required to participate in must meet the following requirements:

1. Have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
2. Be licensed or certified by the state or other nationally certified organizations to provide substance abuse recovery services;
3. Does not have a financial, personal, business or professional relationship with the licensee or registrant within the last year;
4. Must provide the Board a signed document showing the licensee or registrant's name, the group name, the date and location of the meeting, the licensee or registrant's attendance, and the licensee or registrant's level of participation and progress.
5. Must report to the Board any unexcused absence of a Board licensee or registrant being required to participate within 24 hours.

### **Major and Minor Violations**

Major violations include, but are not limited to, the following:

1. Failure to complete any Board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing more than one minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;



5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to report for drug and alcohol testing when ordered;
7. Testing positive for alcohol and/or a controlled substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee or registrant commits a major violation, the Board shall automatically suspend the license or registration and refer the matter for disciplinary action or other action as determined by the Board.

The consequences for a major violation include, but are not limited to, the following:

1. License or registration shall be suspended;
2. Licensee or registrant must undergo a new clinical diagnostic evaluation;
3. Licensee or registrant must test negative for at least one month of continuous drug testing before being allowed to resume practice;
4. Contract or agreement previously made with the Board shall be terminated; and
5. Licensee or registrant shall be referred for disciplinary action, such as suspension, revocation, or other action determined appropriate by the Board.

Minor violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;
3. Failure to contact a supervisor and/or monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or registrant or to the public.

If a licensee or registrant commits a minor violation, the Board shall determine what action is appropriate. The consequences for a minor violation include, but are not limited to, the following:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation and/or testing.

### **Positive Test for Alcohol and/or a Controlled Substance**

If a licensee or registrant tests positive for alcohol and/or a controlled substance, the Board shall do the following:

- Automatically suspend the license or registration;

- Immediately contact the licensee or registrant and inform him or her that his or her license or registration has been suspended and he or she may not practice until the suspension is lifted; and
- Immediately notify the licensee or registrant's employer that the license or registration has been automatically suspended, and that he or she may not practice until the suspension is lifted.

The Board should do the following, as applicable, to determine whether a positive test for alcohol and/or a controlled substance is evidence of prohibited use:

- Consult the specimen collector and the laboratory;
- Communicate with the licensee or registrant and/or treating physician; and
- Communicate with any treatment provider, including a group facilitator.

The Board shall immediately lift the suspension if the positive drug test is not found to be evidence of prohibited use.

### **Drug Testing Standards**

The drug testing standards below shall apply to each licensee or registrant subject to drug testing. At its discretion, the Board may use other testing methods in place of, or to supplement, drug and alcohol testing, if appropriate.

1. Drug testing may be required on any day, including weekends and holidays.
2. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.
3. Licensees or registrants shall be required to make daily contact as directed to determine if drug testing is required.
4. Licensees or registrants shall be drug tested on the date of notification as directed by the Board.
5. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
6. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
7. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
8. Collection of specimens shall be observed.
9. Prior to vacation or absence, alternative drug testing location(s) must be approved by the Board.

10. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

Nothing herein shall limit the Board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code Section 11522 or statutes applicable to the Board that contain different provisions for reinstatement or reduction of penalty.

### **Drug Testing Frequency Schedule**

The Board may order a licensee or registrant to drug test at any time. In addition, each licensee or registrant shall be tested randomly according to the following drug testing frequency schedule:

<b>Level</b>	<b>Year of Probation</b>	<b>Minimum Range Number of Random Tests</b>
I	Year 1	52-104 per year
II	Years 2 through 5	36-104 per year
III	After Year 5	Once per month*

\*If no positive drug tests in the previous 5 consecutive years.

The Board may increase the number of random tests required at its discretion. If the Board suspects or finds that a licensee or registrant has violated the prescribed testing program, or finds that a licensee or registrant has committed a major violation, it may re-establish the testing cycle by placing that licensee or registrant at the beginning of Level I. This is in addition to any other disciplinary action.

### **Drug Testing Frequency Schedule Exceptions**

The Board may make exceptions to the prescribed drug testing frequency schedule for the following reasons:

1. Licensee or Registrant Demonstrates Previous Testing and Sobriety

The licensee or registrant can demonstrate participation in a treatment or monitoring program which requires random testing, prior to being subject to testing by the Board. In such a case, the Board may give consideration to the previous testing by altering the testing frequency schedule so that it is equivalent to the standard.

## 2. Violations Outside of Employment

A licensee or registrant whose license or registration is placed on probation for a single conviction or incident, or two convictions or incidents, spanning greater than seven years from each other, where alcohol or drugs were a contributing factor, may bypass Level I and participate in Level II of the testing frequency schedule if the violations did not occur at work or on the way to or from work.

## 3. Not Employed in Health Care Field

The Board may reduce testing frequency to a minimum of twelve (12) times per year if the licensee or registrant is not practicing or working in any health care field. If reduced testing frequency is established for this reason, and the licensee or registrant returns to practice, the licensee or registrant shall notify and obtain approval from the Board. The licensee or registrant shall then be subject to Level I testing frequency for at least 60 days. If the licensee or registrant had not previously met the Level I frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant had previously met the Level I frequency standard, the licensee or registrant shall be subject to Level II testing after completing Level I testing for at least 60 days.

## 4. Tolling

The Board may postpone all testing for any person whose probation is placed in a tolling status if the overall length of the probationary period is also tolled. The licensee or registrant shall notify the Board upon his or her return to California and shall be subject to testing as provided in the testing frequency standard. If the licensee or registrant returns to practice and has not previously met the Level I testing frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant has previously met the Level I testing frequency standard, then Level II shall be in effect.

## 5. Substance Use Disorder Not Diagnosed

If a licensee or registrant is not diagnosed with a current substance use disorder, a lesser period of monitoring and toxicology screening may be adopted by the Board. This period may not be less than 24 times per year.

### **Criteria to Petition to Return to Practice**

In order to petition to return to full time practice, a licensee or registrant shall have demonstrated all of the following:

1. Sustained compliance with his or her current recovery program;
2. The ability to practice safely as evidenced by current work site reports, evaluations, and any other information related to his or her substance abuse;
3. Must have at least six (6) months of negative drug screening reports and two (2) positive supervisor reports; and
4. Complete compliance with the other terms and conditions of his or her program.

### **Criteria to Petition for Reinstatement to Unrestricted License or Registration**

In order to petition for reinstatement to a full and unrestricted license or registration, a licensee or registrant shall meet all of the following criteria:

1. Demonstrated sustained compliance with the terms of the disciplinary order (if applicable);
2. Demonstrated successful completion of a rehabilitation program (if required);
3. Demonstration of a consistent and sustained participation in activities that promote and support his or her recovery, including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities;
4. Demonstrated ability to practice safely; and
5. Continuous sobriety for at least three (3) to five (5) years.

## II. Penalty Guidelines

The following is an attempt to provide information regarding violations of statutes and regulations under the jurisdiction of the Board of Behavioral Sciences and the appropriate range of penalties for each violation. Each penalty listed is followed in parenthesis by a number, which corresponds with a number under the chapter "Model Disciplinary Orders." Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations. Optional conditions listed are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be imposed where appropriate. Except as provided in the Uniform Standards Related to Substance abuse, the Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

<p align="center"><b>Statutes and Regulations</b></p> <p>Business and Professions Code: (B&amp;P)  Title 16, California Code of Regulations: (CCR)  General Provisions: (GP)  Penal Code: (PC)  Welfare and Institutions Code: (WI)</p>	<p align="center"><b>Violation Category</b></p>	<p align="center"><b>Minimum Penalty</b></p>	<p align="center"><b>Maximum Penalty</b></p>
MFT: B&P § 4982.26(k) LCSW: B&P § 4992.33 LEP: B&P § 4989.58 LPCC: B&P § 4999.90(k) GP: B&P § 729	Engaging in Sexual Contact with Client / Former Client	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> <p>The law requires revocation/denial of license or registration.</p>
MFT: B&P § 4982(aa)(1) LCSW: B&P § 4992.3(y)(1) LEP: B&P § 4989.54(y)(1) LPCC: B&P § 4999.90(z)(1)	Engaging In Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act occurred prior to or after registration or licensure. <b>or</b> Engaging in act described in Section 261, 286, 288a, or 289 of the Penal code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> <p>The Board considers this reprehensible offense to warrant revocation/denial.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> <p>The Board considers this reprehensible offense to warrant revocation/denial.</p>
MFT: B&P § 4982(k), 4982.26 LCSW: B&P § 4992.3(l), 4992.33 CCR § 1881(f) LEP B&P § 4989.58 B&P § 4989.54(n) LPCC: B&P § 4999.90(k) GP: B&P § 480, 726	Sexual Misconduct (Anything other than as defined in B&P Section 729)	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• Take and pass licensure examinations as a condition precedent to resumption of practice</li> <li>• 7 years probation</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric evaluation as a condition precedent to resumption of practice</li> <li>• Supervised practice</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> <p>(See B&amp;P 4982.26, 4989.58, 4992.33)</p> <p>The Board considers this reprehensible offense to warrant revocation/denial.</p>

		<ul style="list-style-type: none"> <li>• Psychotherapy</li> <li>• Education</li> <li>• Take and pass licensure examination</li> <li>• Reimbursement of probation program</li> </ul> <p>And if warranted, enter and complete a rehabilitation program approved by the Board; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice, reimbursement of probation program costs.</p>	
<p>MFT: B&amp;P § 4982(k)  LCSW: B&amp;P § 4992.3(l)  CCR § 1881(f)  LEP: B&amp;P § 4989.54(n)  LPCC: B&amp;P § 4999.90(k)  GP: B&amp;P § 480</p>	<p>Commission of an Act Punishable as a Sexually Related Crime</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• Psychotherapy</li> <li>• 5 years probation; standard terms and conditions</li> <li>• Psychological/psychiatric evaluation as a condition precedent to the resumption of practice</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
<p>MFT: B&amp;P § 4982(c),  4982.1  LCSW: B&amp;P § 4992.3(c),  4992.35  LEP: , 4989.54(c)  LPCC: B&amp;P § 4999.90(c)  GP: B&amp;P § 480, 820</p>	<p>Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• 5 years probation; standard terms and conditions</li> <li>• Supervised practice</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul> <p><u>In addition:</u></p> <ul style="list-style-type: none"> <li>• MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>



		<ul style="list-style-type: none"> <li>• PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice</li> <li>• CHEMICAL DEPENDENCY Random drug and alcohol testing, psychological/psychiatric /clinical diagnostic evaluation; supervised practice; therapy; rehabilitation program; abstain from controlled substances/use of alcohol; and if warranted: restricted practice.</li> </ul>	
<p>MFT: B&amp;P § 4982(c), 4982.1  LCSW: B&amp;P § 4992.3(c), 4992.35  LEP: B&amp;P § 4989.54(c), 4989.56  LPCC: B&amp;P § 4999.90(c)  GP: B&amp;P § 480</p>	Chemical Dependency / Use of Drugs With Client While Performing Services	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric clinical diagnostic evaluation and to implement any recommendations from that evaluation</li> <li>• Random drug and alcohol testing</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric/clinical diagnostic evaluation</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Rehabilitation program</li> <li>• Abstain from controlled substances/use of alcohol</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, psychotherapy; restricted practice</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
<p>MFT: B&amp;P § 4982(i)  LCSW: B&amp;P § 4992.3(j)  CCR § 1881(d)  LEP: B&amp;P § 4989.54(m)  LPCC: B&amp;P § 4999.90(i)  GP: B&amp;P § 480</p>	Intentionally / Recklessly Causing Physical or Emotional Harm to Client	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 90-120 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Take and pass licensure examinations</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, psychological/psychiatric evaluation; psychotherapy, restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration application</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(d) LCSW: B&P § 4992.3(d) CCR § 1881(m) LEP: B&P § 4989.54(k) LPCC: B&P § 4999.90(d) GP: B&P § 480	Gross Negligence / Incompetence	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension; 5 years probation</li> <li>• Standard terms and conditions; supervised practice</li> <li>• Education</li> <li>• Take and pass licensure examinations</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs;</li> </ul> And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982 CCR § 1845 LCSW: B&P § 4992.3 CCR § 1881 LEP: B&P § 4989.54 CCR § 1858 LPCC: B&P § 4999.90 GP: B&P § 125.6 480, 821	General Unprofessional Conduct	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery; reimbursement of probation program</li> </ul> And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice, law and ethics course.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<p align="center"><b>Statutes and Regulations</b></p> <p>Business and Professions Code: (B&amp;P)  Title 16, California Code of Regulations: (CCR)  General Provisions: (GP)  Penal Code: (PC)  Welfare and Institutions Code: (WI)</p>	<p align="center"><b>Violation Category</b></p>	<p align="center"><b>Minimum Penalty</b></p>	<p align="center"><b>Maximum Penalty</b></p>
<p>MFT: B&amp;P § 4980.40(e), 4982(a)  LCSW: B&amp;P § 4992.3(a), 4996.2(d), 4996.18(b)  LEP: B&amp;P § 4989.20(a)(3), 4989.54(a)  LPCC: B&amp;P § 4999.90(a)  GP: B&amp;P § 480, 490, 493</p>	<p>Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee / Registrant</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs (Costs and conditions of probation depend on the nature of the criminal offense).</li> </ul> <p>CRIMES AGAINST PEOPLE: Add: Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation program; restricted practice.</p> <p>DRUGS AND ALCOHOL: Add: Random drug and alcohol testing, psychological/psychiatric/clinical diagnostic evaluation; psychotherapy; supervised practice, rehabilitation program; abstain from controlled substances/use of alcohol, and if warranted: restricted practice.</p> <p>FISCAL AND PROPERTY CRIMES: Add: Restitution, and if warranted: psychotherapy; take and pass licensure exams; rehabilitation program; restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(j) LCSW: B&P § 4992.3(k) CCR § 1881(e) LEP: B&P § 4989.54(g) LPCC: B&P § 4999.90(j) GP: B&P § 480, 650, 810	Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Law and ethics course</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted. psychological/psychiatric evaluation; supervised practice; psychotherapy; take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4980.02, 4982(l), 4982(s), 4982(t) CCR § 1845(a), 1845(b) LCSW: B&P § 4992.3(m) 4996.9 CCR § 1881(g), 1881(h) LEP: B&P § 4989.14 4989.54(r) 1858(b) CCR § LPCC: B&P § 4999.90(l), 4999.90(s) 4999.90(t) GP: B&P § 480	Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted, psychological/psychiatric evaluation; supervised practice; psychotherapy, take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4989.54(h), 4989.54(i) LPCC: B&P § 4990.38 GP: B&P § 141, 480	Discipline by Another State or Governmental Agency	<ul style="list-style-type: none"> <li>• Determine the appropriate penalty by comparing the violation under the other state with California law.</li> </ul> And if warranted: take and pass licensure examinations as a condition precedent to practice; reimbursement of probation program costs.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(b) LCSW: B&P § 4992.3(b), B&P §4992.7 LEP: B&P § 4989.54(b) LPCC: B&P § 4999.90 (b) GP: B&P § 480, 498, 499	Securing or Attempting to Secure a License by Fraud	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration application;</li> <li>• Cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4980, 4982(f) CCR § 1845(a),  LCSW: B&P § 4992.3(f), 4996 1845(b) CCR § 1881(a) LEP: B&P § 4989.54(l) LPCC: B&P § 4999.90(f) GP: B&P § 480	Misrepresentation of License / Qualifications	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: take and pass licensure examinations.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982(q) LCSW: B&P § 4992.3(r) CCR § 1881(l) LEP: B&P § 4989.54(s) LPCC: B&P § 4999.90(q) GP: B&P § 123, 480, 496	Violates Exam Security / Subversion of Licensing Exam	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(g) LCSW: B&P § 4992.3(h), 4992.7 CCR § 1881(b) LEP: CCR § 1858(a) LPCC: B&P § 4999.90(g) GP: B&P § 119, 480	Impersonating Licensee / Allowing Impersonation	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 5 years probation</li> <li>• Supervised practice</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric evaluation</li> <li>• Psychotherapy</li> <li>• Cost recovery</li> <li>• Reimbursement of probation costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(h) LCSW: B&P § 4992.3(i) CCR § 1881(c) LEP: B&P § 4989.54 (t) LPCC: B&P § 4999.90(h) GP: B&P § 125, 480	Aiding and Abetting Unlicensed / Unregistered Activity	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: supervised practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(m) LCSW: B&P § 4992.3(n) CCR § 1881(i) LEP: B&P § 4989.54 (q) LPCC: B&P § 4999.90(m) GP: B&P § 480	Failure to Maintain Confidentiality	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Take and pass licensure exams</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 728 LCSW: B&P § 728 LPCC: B&P § 728 GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(r), 4982(t), 4982(u) CCR § 1833.1, 1845(b) LCSW: B&P § 4992.3(s) LEP: B&P § 4989.54(ab), CCR §  LPCC: B&P § 4999.90(r) 4999.90(t), 4999.90(u) 1858(b)	Improper Supervision of Trainee / Intern / Associate / Supervisee	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-90 days actual suspension</li> <li>• 2 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: supervised practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(e), 4982(u) LCSW: B&P § 4992.3(f), 4992.3(s) LEP: B&P § 4989.54(f) LPCC: B&P § 4999.90(e) GP: 4999.90(u) B&P § 480	Violations of the Chapter or Regulations by licensees or Registrants / Violations Involving Acquisition and Supervision of Required Hours of Experience	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• Registration on probation until exams are passed and license issued</li> <li>• License issued on probation for one year</li> <li>• Rejection of all illegally acquired hours</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(o) LCSW: B&P § 4992.3(p) CCR § 1881(n) LEP: B&P § 4989.54(p) LPCC: B&P § 4999.90 (o) GP: B&P § 650	Pay, Accept, Solicit Fee for Referrals	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> <li>• Law and Ethics course</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(n) LCSW: B&P § 4992.3(o) CCR § 1881(j) LEP: B&P § 4989.54(o) LPCC: B&P § 4999.90 (n)	Failure to Disclose Fees in Advance	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 2 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>
MFT: B&P § 4980.46, LCSW: B&P § 4992.3(q) CCR § 1881(k) LEP: B&P § 4989.54(e) LPCC: B&P § 4999.90(p) GP: B&P § 480, 651, 17500	False / Misleading / Deceptive / Improper Advertising	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(v) LCSW: B&P § 4992.3(t) LEP: B&P § 4989.54(j) LPCC: B&P § 4999.90(v)	Failure to Keep Records Consistent with Sound Clinical Judgment	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>
MFT: B&P § 4982(y) LCSW: B&P § 4992.3(w) LEP: B&P § 4989.54(x)	Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>
MFT: B&P § 4982(z) LCSW: B&P § 4992.3(x) LEP: B&P § 4989.54(d) LPCC: B&P § 4999.90(ac)	Failure To Comply With Section 2290.5 ( Telehealth)	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery;</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>



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### III. Model Disciplinary Orders

Model Disciplinary Orders are divided into two categories. The first category consists of **Optional Terms and Conditions of Probation** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the **Standard Terms and Conditions of Probation** which must appear in all Proposed Decisions and proposed stipulated agreements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-16) that are being imposed be listed first in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (17- 32).

#### Optional Terms and Conditions of Probation

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

1. Actual suspension
2. Psychological / Psychiatric evaluation
3. Psychotherapy
4. Clinical Diagnostic Evaluation
5. Supervised Practice
6. Education
7. Take and Pass licensure examinations
8. Rehabilitation Program
9. Abstain from Controlled Substances/Submit to Random Drug and Alcohol Testing
10. Abstain from Use of Alcohol /Submit to Random Drug and Alcohol Testing
11. Restricted Practice
12. Restitution
13. Physical Evaluation
14. Monitor Billing System
15. Monitor Billing System Audit
16. Law and Ethics Course

#### 1. Actual Suspension

A. Commencing from the effective date of this decision, respondent shall be suspended from the practice of \_\_\_\_\_ for a period of \_\_\_ days.

OR

B. Commencing from the effective date of this decision, respondent shall be suspended from the practice of \_\_\_\_\_ for a period of \_\_\_\_\_ days, and such additional time as may be necessary to obtain and review the clinical diagnostic, psychological or psychiatric evaluation, to implement any recommendations from that evaluation, and to successfully complete the required licensure examinations as a condition precedent to resumption of practice as outlined in condition #\_\_\_\_ (Take

and pass licensure examinations).

Respondent shall be responsible for informing his or her employer of the Board's decision, and the reasons for the length of suspension. Respondent shall submit documentation and/or evidence demonstrating satisfactory compliance with this condition. Prior to the lifting of the actual suspension of the license, the Board shall receive pertinent documentation confirming that respondent is safe to return to practice under specific terms and conditions as determined by the Board.

## **2. Psychological / Psychiatric Evaluation**

Within 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 complete a psychological or psychiatric evaluation by such licensed psychologists or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

Note: If supervised practice is not part of the order, and the evaluator finds the need for supervised practice, then the following term shall be added to the disciplinary order. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the respondent's practice will be supervised.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

*(FYI: The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation).*

## **3. Psychotherapy**

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within 15 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with respondent, and shall not be the respondent's supervisor. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if respondent's good faith attempts to secure face-to-face counseling are

unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that respondent provide written documentation of his or her good faith attempts to secure counseling via videoconferencing.

Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

*(FYI: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation).*

#### **4. Clinical Diagnostic Evaluation**

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her license or registration shall be automatically suspended for a minimum of one month pending the results of a clinical diagnostic evaluation. During such time, the Respondent shall submit to random drug testing at least two (2) times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent's license or registration shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one month of negative drug test results. Respondent shall comply with any restrictions or recommendations made by the Board as a result of the clinical diagnostic evaluation.

#### **5. Supervised Practice**

Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor. The supervisor shall be a current California licensed practitioner in

respondent's field of practice, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with respondent.

If respondent is unable to secure a supervisor in his or her field of practice due to the unavailability of mental health care professionals in the area, then the Board may consider the following options for satisfying this probationary term:

- (1) Permitting the respondent to receive supervision via videoconferencing; or,
- (2) Permitting respondent to secure a supervisor not in the respondent's field of practice.

The forgoing options shall be considered and exhausted by the Board in the order listed above. The Board may require that respondent provide written documentation of his or her good faith attempts to secure face-to-face supervision, supervision via videoconferencing or to locate a mental health professional that is licensed in the respondent's field of practice.

Respondent shall complete any required consent forms and sign an agreement with the supervisor and the Board regarding the Respondent and the supervisor's requirements and reporting responsibilities. Failure to file the required reports in a timely fashion shall be a violation of probation. Respondent shall give the supervisor access to respondent's fiscal and client records. Supervision obtained from a probation supervisor shall not be used as experience gained toward licensure.

If the supervisor is no longer available, respondent shall notify the Board within 15 days and shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. The supervisor shall not be the respondent's therapist.

[Optional - Respondent shall not practice until he/she has received notification that the Board has approved respondent's supervisor.]

## **6. Education**

Respondent shall take and successfully complete the equivalency of \_\_\_\_ semester units in each of the following areas \_\_\_\_\_. All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, or professional clinical counselor or through a course approved by the Board. Classroom attendance must be specifically required. Course content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the decision respondent shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by the respondent. Units obtained for an approved course shall not be used for continuing education units required for renewal of licensure.

*(FYI: This term is appropriate when the violation is related to record keeping, which includes but is not limited to: recordkeeping, documentation, treatment planning, progress notes, security of records, billing and reporting requirements.)*

## **7. Take and Pass Licensure Examinations**

Respondent shall take and pass the licensure exam(s) currently required of new applicants for the license possessed by respondent. Respondent shall not practice until such time as respondent has taken and passed these examinations. Respondent shall pay the established examination fees. If respondent has not taken and passed the examination within twelve months from the effective date of this decision, respondent shall be considered to be in violation of probation.

## **8. Rehabilitation Program**

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more rehabilitation program(s). Respondent shall enter a rehabilitation and monitoring program within fifteen (15) days after notification of the board's approval of such program. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant. The respondent shall take all necessary steps to ensure that the rehabilitation program submits quarterly written reports to the Board addressing the respondent's treatment and progress in the program.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random drug and alcohol testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the respondent.

## **9. Abstain from Controlled Substances / Submit to Drug and Alcohol Testing**

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to random and directed drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and the supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

**10. Abstain from Use of Alcohol / Submit to Drug and Alcohol Testing**

Respondent shall completely abstain from the intake of alcohol during the period of probation.

Respondent shall immediately submit to random and directed drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and to the supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for alcohol and/or a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

**11. Restricted Practice**

Respondent's practice shall be limited to \_\_\_\_\_. Within 30 days from the effective date of the decision, respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify their supervisor of the restrictions imposed on their practice.

**12. Restitution**

Within 90 days of the effective date of this decision, respondent shall provide proof to the Board or its designee of restitution in the amount of \$\_\_\_\_\_ paid to \_\_\_\_\_.

**13. Physical Evaluation**

Within 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 complete a physical evaluation by such licensed physicians as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such physician shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a therapist and such other information

as the Board may require. Respondent shall execute a Release of Information authorizing the physician to release all information to the Board. Respondent shall comply with the recommendations of the physician.

If a physical evaluation indicates a need for medical treatment, within 30 days of notification by the Board, respondent shall submit to the Board or its designee the name and qualifications of the medical provider, and a treatment plan by the medical provider by which the respondent's physical treatment will be provided.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

#### **14. Monitor Billing System**

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more independent billing systems which monitor and document the dates and times of client visits. Respondent shall obtain the services of the independent billing system monitoring program within fifteen (15) days after notification of the board's approval of such program. Clients are to sign documentation stating the dates and time of services rendered by respondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system service shall submit quarterly written reports concerning respondent's cooperation with this system. The cost of the service shall be borne by respondent.

#### **15. Monitor Billing System Audit**

Within 60 days of the effective date of this decision, respondent shall provide to the Board or its designee the names and qualifications of three auditors. The Board or its designee shall select one of the three auditors to annually audit respondent's billings for compliance with the Billing System condition of probation. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices. The cost of the audits shall be borne by respondent. Failure to pay for the audits in a timely fashion shall constitute a violation of probation.

#### **16. Law and Ethics Course**

Respondent shall take and successfully complete the equivalency of two semester units in law and ethics. Course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, professional clinical counselor as defined in Sections 4980.40, 4996.18, 4999.32 or 4999.33 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations or through a course approved by the Board. Classroom attendance must be specifically required. Within 90 days of the effective date of this Decision, respondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course must be taken and completed within one year from the effective date of this Decision. The costs associated with the law and ethics course shall be paid by the respondent. Units obtained for an approved course in law and ethics shall not be used for continuing education



units required for renewal of licensure.

*(FYI: This term is appropriate when the licensee fails to keep informed about or comprehend the legal obligations and/or ethical responsibilities applicable to their actions. Examples include violations involving boundary issues, transference/countertransference, breach of confidentiality and reporting requirements.)*

## **Standard Terms and Conditions of Probation**

The sixteen standard terms and conditions generally appearing in every probation case are as follows:

17. Obey All Laws
18. File Quarterly Reports
19. Comply with Probation Program
20. Interviews with the Board
21. Failure to Practice
22. Change of Place of Employment or Place of Residence
23. Supervision of Unlicensed Persons
24. Notification to Clients
25. Notification to Employer
26. Violation of Probation
27. Maintain Valid License
28. License Surrender
29. Instruction of Coursework Qualifying for Continuing Education
30. Notification to Referral Services
31. Reimbursement of Probation Program
32. Cost Recovery

### **Specific Language for Standard Terms and Conditions of Probation**

(To be included in all Decisions)

#### **17. Obey All Laws**

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

#### **18. File Quarterly Reports**

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether

he/she has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.

#### **19. Comply with Probation Program**

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

#### **20. Interviews with the Board**

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

#### **21. Failure to Practice**

In the event respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years.

#### **22. Change of Place of Employment or Place of Residence**

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

#### **23. Supervision of Unlicensed Persons**

While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

#### **24. Notification to Clients**

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee,

satisfactory evidence of compliance with this term of probation.

*(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).*

## **25. Notification to Employer**

Respondent shall provide each of his or her current or future employers, when performing services that fall within the scope of practice of his or her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

The Respondent shall provide to the Board the names, physical addresses, and telephone numbers of all employers, supervisors, and contractors.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor or contractor regarding the licensee or registrant's work status, performance, and monitoring.

## **26. Violation of Probation**

If respondent violates the conditions of his/her probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation/suspension) of respondent's license [or registration] provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's license [or registration] or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's license [or registration] shall be fully restored.

## **27. Maintain Valid License**

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.

## **28. License Surrender**

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal

acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

**29. Instruction of Coursework Qualifying for Continuing Education**

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

**30. Notification to Referral Services**

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

**31. Reimbursement of Probation Program**

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$\_\_\_\_\_ per year.

**32. Cost Recovery**

Respondent shall pay the Board \$\_\_\_\_\_ as and for the reasonable costs of the investigation and prosecution of Case No. \_\_\_\_\_. Respondent shall make such payments as follows: [Outline payment schedule.] Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the cost recovery payment for Case No. \_\_\_\_\_. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, respondent shall be considered to be in violation of probation. A period of non-practice by respondent shall not relieve respondent of his or her obligation to reimburse the board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

## **IV. BOARD POLICIES AND GUIDELINES**

### **Accusations**

The Board of Behavioral Sciences (Board) has the authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. The Board requests that this fact be included in the pleading and made part of the accusation.

### **Statement of Issues**

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee would be cause for license discipline.

### **Stipulated Settlements**

The Board will consider entering into stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. The respondent should be informed that in order to stipulate to settlement with the Board, he or she may be required to admit to the violations set forth in the Accusation. The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

### **Recommended Language for License Surrenders**

"Admission(s) made in the stipulation are made solely for the purpose of resolving the charges in the pending accusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation.

The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its decision and order.

#### **Contingency**

This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his/her counsel. By signing the stipulation, Respondent understands and agrees that he/she may not withdraw his/her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

Respondent fully understands that when the Board adopts the license surrender of respondent's license, respondent will no longer be permitted to practice as a \_\_\_\_\_ in California. Respondent further understands that the license surrender of his or her license, upon adoption, shall be considered to be a disciplinary action and shall become a part of respondent 's license history with the Board.

The respondent further agrees that with the adoption by the Board of his or her license surrender, respondent may not petition the Board for reinstatement of the surrendered license.

Respondent may reapply to the Board for licensure three years from the date of surrender and must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

Respondent understands that should he or she ever reapply for licensure as a \_\_\_\_\_ or should he or she ever apply for any other registration or licensure issued by the Board, or by the Board of Psychology, all of the charges contained in Accusation No. \_\_\_\_\_ shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication."

### **Recommended Language for Registration Applicants**

IT IS HEREBY ORDERED THAT Respondent \_\_\_\_\_ be issued a Registration as a \_\_\_\_\_. Said Registration shall be revoked. The revocation will be stayed and Respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

### **Recommended Language for Registrants**

IT IS HEREBY ORDERED THAT \_\_\_\_\_ Registration Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

### **Recommended Language for Licensees**

IT IS HEREBY ORDERED THAT \_\_\_\_\_ License Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if respondent is granted another registration or license regulated by the Board.

### ***Proposed Decisions***

The Board requests that proposed decisions include the following if applicable:

- A. Names and addresses of all parties to the action.
- B. Specific Code section violated with the definition of the code in the Determination of Issues.
- C. Clear description of the acts or omissions that constitute a violation.
- D. Respondent's explanation of the violation in the Findings of fact if he or she is present at the hearing.
- E. Explanation for deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the Order first list the Optional Terms and Conditions (1-16) followed by the Standard Terms and Conditions (17-32) as they may pertain to the

particular case. If the respondent fails to appear for his or her scheduled hearing or does not submit a notice of defense, such inaction shall result in a default decision to revoke licensure or deny application.

### **Reinstatement / Reduction of Penalty Hearings**

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Suspensions or Revocations identified in Title 16, California Code of Regulations Section 1814, and (2) the evidence presented by the petitioner of his or her rehabilitation. The Board is not interested in retrying the original revocation or probation case. The Board shall consider, pursuant to Section 1814, the following criteria of rehabilitation:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any acts committed subsequent to the acts or crimes under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the acts or crimes giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent, or immaterial.
- (7) Efforts made by the applicant either to correct a false statement once made on an application

or to conceal the truth concerning facts required to be disclosed.

- (8) Evidence, if any, of rehabilitation submitted by the licensee.

In the Petition Decision the Board requires a summary of the offense and the specific codes violated which resulted in the revocation, surrender, or probation of the license.

In petitioning for Reinstatement or Reduction of Penalty under Business and Professions Code Section 4982.2, the petitioner has the burden of demonstrating that he or she has the necessary and current qualifications and skills to safely engage in the practice of marriage and family therapy, clinical social work, educational psychology, or professional clinical counselor within the scope of current law, and accepted standards of practice. In reaching its determination, the Board considers various factors including the following:

- A. The original violations for which action was taken against the petitioner's license;
- B. Prior disciplinary and criminal actions taken against the petitioner by the Board, any State, local, or Federal agency or court;
- C. The petitioner's attitude toward his or her commission of the original violations and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts;
- D. The petitioner's documented rehabilitative efforts;
- E. Assessment of the petitioner's rehabilitative and corrective efforts;

F. In addition, the Board may consider other appropriate and relevant matters not reflected above.

If the Board should deny a request for reinstatement of a revoked license or reduction of penalty (modification or termination of probation), the Board requests the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial.

If a petitioner fails to appear for his or her scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the petitioner's presence and the Board will issue a decision based on the written evidence and oral presentations submitted.



**Attachment B 1a.-Attendance**

<b>Table 1a. Attendance</b>			
<b>CHRISTINA WONG (Appointed 5/10/2011)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	Y
Board: Petition Hearings	10/8/2020	Virtual	Y
Policy & Advocacy Committee	10/9/2020	Virtual	Y
Board	11/5-6/2020	Virtual	Y/Y
Telehealth Committee	1/22/2021	Virtual	Y
Board: Petition Hearings	1/29/2021	Virtual	Y
Policy & Advocacy Committee	2/5/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	Y/Y
Telehealth Committee	3/26/2021	Virtual	Y
Licensing Committee	3/26/2021	Virtual	Y
Policy & Advocacy Committee	4/16/2021	Virtual	Y
Board	5/6-7/2021	Virtual	Y/Y
Telehealth Committee	6/25/2021	Virtual	Y
Licensing Committee	6/25/2021	Virtual	Y
Policy & Advocacy Committee	8/6/2021	Virtual	Y
Telehealth Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	Y
Telehealth Committee	9/9/2021	Virtual	Y
Board	9/9-10/2021	Virtual	Y/Y
Telehealth Committee	10/1/2021	Virtual	Y
Board: Strategic Planning	10/4/2021	Virtual	N
Policy & Advocacy Committee	10/20/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/Y

<b>DR. LEAH BREW-LPCC (Appointed 8/8/2012)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	N

<b>DEBORAH BROWN-PUBLIC (Appointed 8/20/2012)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	N
Board: Petition Hearings	10/8/2020	Virtual	Y
Policy & Advocacy Committee	10/9/2020	Virtual	Y
Board	11/5-6/2020	Virtual	N/N
Board: Petition Hearings	1/29/2021	Virtual	Y
Policy & Advocacy Committee	2/5/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	N/N
Policy & Advocacy Committee	4/16/2021	Virtual	Y
Board	5/6-7/2021	Virtual	Y/Y
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	N
Board	9/9-10/2021	Virtual	Y/Y
Board: Strategic Planning	10/4/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/Y

<b>JONATHAN MADDOX-LMFT (Appointed 9/14/2017)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/N
Board: Petition Hearings	9/11/2020	Virtual	N
Board: Petition Hearings	10/8/2020	Virtual	Y
Board	11/5-6/2020	Virtual	Y/N
Board: Petition Hearings	1/29/2021	Virtual	N
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	N/N
Board	5/6-7/2021	Virtual	Y/N
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22-23/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	N
Board	9/9-10/2021	Virtual	Y/N

<b>MASSIMILIANO DISPOSTI-PUBLIC (Appointed 3/8/2016)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y

Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	Y
Board: Petition Hearings	10/8/2020	Virtual	Y
Policy & Advocacy Committee	10/9/2020	Virtual	Y
Board	11/5-6/2020	Virtual	Y/Y
Board: Petition Hearings	1/29/2021	Virtual	N
Policy & Advocacy Committee	2/5/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4/2021	Virtual	Y/Y
Policy & Advocacy Committee	4/16/2021	Virtual	Y
Board	5/6-7/2021	Virtual	Y/Y
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Policy & Advocacy Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	Y
Board	9/9-10/2021	Virtual	Y/Y
Board: Strategic Planning	10/4/2021	Virtual	N
Policy & Advocacy Committee	10/20/2021	Virtual	N
Board	11/4/2021	Virtual	Y/Y
Policy & Advocacy Committee	1/21/2022	Virtual	Y
Board	2/10-11/2022	Virtual	Y/Y
Policy & Advocacy Committee	4/20/2022	Sacramento	Y
Board	5/5-6/2022	Sacramento	Y/Y
Policy & Advocacy Committee	7/29/2022	Sacramento	Y
Board	8/11-12/2022	Sacramento	Y/Y
Policy & Advocacy Committee	10/14/2022	Virtual	Y
Board	11/3-4/2022	Sacramento	Y/Y
Policy & Advocacy Committee	1/13/2023	Virtual	Y
Board	2/2-3/2023	Sacramento	Y/Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Virtual	Y
Policy & Advocacy Committee	7/21/2023	Sacramento	Y
Board	8/17-18/2023	Sacramento	Y/Y

<b>CRYSTAL ANTHONY-LCSW (Appointed 10/17/2019)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/N
Board: Petition Hearings	9/11/2020	Virtual	N
Board: Petition Hearings	10/8/2020	Virtual	Y
Board	11/5-6/2020	Virtual	N/N
Telehealth Committee	1/22/2021	Virtual	N

Board: Petition Hearings	1/29/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	Y/N
Board	5/6-7/2021	Virtual	N/N
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	N
Board: Petition Hearings	8/10/2021	Virtual	Y
Board	9/9-10/2021	Virtual	Y/N
Board: Strategic Planning	10/4/2021	Virtual	N
Board	11/4-5/2021	Virtual	Y/N
Board	2/10-11/2022	Virtual	Y/Y
Board	5/5-6/2022	Sacramento	N/N

<b>JOHN SOVEC-LMFT (Appointed 12/11/2019)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	Y
Board: Petition Hearings	10/8/2020	Virtual	N
Board	11/5-6/2020	Virtual	Y/Y
Board: Petition Hearings	1/29/2021	Virtual	N
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	N/Y
Board	5/6-7/2021	Virtual	Y/Y
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Policy & Advocacy Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	N
Board	9/9-10/2021	Virtual	Y/N
Board: Strategic Planning	10/4/2021	Virtual	N
Policy & Advocacy Committee	10/20/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/Y
Policy & Advocacy Committee	1/21/2022	Virtual	Y
Board	2/10-11/2022	Virtual	Y/Y
Policy & Advocacy Committee	4/20/2022	Sacramento	N
Board	5/5-6/2022	Sacramento	Y/Y
Policy & Advocacy Committee	7/29/2022	Sacramento	Y
Board	8/11-12/2022	Sacramento	Y/Y
Policy & Advocacy Committee	10/14/2022	Virtual	Y
Board	11/3-4/2022	Sacramento	Y/Y
Policy & Advocacy Committee	1/13/2023	Virtual	Y
Board	2/2-3/2023	Sacramento	Y/Y

Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Virtual	Y
Policy & Advocacy Committee	7/21/2023	Sacramento	Y
Board	8/17-18/2023	Sacramento	Y/Y
Policy & Advocacy Committee	10/27/2023	Virtual	Y
Board	11/16-17/2023	Sacramento	N/N
Policy & Advocacy Committee	1/19/2024	Hybrid/Sacramento	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Policy & Advocacy Committee	4/12/2024	Hybrid/Sacramento	Y
Board	5/16-17/2024	Sacramento	Y/Y

<b>WENDY STRACK-PUBLIC (Appointed 1/29/2020)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	Y
Board: Petition Hearings	10/8/2020	Virtual	Y
Board	11/5-6/2020	Virtual	Y/Y
Board: Petition Hearings	1/29/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	Y/Y
Licensing Committee	3/26/2021	Virtual	Y
Board	5/6-7/2021	Virtual	Y/Y
Licensing Committee	6/25/2021	Virtual	Y
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Policy & Advocacy Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	Y
Board	9/9-10/2021	Virtual	Y/Y
Board: Strategic Planning	10/4/2021	Virtual	Y
Policy & Advocacy Committee	10/20/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/N
Licensing Committee	11/19/2021	Virtual	Y
Policy & Advocacy Committee	1/21/2022	Virtual	Y
Board	2/10-11/2022	Virtual	Y/Y
Policy & Advocacy Committee	4/20/2022	Sacramento	Y
Board	5/5-6/2022	Sacramento	Y/Y
Policy & Advocacy Committee	7/29/2022	Sacramento	Y
Board	8/11-12/2022	Sacramento	N/N
Policy & Advocacy Committee	10/14/2022	Virtual	Y
Board	11/3-4/2022	Sacramento	Y/Y
Policy & Advocacy Committee	1/13/2023	Virtual	Y

Licensing Committee	1/14/2023	Virtual	Y
Board	2/2-3/2023	Sacramento	Y/Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Virtual	Y
Policy & Advocacy Committee	7/21/2023	Sacramento	Y
Board	8/17-18/2023	Sacramento	Y/Y
Policy & Advocacy Committee	10/27/2023	Virtual	Y
Licensing Committee	10/27/2023	Virtual	Y
Board	11/16-17/2023	Sacramento	N/N
Policy & Advocacy Committee	1/19/2024	Hybrid/Sacramento	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Policy & Advocacy Committee	4/12/2024	Hybrid/Sacramento	Y
Board	5/16-17/2024	Sacramento	Y/Y

<b>ROSS ERLICH-PUBLIC (Appointed 2/6/2020)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/N
Board: Petition Hearings	9/11/2020	Virtual	Y
Board: Petition Hearings	10/8/2020	Virtual	Y
Board	11/5-6/2020	Virtual	Y/Y
Board: Petition Hearings	1/29/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	Y/N
Board	5/6-7/2021	Virtual	N/N
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Policy & Advocacy Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	Y
Board	9/9-10/2021	Virtual	N/Y
Board: Strategic Planning	10/4/2021	Virtual	N
Policy & Advocacy Committee	10/20/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/Y
Policy & Advocacy Committee	1/21/2022	Virtual	Y
Board	2/10-11/2022	Virtual	Y/Y
Policy & Advocacy Committee	4/20/2022	Sacramento	Y
Board	5/5-6/2022	Sacramento	Y/Y
Policy & Advocacy Committee	7/29/2022	Sacramento	Y
Board	8/11-12/2022	Sacramento	N/N
Policy & Advocacy Committee	10/14/2022	Virtual	Y
Board	11/3-4/2022	Sacramento	N/N
Policy & Advocacy Committee	1/13/2023	Virtual	Y

Board	2/2-3/2023	Sacramento	Y/Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Virtual	Y
Policy & Advocacy Committee	7/21/2023	Sacramento	Y
Board	8/17-18/2023	Sacramento	Y/Y
Policy & Advocacy Committee	10/27/2023	Virtual	Y
Board	11/16-17/2023	Sacramento	N/N
Policy & Advocacy Committee	1/19/2024	Hybrid/Sacramento	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Policy & Advocacy Committee	4/12/2024	Hybrid/Sacramento	Y
Board	5/16-17/2024	Sacramento	Y/Y

<b>SUSAN FRIEDMAN-PUBLIC (Appointed 3/5/2020)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	Y
Board: Petition Hearings	10/8/2020	Virtual	Y
Board	11/5-6/2020	Virtual	Y/Y
Board: Petition Hearings	1/29/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	Y/Y
Licensing Committee	3/26/2021	Virtual	Y
Board	5/6-7/2021	Virtual	Y/Y
Licensing Committee	6/25/2021	Virtual	Y
Telehealth Committee	6/25/2021	Virtual	Y
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Telehealth Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	Y
Board	9/9-10/2021	Virtual	Y/Y
Board: Strategic Planning	10/4/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/Y
Licensing Committee	11/19/2021	Virtual	Y
Telehealth Committee	1/28/2022	Virtual	Y
Board	2/10-11/2022	Virtual	Y/Y
Telehealth Committee	3/4/2022	Virtual	N
Board	5/5-6/2022	Sacramento	Y/Y
Telehealth Committee	6/3/2022	Sacramento	N
Board	8/11-12/2022	Sacramento	Y/Y
Board	11/3-4/2022	Sacramento	Y/Y
Telehealth Committee	12/8/2022	Virtual	Y



Licensing Committee	1/14/2023	Virtual	Y
Board	2/2-3/2023	Sacramento	Y/Y
Telehealth Committee	3/16/2023	Virtual	Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Virtual	Y
Telehealth Committee	6/8/2023	Virtual	Y
Board	8/17-18/2023	Sacramento	Y/Y
Licensing Committee	10/27/2023	Virtual	Y
Board	11/16-17/2023	Sacramento	Y/Y
Telehealth Committee	12/15/2023	Hybrid/Sacramento	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Board	5/16-17/2024	Sacramento	Y/Y

<b>CHRISTOPHER JONES-LEP (Appointed 9/29/2020)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	Y
Board: Petition Hearings	10/8/2020	Virtual	Y
Board	11/5-6/2020	Virtual	N/Y
Board: Petition Hearings	1/29/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	Y/Y
Board	5/6-7/2021	Virtual	Y/N
Telehealth Committee	6/25/2021	Virtual	N
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Policy & Advocacy Committee	8/6/2021	Virtual	Y
Telehealth Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	Y
Board	9/9-10/2021	Virtual	Y/N
Board: Strategic Planning	10/4/2021	Virtual	Y
Policy & Advocacy Committee	10/20/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/Y
Policy & Advocacy Committee	1/21/2022	Virtual	Y
Telehealth Committee	1/28/2022	Virtual	Y
Board	2/10-11/2022	Virtual	Y/Y
Telehealth Committee	3/4/2022	Virtual	N
Policy & Advocacy Committee	4/20/2022	Sacramento	Y
Board	5/5-6/2022	Sacramento	Y/Y
Telehealth Committee	6/3/2022	Sacramento	N
Policy & Advocacy Committee	7/29/2022	Sacramento	Y



Board	8/11-12/2022	Sacramento	Y/Y
Policy & Advocacy Committee	10/14/2022	Virtual	Y
Board	11/3-4/2022	Sacramento	Y/Y
Telehealth Committee	12/8/2022	Virtual	Y
Policy & Advocacy Committee	1/13/2023	Virtual	Y
Board	2/2-3/2023	Sacramento	Y/Y
Telehealth Committee	3/16/2023	Virtual	Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Virtual	Y
Telehealth Committee	6/8/2023	Virtual	Y
Policy & Advocacy Committee	7/21/2023	Sacramento	Y
Board	8/17-18/2023	Sacramento	Y/Y
Policy & Advocacy Committee	10/27/2023	Virtual	Y
Board	11/16-17/2023	Sacramento	Y/Y
Telehealth Committee	12/15/2023	Hybrid/Sacramento	Y
Policy & Advocacy Committee	1/19/2024	Hybrid/Sacramento	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Policy & Advocacy Committee	4/12/2024	Hybrid/Sacramento	Y
Board	5/16-17/2024	Sacramento	Y/Y

<b>KELLY RANASINGHE-PUBLIC (Appointed 6/29/2020)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	7/30/2020	Virtual	Y
Board	8/13-14/2020	Virtual	Y/Y
Board: Petition Hearings	9/11/2020	Virtual	N
Board: Petition Hearings	10/8/2020	Virtual	Y
Board	11/5-6/2020	Virtual	N/Y
Board: Petition Hearings	1/29/2021	Virtual	N
Board: Closed Session	2/19/2021	Virtual	N
Board	3/4-5/2021	Virtual	Y/Y
Board	5/6-7/2021	Virtual	Y/N
Telehealth Committee	6/25/2021	Virtual	N
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Telehealth Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	Y
Board	9/9-10/2021	Virtual	Y/N
Board: Strategic Planning	10/4/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/Y
Telehealth Committee	1/28/2022	Virtual	Y
Board	2/10-11/2022	Virtual	Y/Y
Telehealth Committee	3/4/2022	Virtual	N

Board	5/5-6/2022	Sacramento	N/N
Telehealth Committee	6/3/2022	Sacramento	N
Board	8/11-12/2022	Sacramento	Y/Y
Board	11/3-4/2022	Sacramento	Y/Y
Telehealth Committee	12/8/2022	Virtual	Y
Board	2/2-3/2023	Sacramento	Y/Y
Telehealth Committee	3/16/2023	Virtual	Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Virtual	Y
Telehealth Committee	6/8/2023	Virtual	Y
Board	8/17-18/2023	Sacramento	Y/Y
Licensing Committee	10/27/2023	Virtual	Y
Board	11/16-17/2023	Sacramento	Y/Y
Telehealth Committee	12/15/2023	Hybrid/Sacramento	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Board	5/16-17/2024	Sacramento	Y/Y

<b>DIANA HERWECK-LPCC (Appointed 10/22/2020)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board	11/5-6/2020	Virtual	Y/Y
Board: Petition Hearings	1/29/2021	Virtual	Y
Board: Closed Session	2/19/2021	Virtual	Y
Board	3/4-5/2021	Virtual	Y/Y
Licensing Committee	3/26/2021	Virtual	Y
Board	5/6-7/2021	Virtual	Y/Y
Licensing Committee	6/25/2021	Virtual	Y
Telehealth Committee	6/25/2021	Virtual	Y
Board: Petition Hearings	7/7/2021	Virtual	Y
Board	7/22/2021	Virtual	Y
Telehealth Committee	8/6/2021	Virtual	Y
Board: Petition Hearings	8/10/2021	Virtual	Y
Board	9/9-10/2021	Virtual	Y/Y
Board: Strategic Planning	10/4/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/Y
Licensing Committee	11/19/2021	Virtual	Y
Telehealth Committee	1/28/2022	Virtual	Y
Board	2/10-11/2022	Virtual	Y/Y
Telehealth Committee	3/4/2022	Virtual	Y
Board	5/5-6/2022	Sacramento	N/N

<b>YVETTE CASARES WILLIS-PUBLIC (Appointed 1/21/2021)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Petition Hearings	1/29/2021	Virtual	N
Board: Closed Session	2/19/2021	Virtual	N
Board	3/4-5/2021	Virtual	Y/Y
Board	5/6-7/2021	Virtual	Y/N
Board: Petition Hearings	7/7/2021	Virtual	N
Board	7/22/2021	Virtual	N
Board: Petition Hearings	8/10/2021	Virtual	Y/N
Board	9/9-10/2021	Virtual	N
Board: Strategic Planning	10/4/2021	Virtual	Y
Board	11/4-5/2021	Virtual	Y/N
Board	2/10-11/2022	Virtual	N/N
Board	5/5-6/2022	Sacramento	Y/Y
Board	8/11-12/2022	Sacramento	Y/Y
Board	11/3-4/2022	Sacramento	N/N
Board	2/2-3/2023	Sacramento	N/N
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Virtual	Y
Board	8/17-18/2023	Sacramento	A
Board	11/16-17/2023	Sacramento	A

<b>JUSTIN HUFT-LMFT (Appointed 9/23/2021)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board: Strategic Planning	10/4/2021	Virtual	N
Board	11/4-5/2021	Virtual	Y/N
Board	2/10-11/2022	Virtual	Y/Y
Board	5/5-6/2022	Sacramento	N/N
Board	8/11-12/2022	Sacramento	Y/Y
Board	11/3-4/2022	Sacramento	Y/Y
Board	2/2-3/2023	Sacramento	Y/Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Webex	Y
Board	8/17-18/2023	Sacramento	N/N
Licensing Committee	10/27/2023	Hybrid/Sacramento	Y
Board	11/16-17/2023	Sacramento	Y/Y
Workforce Development Committee	1/19/2024	Hybrid/Sacramento	Y
Board	2/29 & 3/29/2024	Sacramento	Y/Y
Workforce Development Committee	4/19/2024	Hybrid/Sacramento	Y
Board	5/16/2024	Sacramento	Y/Y

<b>ABIGAIL ORTEGA-LCSW (Appointed 11/10/2021)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board	2/10-11/2022	Virtual	Y/Y
Board	5/5-6/2022	Sacramento	Y/Y
Policy & Advocacy Committee	7/29/2022	Sacramento	Y
Board	8/11-12/2022	Sacramento	Y/Y
Policy & Advocacy Committee	10/14/2022	Webex	Y
Board	11/3-4/2022	Sacramento	Y/Y
Policy & Advocacy Committee	1/13/2023	Webex	Y
Board	2/2-3/2023	Sacramento	Y/Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Webex	Y
Policy & Advocacy Committee	7/21/2023	Sacramento	Y
Board	8/17-18/2023	Sacramento	Y/Y
Board	11/16-17/2023	Sacramento	Y/Y
Policy & Advocacy Committee	1/19/2024	Sacramento	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Policy & Advocacy Committee	4/12/2024	Sacramento	Y
Board	5/16-17/2024	Sacramento	Y/Y

<b>ANNETTE WALKER-PUBLIC (Appointed 11/10/2021)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board	2/10-11/2022	Virtual	Y/Y
Board	5/5-6/2022	Sacramento	Y/Y
Board	8/11-12/2022	Sacramento	Y/Y
Board	11/3-4/2022	Sacramento	Y/Y
Licensing Committee	1/13/2023	Webex	Y
Board	2/2-3/2023	Sacramento	Y/Y
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Webex	Y
Board	8/17-18/2023	Sacramento	Y/Y
Licensing Committee	10/27/2023	Webex	Y
Board	11/16-17/2023	Sacramento	Y/Y
Workforce Development Committee	1/19/2024	Webex	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Workforce Development Committee	4/19/2024	Webex	Y
Board	5/16-17/2024	Sacramento	Y/Y

**ELEANOR URIBE-LCSW (Appointed 8/2/2022)**

Date Appointed:	8/2/2022		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board	8/11-12/2022	Sacramento	Y/Y
Board	11/3-4/2022	Sacramento	Y/Y
Licensing Committee	1/13/2023	Webex	Y
Board	2/2-3/2023	Sacramento	N/N
Board	5/4-5/2023	Orange	Y/Y
Board	6/8/2023	Webex	Y
Board	8/17-18/2023	Sacramento	Y/Y
Licensing Committee	10/27/2023	Webex	Y
Board	11/16-17/2023	Sacramento	Y/Y
Workforce Development Committee	1/19/2024	Webex	Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Workforce Development Committee	4/19/2024	Webex	Y
Board	5/16-17/2024	Sacramento	Y/Y

<b>AIMEE ENG-PUBLIC (Appointed 6/2/2023)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board	5/4-5/2023	Orange	N/N
Board	6/8/2023	Sacramento	N
Board	8/17-18/2023	Sacramento	N/N
Board	11/16-17/2023	Sacramento	N/N
Board	2/29 & 3/1/2024	Sacramento	N/N

<b>NICHOLAS BOYD-LPCC (Appointed 6/28/2023)</b>			
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board	8/17-18/2023	Sacramento	N/N
Board	11/16-17/2023	Sacramento	Y/Y
Board	2/29 & 3/1/2024	Sacramento	Y/Y
Board	5/16-17/2024	Sacramento	Y/Y

**Attachment B 1b.-Board & Committee Member Roster**

<b>Table 1b. California Board of Behavioral Sciences Member Roster</b>					
<b>Member Name</b>	<b>Date First Appointed</b>	<b>Date Reappointed</b>	<b>Date Term Expires</b>	<b>Appointing Authority</b>	<b>Type (Public or Professional)</b>
<b>John Sovec</b>	12/11/2019	6/18/2022	6/1/26	Governor	Professional
<b>Wendy Strack</b>	1/29/2020	6/12/2023	6/1/27	Governor	Public
<b>Susan Friedman</b>	3/5/20	6/21/2022	6/1/26	Governor	Public
<b>Christopher Jones</b>	6/29/20	6/5/2024	6/1/28	Governor	Professional
<b>Kelly Ranasinghe</b>	6/29/20	6/28/2021	6/1/25	Governor	Public
<b>Justin Huft</b>	9/23/21	N/A	6/1/25	Governor	Professional
<b>Abigail Ortega</b>	11/10/21	N/A	6/1/25	Governor	Professional
<b>Dr. Annette Walker</b>	11/10/21	N/A	6/1/25	Governor	Public
<b>Eleanor Uribe</b>	8/2/22	N/A	6/1/26	Governor	Professional
<b>Dr. Nicholas Boyd</b>	6/28/23	6/5/2024	6/1/28	Governor	Professional
<b>Lorez Bailey</b>	8/7/24	N/A	6/1/27	Senate	Public
<b>VACANT</b>	-	-	6/1/25	Governor	Public
<b>VACANT</b>	-	-	6/1/27	Assembly	Public

<b>Table 1b. California Board of Behavioral Sciences Policy &amp; Advocacy Committee Member Roster</b>					
<b>Member Name</b>	<b>Date First Appointed</b>	<b>Date Reappointed</b>	<b>Date Term Expires</b>	<b>Appointing Authority</b>	<b>Type (Public or Professional)</b>
<b>John Sovec</b>	12/11/2019	N/A	6/1/26	Governor	Professional
<b>Wendy Strack</b>	1/29/2020	N/A	6/1/27	Governor	Public
<b>Christopher Jones</b>	6/29/20	N/A	6/1/28	Governor	Professional
<b>Abigail Ortega</b>	11/10/21	N/A	6/1/25	Governor	Professional

<b>Table 1b. California Board of Behavioral Sciences Telehealth Committee Member Roster</b>					
<b>Member Name</b>	<b>Date First Appointed</b>	<b>Date Reappointed</b>	<b>Date Term Expires</b>	<b>Appointing Authority</b>	<b>Type (Public or Professional)</b>
<b>Susan Friedman</b>	3/5/20	6/21/2022	6/1/26	Governor	Public
<b>Christopher Jones</b>	6/29/20	6/5/2024	6/1/28	Governor	Professional
<b>Kelly Ranasinghe</b>	6/29/20	6/28/2021	6/1/25	Governor	Public

**Table 1b. California Board of Behavioral Sciences Licensing Committee Member Roster**

<b>Member Name</b>	<b>Date First Appointed</b>	<b>Date Reappointed</b>	<b>Date Term Expires</b>	<b>Appointing Authority</b>	<b>Type (Public or Professional)</b>
<b>Wendy Strack</b>	1/29/2020	6/12/2023	6/1/27	Governor	Public
<b>Susan Friedman</b>	3/5/20	6/21/2022	6/1/26	Governor	Public
<b>Dr. Annette Walker</b>	11/10/21	N/A	6/1/25	Governor	Public
<b>Eleanor Uribe</b>	8/2/22	N/A	6/1/26	Governor	Professional

**Table 1b. California Board of Behavioral Sciences Workforce Development Member Roster**

<b>Member Name</b>	<b>Date First Appointed</b>	<b>Date Reappointed</b>	<b>Date Term Expires</b>	<b>Appointing Authority</b>	<b>Type (Public or Professional)</b>
<b>Wendy Strack</b>	1/29/2020	6/12/2023	6/1/27	Governor	Public
<b>Justin Huft</b>	9/23/21	N/A	6/1/25	Governor	Professional
<b>Dr. Annette Walker</b>	11/10/21	N/A	6/1/25	Governor	Public
<b>Eleanor Uribe</b>	8/2/22	N/A	6/1/26	Governor	Professional

**Table 1b. California Board of Behavioral Sciences Outreach & Education Member Roster**

<b>Member Name</b>	<b>Date First Appointed</b>	<b>Date Reappointed</b>	<b>Date Term Expires</b>	<b>Appointing Authority</b>	<b>Type (Public or Professional)</b>
<b>John Sovec</b>	12/11/2019	6/18/2022	6/1/26	Governor	Professional
<b>Susan Friedman</b>	3/5/20	6/21/2022	6/1/26	Governor	Public
<b>Dr. Annette Walker</b>	11/10/21	N/A	6/1/25	Governor	Public
<b>Dr. Nicholas Boyd</b>	6/28/23	6/5/2024	6/1/28	Governor	Professional

## Attachment B 1c.- Biographies of Current Board Members

### **Board Chair, Christopher Jones (LEP Member)**

Christopher C. Jones is a Licensed Educational Psychologist (LEP #2819) and Nationally Certified School Psychologist (NCSP). He is the President and CEO of Dynamic Interventions, the first incorporation of Licensed Educational Psychologists in the history of California. He earned his Bachelor of Arts degree in Child Development from California State University, Northridge, and his Master of Arts degree and Certificate of Advanced Graduate Study (CAGS) in School Psychology from Tufts University. He worked as a school psychologist in Massachusetts and California, then left public education to open Dynamic Interventions in 2006.

### **Board Vice-Chair, Wendy Strack (Vice-Chairperson) (Public Member)**

Wendy Strack was appointed by the Governor in February 2020. She is currently the CEO of Wendy J Strack Consulting LLC, with more than 20 years of experience in creating and delivering award winning advocacy, communications, and outreach programs in Southern California. Strack is a member of California Women Lead, Women's Transportation Seminar (WTS), and the California Association of Public Information Officials (CAPIO). She also holds certifications in Basic and Advanced Public Information Officer/Joint Information Center/Joint Information Systems from the California Office of Emergency Services and the Federal Emergency Management Agency. Strack has a B.A. in Political Science from the University of California, Riverside and an M.P.A. from the University of Southern California. She has also served on the City of Riverside Human Resources Board since 2018.

### **John Sovec (LMFT Member)**

John Sovec is a therapist in private practice in Pasadena California who specializes in supporting the needs of the LGBTQ community. He is the clinical consultant for The Life Group LA, adjunct faculty at Phillips Graduate Institute, and guest lecturer at Alliant University and USC School of Social Work. Mr. Sovec is a nationally recognized expert on creating affirmative LGBTQ support and is the author of multiple publications and speaks at conferences nationwide. He provides training for community agencies, schools, non-profits, and provides professional consultation on LGBTQ competencies.

### **Susan Friedman (Public Member)**

Susan Friedman was appointed by the Governor Newsom in March 2020. Ms. Friedman was an Emmy-award winning network news producer for NBC News from 1982 to 2008 and from 1968 to 1977. She was a reporter and producer for the local Public Broadcasting Service (PBS) from 1977 to 1982. She is a founding member of the Alliance for Children's Rights Board of Directors and vice chair and commissioner of the Los Angeles County Mental Health Commission



### **Kelly Ranasinghe (Public Member)**

Kelly Ranasinghe was appointed by Governor Newsom in July of 2020. He currently is a Deputy County Counsel in Imperial County, California practicing child welfare law in juvenile court. Previously, Mr. Ranasinghe was a partner at the law firm of Henderson and Ranasinghe LLP and a senior program attorney at National Council of Juvenile and Family Court Judges, where he focused on domestic violence and child sex trafficking. He is a member of the National Alliance of Mental Illness (NAMI) and a certified peer mental health facilitator through the NAMI Connections program. Mr. Ranasinghe is also a member of the National Association of Counsel for Children (NACC) and a board-certified child welfare law specialist. Mr. Ranasinghe earned a Juris Doctor from California Western School of Law in 2005.

### **Justin Huft (LMFT Member)**

Justin Huft has been a Marriage and Family Therapist and Clinical Program Director at Creative Care Calabasas since 2016, Adjunct Lecturer for the Psychology and Sociology Departments at California State University, Fullerton since 2016 and Adjunct Lecturer for the Psychology Department at El Camino Community College since 2018. He was an Adjunct Lecturer in Psychological Sciences at the University of California, Irvine from 2019 to 2020, and in Psychology at Saddleback College from 2016 to 2018. He is a member of the California Marriage and Family Therapy Association, American Association of Marriage and Family Therapists, American Sociological Association and Pacific Sociological Association. Huft earned a Master of Arts degree in marriage and family therapy from Chapman University and a Master of Arts degree in sociology from Arizona State University.

### **Abigail Ortega (LCSW Member)**

Abigail Ortega has been a Licensed Clinical Social Worker at Love Listen and Play, a private psychotherapy practice, since 2016. Before starting her private counseling practice, Ortega worked in several community and medical settings. Her diverse experience included providing assessments and therapy to people and families of all ages and backgrounds. Ortega was a Licensed Clinical Social Worker at the Wilmington Community Clinic from 2016 to 2021 and at Counseling4Kids from 2017 to 2020. She was a Medical Social Worker at the Children's Clinic from 2014 to 2015. Ortega held several positions at Children's Institute Inc. from 2011 to 2014, including Therapist II and Clinical Domestic Violence Team Lead. She was a Psychiatric Social Worker at the Child Center of New York from 2010 to 2011.

### **Dr. Annette Walker (Public Member)**

Dr. Annette Walker has served as a School Board Member at Hayward Unified School District from 2012 to 2020, where she was Personnel Commissioner from 2010 to 2011. Dr. Walker was Diversity and Inclusion Officer at Life Chiropractic College West from 2020 to 2021. She was Director of Graduate Admissions and Kaleidoscope Mentoring

Program Coordinator at California State University, East Bay from 2005 to 2019. She was a Psychology Instructor and General Counselor at Chabot College from 1999 to 2004, where she was a Psychology Instructor from 1998 to 1999. Dr. Walker was a Bilingual Elementary School Teacher at Ravenswood City School District from 1993 to 1997. She earned a Master of Science degree in education and psychological studies from California State University, East Bay and a Doctor of Education degree in Organization and Leadership from the University of San Francisco. She was a delegate for the California School Board Association, representing California's seventh district, and Legislative Committee member.

### **Eleanor Uribe (LCSW Member)**

Eleanor Uribe was appointed to the Board of Behavioral Sciences in August 2022. Eleanor has been the Faculty Field Liaison at California State University, Fresno since 2012. She worked as a Licensed Clinical Social Worker for the California Department of Corrections and Rehabilitation from 2008-2012. She was a Social Worker Practitioner at the Fresno County Department of Social Services from 1994 to 2008. Uribe earned her Master of Social Work degree from California State University, Fresno.

### **Dr. Nicholas Boyd (LPCC Member)**

Nick is a California LPCC and a Nationally Certified Counselor by the National Board of Certified Counselors. He has held various clinical, research, and leadership appointments within the Department of Defense (DoD), Veterans Affairs (VA), and community. Nick is the Lead Licensed Professional Mental Health Counselor (LPMHC) and LPMHC Director of Clinical Training with the VA San Diego Healthcare System and Assistant Professor with the University of San Diego. Previously, Nick was an Adjunct Professor in the San Diego City College Alcohol and Other Drug Studies program. He was also the Clinical Director and Co-founder of e3 Civic High's school-based mental health counseling program. Before his appointment with the Board of Behavioral Sciences, Nick was a California Association for Licensed Professional Clinical Counselors (CALPCC) board member and the Legislative and Advocacy Committee co-chair. Nick is an Army Veteran and has served in the Oregon and California Army National Guard as enlisted military police. He continues to serve in the California State Guard as a Behavioral Health Officer supporting National Guard soldiers across Southern California. Nick received his M.A. in Clinical Mental Health Counseling from the University of San Diego and his PhD. in Counselor Education and Supervision from the University of the Cumberland.

### **Lorez Bailey (Public Member)**

Lorez Bailey is an accomplished media professional and community advocate, most recently serving as Publisher of the North Bay Business Journal. Known as "The Connector," she excels in building professional networks and fostering collaboration. She was honored as "Woman of the Year" by U.S. Congressman Mike Thompson for her impactful work with Sonoma County students. Lorez holds degrees from

Sacramento State University and Sonoma State University. She has led significant workforce development initiatives and served in leadership roles at Chop's Teen Club and Social Advocates for Youth. She is an active member of Alpha Kappa Alpha Sorority, Inc., and serves on several advisory boards in her community.



Board of Behavioral Sciences

# Memo

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**To:** Telehealth Committee Members                      **Date:** August 31, 2021  
**From:** Christy Berger  
Regulatory Analyst    **Telephone:** (916) 574-7817  
**Subject:** Results of Telehealth and Supervision via Videoconferencing Surveys for  
Students, Associates, Supervisors, and Schools

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## **Background**

At its June 2021 meeting, the Telehealth Committee directed staff to develop and administer a survey pertaining to telehealth (primarily as performed by applicants gaining hours toward licensure) and supervision via videoconferencing. Four different surveys were developed and administered with the assistance of professional associations:

- Supervisor Survey (Attachment A)
- Student Survey (Attachment B)
- Associate Survey (Attachment C)
- School Survey (*results to be provided separately prior to the meeting – survey closed later to give schools coming back after break enough time to respond*)

The purpose of the surveys was to obtain feedback about student and associate experiences with providing services to clients via telehealth, supervision of applicants who are providing telehealth services, providing supervision via videoconferencing, and gathering topics related to telehealth where training may be needed.

Each survey was prefaced by a statement that asked respondents to keep in mind that “...these questions are seeking to gain insight about how the practice of the professions the board regulates will move forward AFTER the COVID-19 pandemic has ended.”

The surveys were posted to the Board’s website and social media, to our email subscriber’s list, and disseminated by professional associations. Survey results are provided in the attachments, and include a sampling of written comments to open-ended questions. The sampling of written comments:

- Attempt to provide a representative sample
- Include comments that summed up many individual comments
- Comments related to marginalized communities were included more often to emphasize those voices

- Exclude comments that responded “none” or N/A or similar

### **Survey Results – Supervisors**

This survey was designed for supervisors of students and associates pursuing LMFT, LPCC or LCSW licensure. 1,938 completed surveys were received. 46% of respondents supervise in a nonprofit and charitable setting, with the second most common being private practice at 27%.

#### **Notable findings - Supervisor Survey:**

##### **Supervisees Providing Services via Telehealth**

- 94% of respondents’ supervisees are **currently providing clinical services via telehealth**. Of that number, 78% are providing 50% or more of their clinical services via telehealth.
- 85% plan to allow supervisees to continue providing clinical services via **telehealth after the COVID-19 state of emergency is over**, and 12% have not decided yet.
- Commonly listed **benefits** to supervisees providing services via telehealth include greater access to care for clients, greater safety/comfort level for client and therapist, and flexibility/convenience for client and therapist.
- Commonly listed **disadvantages** to supervisees providing services via telehealth include technology/connectivity issues, doesn’t work well for all clients, difficulty seeing client’s nonverbal cues, and privacy issues. There was very little mention of issues with supervisee performance.
- 53% of supervisor respondents believe that supervisees should have no **limit on the percentage of supervised experience** they are allowed to gain providing clinical services to clients via telehealth. Only 1% of supervisors believe that no telehealth hours should count at all.
- Commonly listed **topics** that respondents believe should be covered if the Board were to require coursework and/or training include assessing and addressing client risk factors, and legal and ethical issues related to telehealth.

##### **Providing Supervision via Videoconferencing:**

- 93% of supervisors who responded to the survey have **provided clinical supervision** via videoconferencing.
- 88% believe that clinical supervision via videoconferencing is **as effective as in-person** supervision.

- Commonly listed **advantages** to providing supervision via videoconferencing were flexibility/convenience, greater accessibility, safety during the pandemic, and ability to use digital tools, such as screen sharing to review files and documentation.
- Commonly listed **disadvantages** to providing supervision via videoconferencing were technology/connectivity issues, feeling less personal, and distractions. Only 20% listed an issue that was related to the actual supervision (difficulty teaching/training, assessing the supervisee, and harder to engage and/or develop a relationship with the supervisee). It should be noted that 30% of respondents answered “none.”
- 89% of supervisors who responded believe that supervision via videoconferencing should be **allowed in all settings**.
- 78% believe that supervision via videoconferencing is appropriate for **both associates and students**, and 22% for associates only.
- 70% of supervisors believe there should be **no limit on the percentage of direct supervisor contact** allowed to be gained via videoconferencing in any setting.
- 70% of supervisors who responded were in support of a **board-required training** regarding supervision via videoconferencing for supervisors, and felt the following **topics** should be covered: legal and ethical issues, and establishing/maintaining an effective supervisory relationship.

### **Survey Results – Students and Associates**

Separate surveys were created, one for students currently enrolled in a LCSW, LMFT and/or LPCC program, and one designed for associates. 784 completed surveys were received from students, and 2,523 from associates.

### **Notable findings – Student and Associate Surveys:**

#### **Providing Services via Telehealth:**

- 91% of associates and 85% of students stated that they are **currently providing clinical services via telehealth**.
- 75% of associates and students believe that there should be **no limit on the percentage of supervised experience** hours they are allowed to gain in providing clinical services via telehealth.
- 34% of associates and 52% of students said their **school provided coursework or training** specific to providing services to clients via telehealth. 48% of associates and 68% of students feel that the coursework/training prepared them adequately.
- The primary **topics** associates and students would like to see covered if coursework were required in regards to providing clinical services via telehealth are: effective

ways to work with clients via telehealth, assessing and addressing client risk factors, and legal and ethical issues.

### Receiving Supervision via Videoconferencing:

- 95% of **students** reported that their **school permitted clinical supervision via videoconferencing**. 70% of those students receive clinical supervision via videoconferencing 100% of the time.
- 85% of **associates** reported that they **received clinical supervision via videoconferencing**. 53% of those associates receive clinical supervision via videoconferencing 100% of the time.
- 96% of associates and 89% of students felt that supervision via videoconferencing was **as effective as in-person supervision**.
- Nearly 70% of associates and students felt that their **supervisor was competent in providing supervision via videoconferencing**.
- 100% of **students** have experienced **disadvantages or problems** with clinical supervision via videoconferencing. The most **commonly** listed issues were technology/connectivity (mentioned in about 50% of comments), lacking in personal connection, and difficulty getting forms signed. Interestingly, only 15% of **associates** reported any disadvantages or problems.
- Approximately 70% of associates and students believe that **100% of supervision should be allowed via videoconferencing in all settings**.

### Attachments

**Attachment A:** Supervisor Survey Results

**Attachment B:** Student Survey Results

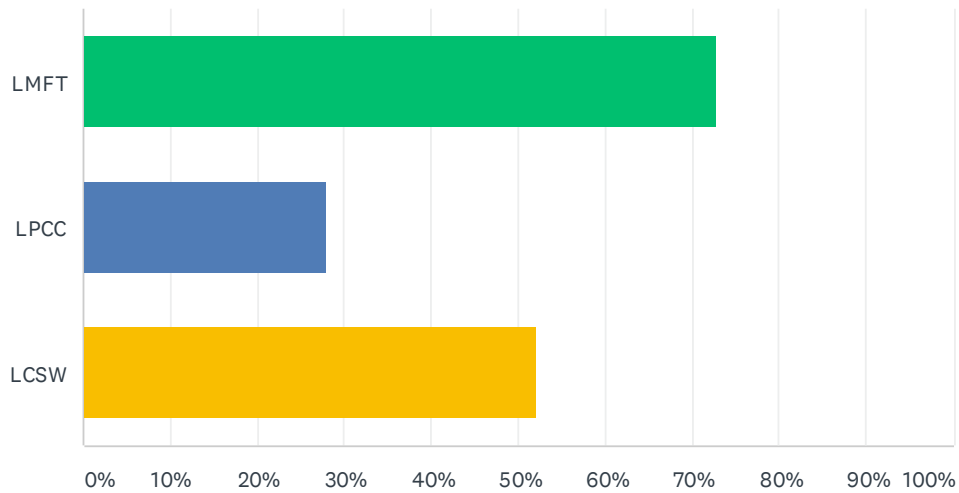
**Attachment C:** Associate Survey Results

## Attachment A

# BBS Telehealth Survey for Supervisors

Q1 Please indicate the type of license(s) your supervisees are pursuing (check all that apply):

Answered: 1,938 Skipped: 0

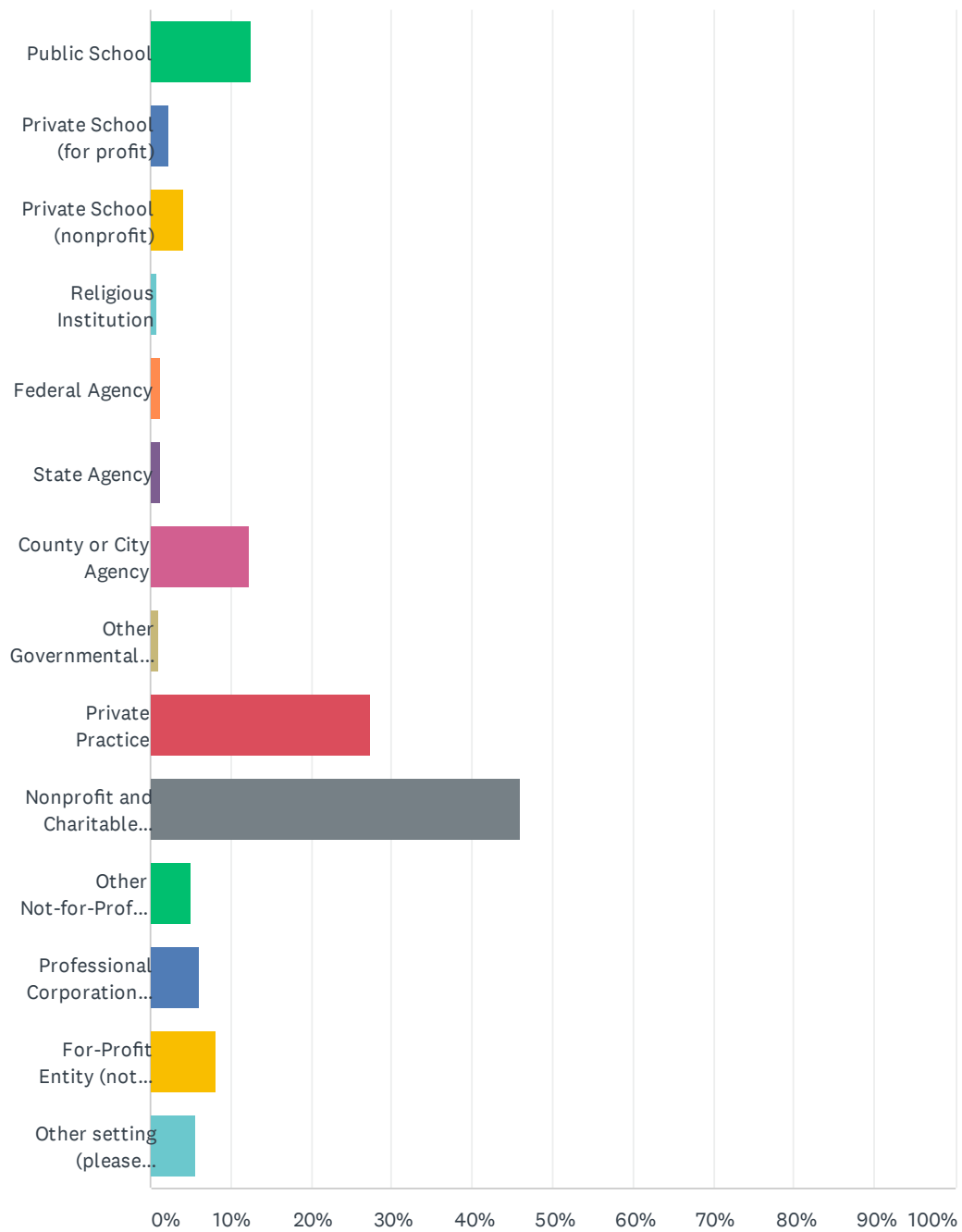


ANSWER CHOICES	RESPONSES	
LMFT	72.70%	1,409
LPCC	28.12%	545
LCSW	52.12%	1,010
Total Respondents: 1,938		



## Q2 Please indicate the type of practice setting(s) you are supervising in (check all that apply):

Answered: 1,938 Skipped: 0

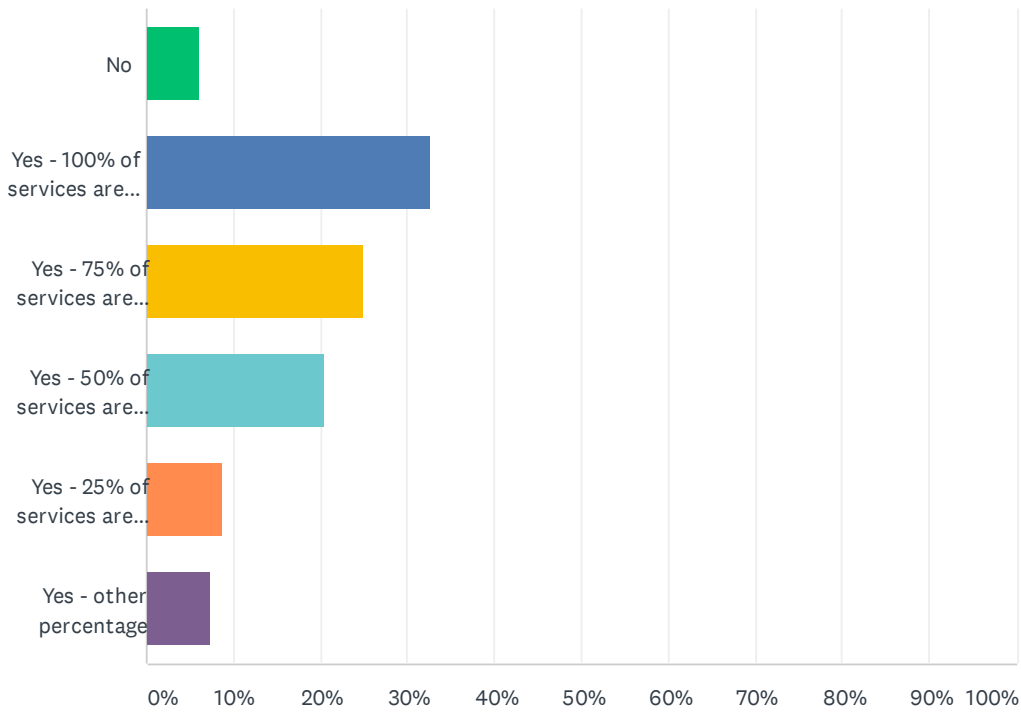


## BBS Telehealth Survey for Supervisors

ANSWER CHOICES	RESPONSES	
Public School	12.59%	244
Private School (for profit)	2.32%	45
Private School (nonprofit)	4.13%	80
Religious Institution	0.88%	17
Federal Agency	1.24%	24
State Agency	1.29%	25
County or City Agency	12.44%	241
Other Governmental Agency	1.14%	22
Private Practice	27.45%	532
Nonprofit and Charitable Entity (registered 501(c)(3))	46.08%	893
Other Not-for-Profit Entity	5.11%	99
Professional Corporation (ownership solely composed of licensed health professionals)	5.99%	116
For-Profit Entity (not otherwise listed)	8.10%	157
Other setting (please specify)	5.57%	108
Total Respondents: 1,938		

### Q3 Do your clinical supervisees currently provide any mental health services to clients via telehealth?

Answered: 1,700 Skipped: 238



ANSWER CHOICES	RESPONSES	
No	6.00%	102
Yes - 100% of services are being provided via telehealth	32.71%	556
Yes - 75% of services are being provided via telehealth	24.82%	422
Yes - 50% of services are being provided via telehealth	20.41%	347
Yes - 25% of services are being provided via telehealth	8.82%	150
Yes - other percentage	7.24%	123
<b>TOTAL</b>		<b>1,700</b>

## Q4 If yes, what have been the advantages of providing services via telehealth?

Answered: 1,526 Skipped: 412

### SAMPLING OF COMMENTS:

"It has allowed the supervisee to gain experience in a service platform that most likely will continue, has allowed for supervisee to can experience working with a more diverse population, more flexibility/control over schedule, increased accessibility for clients (transportation, movement, childcare limitations)."

"Can reach more clients in remote areas, can see more clients when not having to travel to them or rely on them to remember to come to the office, some clients are more comfortable staying in the comfort of their own home or not being in person."

"Trainees can continue to obtain hours toward licensure as well as ability to graduate despite COVID restrictions in a safe way. They do not have to wear masks and can see clients verbal and nonverbal communication style/behaviors/mood/affect. Provides easy access to clients and easier to schedule sessions as they don't have to travel. The ease of communication has allowed vulnerable and marginalized populations to access services such as students with disabilities, student parents needing childcare, students of color with lack of resources, etc. College students have been able to receive emotional support despite feeling isolated in their dorm rooms or apartments in a safe setting."

"Consistency, less missed appointments, caregivers more accessible, opportunity to experience client's home environment."

"Increased access quality services despite geographical locations or SES. Also greater access to those unable or limited to leave their homes."

"Getting a glimpse of client home setting. Clients uncomfortable with coming to a therapist's office are being served. Also, continuity of care when supervisee or client moves (within state)."

"Flexibility for clients, supervisees, and supervisors. More access to services in a way that has less impact (time, gas cost) on the individual lives of the persons involved. Ability to share screens in new ways. Ability to observe supervisee in sessions in ways that are less intimidating for clients."

"Access to treatment for low SES community; Access to clinicians with training in LGBTQ themes."

"Able to accommodate client's schedule, therefore more consistently in attendance by the client. An increase number of people being served due to factors around attending therapy is not as prevalent (such as child care issues, commute time, etc). Can utilize elements of the videoconferencing in working with families and couples to help in communication and deescalation. Can continue with established clinical relationships when clients moves outside of the area, as long as still within California. Can reach more people in less populated areas, especially with specific cultural identities and may not have a therapist in their community which is able to address cultural considerations."

## Q5 If yes, what have been the disadvantages of providing services via telehealth?

Answered: 1,453 Skipped: 485

### SAMPLING OF COMMENTS (excluding those that said "none."):

"It's been challenging to get clients to come back in-person, certain modalities are best done in-person, crisis are challenging to manage via telehealth."

"Serving children and adolescents is more difficult over telehealth and is not appropriate for many of them. In my opinion, it has been much more difficult for younger persons to connect via telehealth. For associates servicing low SES communities, there has been difficulty reaching those clients whose technology (computer, phone or tablet equipment, internet service availability/quality) does not allow for video sessions."

"Challenges with connectivity, challenges assessing for crisis/high-risk situations, difficulty engaging younger children, concerns about privacy on client's end, not as easy to tune in to client's non-verbals."

"Some elderly clients are not comfortable using computers or technology, some potential clients may not have the resources (computer, tablet) to access telehealth counseling."

"Virtual platforms make it more difficult to engage populations that are generally more difficult to engage; increases challenges around thorough safety assessment; difficult to provide crisis intervention to high crisis populations; providers are experiencing "Zoom fatigue;" requires more ongoing training for interns/staff using telehealth to ensure that they are adequately monitoring for safety, picking up on non-verbal cues, etc.; some clients demonstrate difficulty using platforms such as AdobeSign or DocuSign for legal paperwork/intake paperwork in an effort to provide telehealth services and remain 100% no-contact."

"Crisis management is more complicated. We have placed some limits on the kinds of services supervisees can provide via telehealth in order to protect them and our clients."

"Not being able to ensure who is in the space (limited view point), turning camera off to avoid looking at the therapist, connection trouble (dropped audio or video)."

"Some clients do not benefit from Telehealth as much from face to face. Some do not have access to technology. Harder to have consents returned."

"Challenges managing emotional dynamics for couples or parent-child sessions, working around bandwidth limitations, learning to track nonverbal communication when only seeing part of a person depending on camera angle, clients maintaining a confidential setting."

"Difficult with children, susceptible to distractions, difficult to engage/build rapport, limits who can be seen due to severity."

## Q6 If no, why is telehealth not allowed for your supervisees?

Answered: 251 Skipped: 1,687

### SAMPLING OF COMMENTS:

"Hospital setting and services are provided in person."

"It is an intensive residential program."

"The clients are in a juvenile detention facility."

"It is not practical."

"At this time it is not needed."

"Providing in home services."

"Clients are low income seniors with minimal access to technology, understanding of technical issues and cognitive issues. It is allowed and tried but was not effective."

"In the school setting, we are making every attempt to meet with students in person. There may be some rare circumstances when we have parent meetings over zoom or student has health issues precluding in-person."

"I believe Telehealth is utterly inadequate for providing services to the severely and persistently mentally ill population. Some do not have access to a computer, some are paranoid about disclosing PHI over a video connection, not knowing who might be in the room listening. To do good therapy, observation of hygiene, condition of clothes, client being malodorous or smelling of alcohol or drugs just cannot be done. There is nothing personal about seeing a face on a screen. It dilutes both the transference and counter-transference."

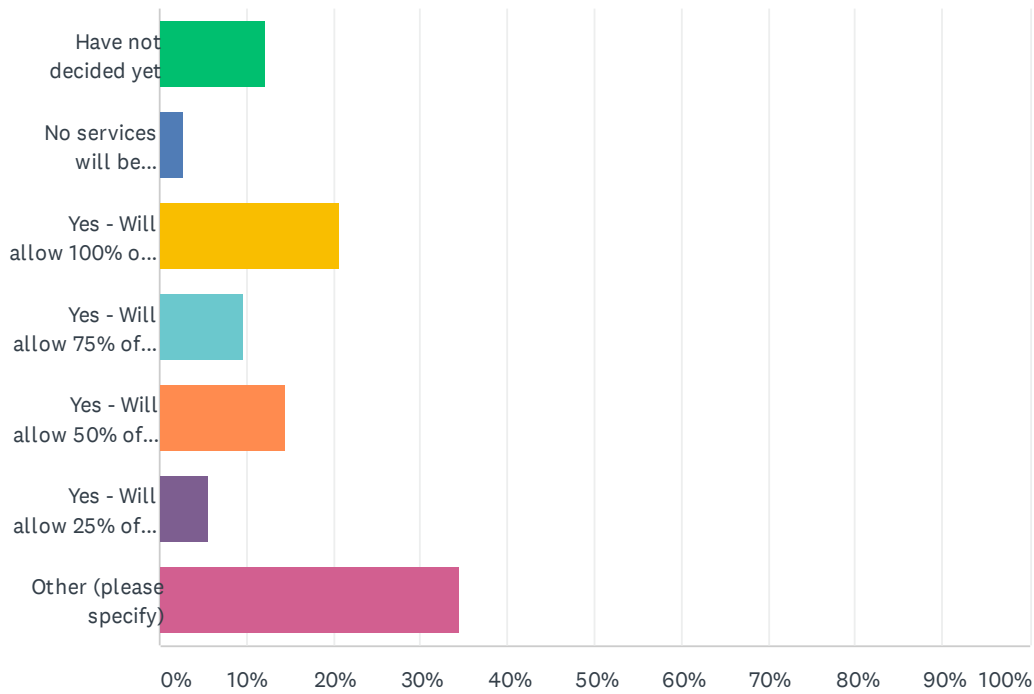
"I do not allow it if the supervisee doesn't have enough training which most trainees do not have the proper training yet."

"Clinic does not yet have the technology to conduct telehealth (video)."

"Lack of resources available in non profit and lack of resources with the population we serve. Homeless and SMI."

## Q7 If you currently allow your clinical supervisees to provide mental health services to clients via telehealth, do you plan to allow this post-pandemic?

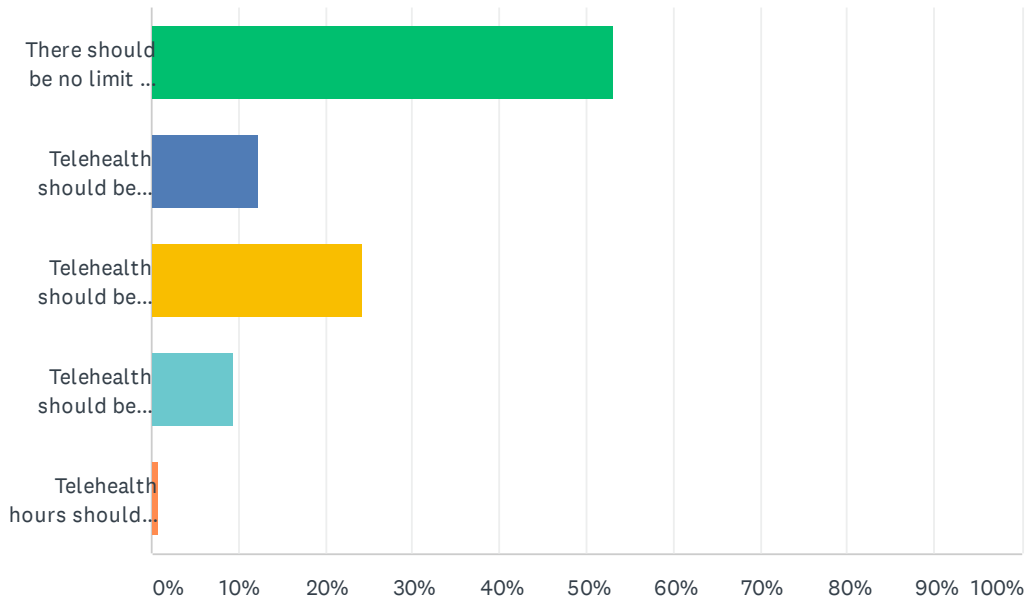
Answered: 1,548 Skipped: 390



ANSWER CHOICES	RESPONSES	
Have not decided yet	12.08%	187
No services will be provided via telehealth after the pandemic	2.78%	43
Yes - Will allow 100% of services to be provided via telehealth	20.61%	319
Yes - Will allow 75% of services to be provided via telehealth	9.69%	150
Yes - Will allow 50% of services to be provided via telehealth	14.53%	225
Yes - Will allow 25% of services to be provided via telehealth	5.75%	89
Other (please specify)	34.56%	535
<b>TOTAL</b>		<b>1,548</b>

## Q8 Do you believe supervisees should have a limit on the percentage of supervised experience hours they are allowed to gain in providing mental health services to clients via telehealth?

Answered: 1,548 Skipped: 390

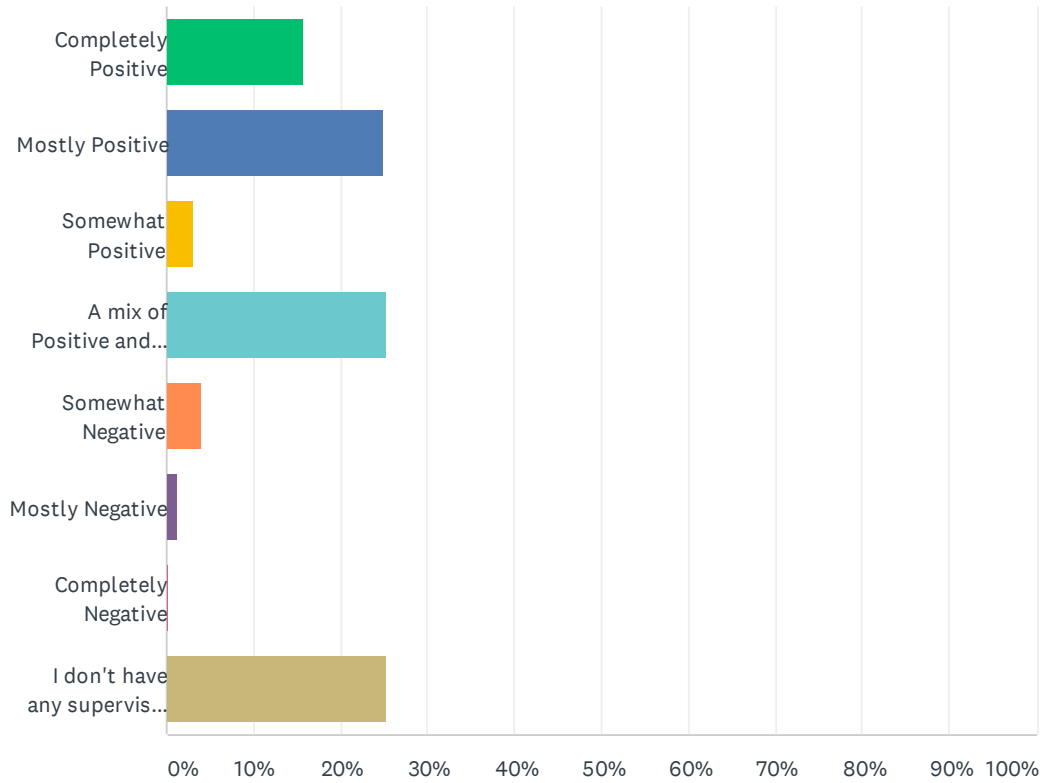


ANSWER CHOICES	RESPONSES	
There should be no limit to telehealth hours	53.17%	823
Telehealth should be limited to 75% of hours	12.34%	191
Telehealth should be limited to 50% of hours	24.22%	375
Telehealth should be limited to 25% of hours	9.37%	145
Telehealth hours should not be allowed at all	0.90%	14
<b>TOTAL</b>		<b>1,548</b>



Q9 If you have any supervisees who began completing their experience hours during the COVID-19 pandemic, and therefore have thus far only seen clients via telehealth and had clinical supervision virtually, how has this affected their clinical skills?

Answered: 1,548 Skipped: 390



ANSWER CHOICES	RESPONSES	
Completely Positive	15.76%	244
Mostly Positive	25.00%	387
Somewhat Positive	3.10%	48
A mix of Positive and Negative	25.32%	392
Somewhat Negative	3.94%	61
Mostly Negative	1.29%	20
Completely Negative	0.19%	3
I don't have any supervisees who have only seen clients via telehealth and are supervised virtually	25.39%	393
<b>TOTAL</b>		<b>1,548</b>

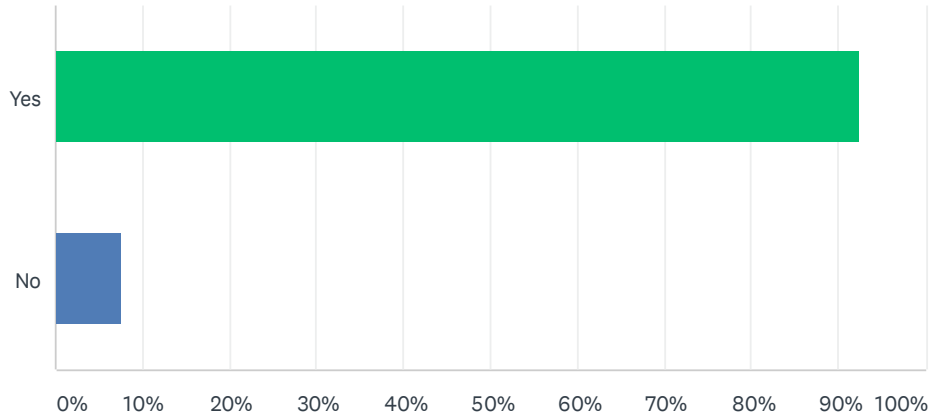
Q10 If the Board were to require coursework and/or training for delivery of mental health services to clients via telehealth, what topics should be covered so that registrants are adequately prepared to practice safely and effectively? List in order from most to least important.

Answered: 1,548 Skipped: 390

ANSWER CHOICES	RESPONSES	
Topic 1	100.00%	1,548
Topic 2	79.72%	1,234
Topic 3	56.01%	867
Topic 4	27.97%	433
Topic 5	14.21%	220
Topic 6	7.75%	120
Topic 7	5.17%	80

### Q11 Have you provided clinical supervision to Associates and/or students (defined as MFT trainees, PCC trainees or social work interns) via videoconferencing?

Answered: 1,547 Skipped: 391



ANSWER CHOICES	RESPONSES	
Yes	92.57%	1,432
No	7.43%	115
<b>TOTAL</b>		<b>1,547</b>

## Q12 What advantages did you experience in providing supervision in this manner?

Answered: 1,359 Skipped: 579

### SAMPLING OF COMMENTS:

"I can read their faces up close at the same time on the screen. A few trainees live in adjacent counties and they do not have transportation. They have expressed that if we go back to in person, they will not be able to continue with The LGBTQ Center OC, which provides specialized services to the LGBTQ community."

"We were able to provide therapy to a much broader geographic area and this gave trainees the opportunity to have full caseloads and work with clients from a variety of cultural and geographic backgrounds. I work with co-therapy teams and meeting virtually allowed them to see each other and themselves."

"Adding resource links immediately in the chat, asking questions privately to me or publicly to their group supervision team, sharing any document to review easily without wasting paper making copies/packets."

"I had the ability to provide direct observation and support the trainee in real time during their session (jumping into HIPAA compliant zoom). Ability to video and audio record at any time. I can support the trainee with a crisis/emergency from anywhere I just join the zoom session."

"Since the ASW did not have to drive to supervision, they had more time to spend with their patients. This also increased accessibility for ASW's who I have chronic health conditions, which impact their ability to drive. It also increased accessibility for supervision with a SW's who had limited financial resources that impacted transportation."

"Convenience, lower no show rate, ability to share documents, files and videos live and in the moment. Ability to easily sit-in on a therapy session with the trainee."

"More contact with supervisees for case coordination, consultation, had access to more of my personal tools via zoom and sharing my screen. Less interruptions by being off-site, felt more focused in supervision time."

"Flexibility in scheduling, ease in observing treatment sessions with minimal disruptions to the session."

"Convenience; time-saving; more flexibility/ availability; allows me to coach supervisees in how to track clients and demonstrate attunement via telehealth."

"I supervise several staff from different clinics and was able to see multiple people in the same afternoon or day at their convenience (as opposed to traveling to each clinic throughout the week to see supervisees)."

## Q13 What disadvantages did you experience in providing supervision in this manner?

Answered: 1,277 Skipped: 661

### SAMPLING OF COMMENTS (excluding technology complaints):

"It can be harder to engage associates that are quiet and tend not to participate especially in group situations. It is also slightly reduces (but not eliminates) the ability to hone in on non-verbal cues when assessing how associates are doing."

"I think in person shifts the conversation and allows associates to be more vulnerable."

"Barriers to building a relationship, missing some connection and cues."

"Clinicians were somewhat more disengaged in group supervision via telehealth than I think they would have been if we were meeting in person."

"Difficulty with experiential teaching and group dynamics for group supervision."

"Same as the disadvantages of therapy. It's fine for cerebral conversations. It's much more challenging to facilitate in depth self-of-the-therapist work."

"I feel there is less of connection over a tele-health platform and they aren't as forthcoming as they are in person with their own struggles."

"Tracking a group is more difficult on-screen. Limited ability to do role plays or utilize sand play objects."

"...inability to have "full-body" presence to assess/process in supervision, sometimes students unable to find confidential space to conduct supervision."

"Difficulty teaching hands on skills, more challenging to get to know/build a connection with my supervisees."

"Less spontaneous discussions."

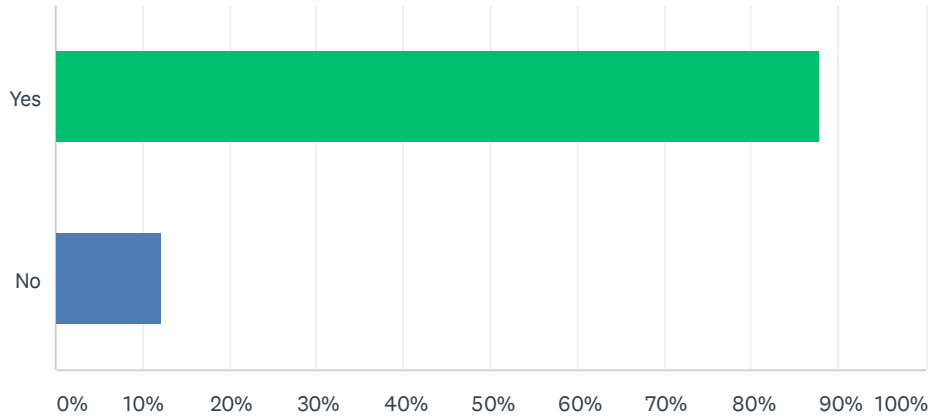
"more difficult to read body language, have to figure out new ways to connect and develop supervisory relationship."

"Getting paperwork signed in a timely manner. Discussing performance concerns can be difficult via videoconferencing."

"Not being in the office with individuals means there are several loss opportunities to watch them interact with clients, see how they are managing their own mental wellbeing or just genuine connection."

### Q14 Do you feel providing clinical supervision via videoconferencing to Associates and/or students was as effective as in-person clinical supervision?

Answered: 1,391 Skipped: 547



ANSWER CHOICES	RESPONSES	
Yes	87.78%	1,221
No	12.22%	170
<b>TOTAL</b>		<b>1,391</b>

## Q15 What were the reasons for not providing clinical supervision via videoconferencing?

Answered: 104 Skipped: 1,834

### SAMPLING OF COMMENTS:

"Our agency can't allow services to be done via telehealth."

"I didn't know we could."

"The company required all services to be provided in person throughout the pandemic."

"Not a direct supervisor at this time."

"Was not necessary or convenient."

"I use telephones."

"We were able to meet in open air environments."

"It was not necessary, as all services are provided in-person in a residential setting - supervisees are present at the work site."

"Not currently supervising anyone who is gaining their hours for licensure."

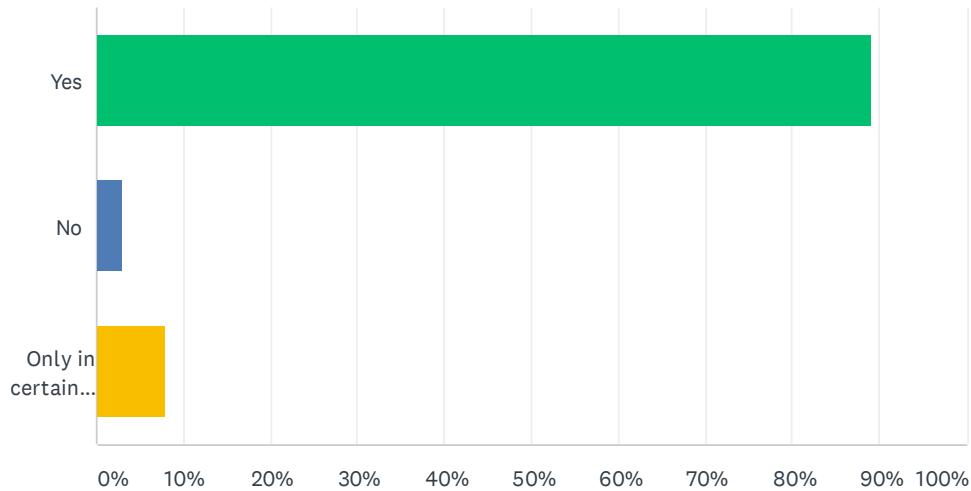
"I believe that in-person supervision aids in establishing a cohesive educational and supervisorial relationship with the supervisee."

"I do not support this technology. Just as much can be missed assessing clients, much can be missed assessing supervisees."

"Not directly supervising trainees in my role."

### Q16 Do you feel that clinical supervision via videoconferencing should be allowed more widely? (i.e. allowed in all settings, not just in exempt settings as is allowed currently)

Answered: 1,489 Skipped: 449

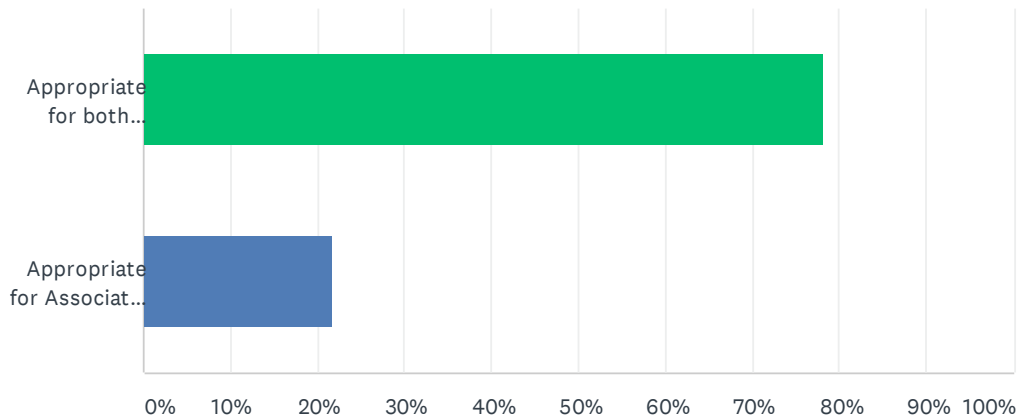


ANSWER CHOICES	RESPONSES	
Yes	89.19%	1,328
No	2.89%	43
Only in certain circumstances	7.92%	118
<b>TOTAL</b>		<b>1,489</b>



### Q17 Do you feel that clinical supervision via videoconferencing is appropriate for both Associates AND students, or only Associates?

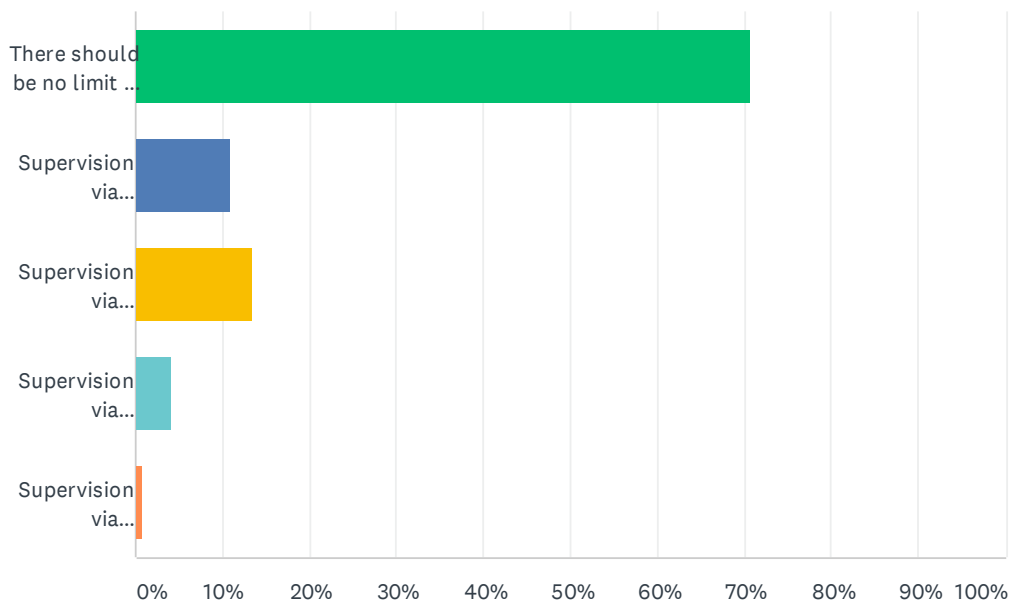
Answered: 1,489 Skipped: 449



ANSWER CHOICES	RESPONSES	
Appropriate for both Associates and Students	78.17%	1,164
Appropriate for Associates Only	21.83%	325
TOTAL		1,489

**Q18 Do you believe there should be a limit on the percentage of direct supervisor contact that is allowed to be gained via videoconferencing for supervisees who are working in an exempt setting (defined as a school, college, university, government entity, or and institution that is both non-profit and charitable)?**

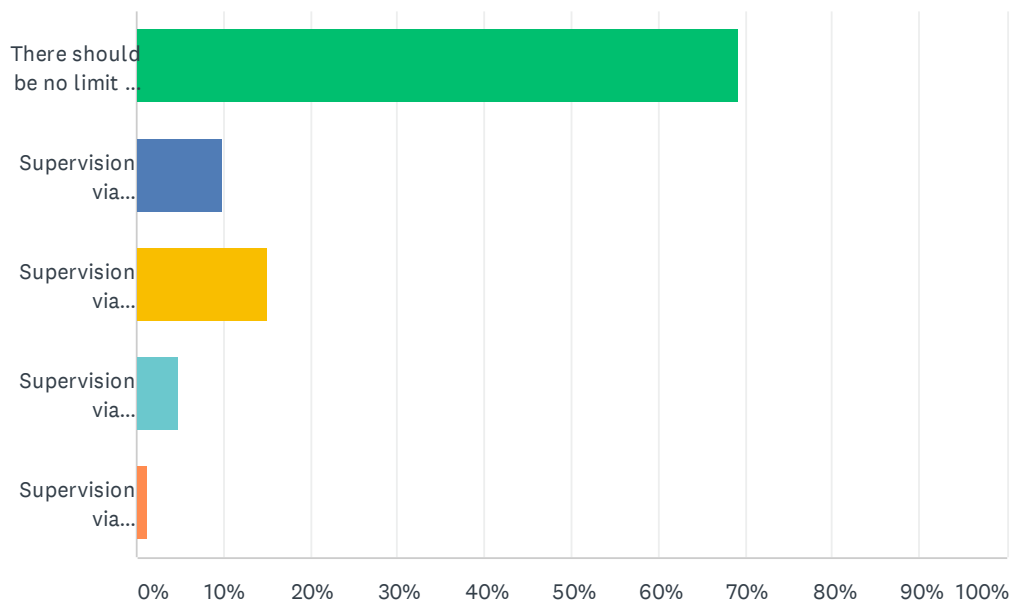
Answered: 1,489 Skipped: 449



ANSWER CHOICES	RESPONSES	
There should be no limit to the number of direct supervisor contact hours via videoconferencing	70.72%	1,053
Supervision via videoconferencing should be limited to 75% of direct supervisor contact hours	10.81%	161
Supervision via videoconferencing should be limited to 50% of direct supervisor contact hours	13.36%	199
Supervision via videoconferencing should be limited to 25% of direct supervisor contact hours	4.23%	63
Supervision via videoconferencing should not be allowed at all	0.87%	13
<b>TOTAL</b>		<b>1,489</b>

**Q19 Do you believe there should be a limit on the percentage of direct supervisor contact that is allowed to be gained via videoconferencing for supervisees working in a non-exempt setting (for example, a private practice, professional corporation, or other entity that does not meet the definition of an exempt setting)?**

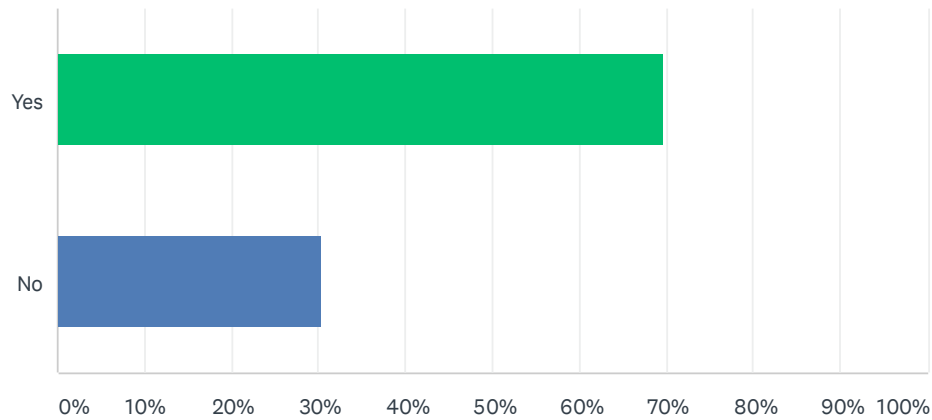
Answered: 1,489 Skipped: 449



ANSWER CHOICES	RESPONSES	
There should be no limit to the number of direct supervisor contact hours via videoconferencing	69.17%	1,030
Supervision via videoconferencing should be limited to 75% of direct supervisor contact hours	9.81%	146
Supervision via videoconferencing should be limited to 50% of direct supervisor contact hours	14.98%	223
Supervision via videoconferencing should be limited to 25% of direct supervisor contact hours	4.77%	71
Supervision via videoconferencing should not be allowed at all	1.28%	19
<b>TOTAL</b>		<b>1,489</b>

## Q20 Would a Board-required training regarding clinical supervision via videoconferencing for all supervisors be helpful?

Answered: 1,489 Skipped: 449



ANSWER CHOICES	RESPONSES	
Yes	69.64%	1,037
No	30.36%	452
TOTAL		1,489

## Q21 What topics should be covered in a Board-required training on clinical supervision via videoconferencing for supervisors?

Answered: 771 Skipped: 1,167

ANSWER CHOICES	RESPONSES	
Topic 1	100.00%	771
Topic 2	62.52%	482
Topic 3	38.13%	294
Topic 4	18.03%	139
Topic 5	8.43%	65
Topic 6	4.15%	32
Topic 7	2.72%	21

## Q22 Do you have any additional comments?

Answered: 474 Skipped: 1,464

### SAMPLING OF COMMENTS:

#### IN FAVOR OF ALLOWING TELEHEALTH HOURS and/or SUPERVISION VIA VIDEOCONFERENCE (majority of comments):

"I am a BIPOC therapist. Because of telehealth, I can serve clients who speak my language but resides in a different city in California. I consider this is the most beneficial for telehealth, which is to serve clients that are in remote area and they don't have many therapist in their cities. With that said, I strongly believes that 100% telehealth gained supervised hours should be counted. "

"Telehealth and working from home are the way of the future. People want to have the options to engage in therapy via telehealth, instead of fighting it, the BBS can train, monitor, and regulate it so it is effective and safe. This necessary shift has been a silver lining of covid. Giving people options for their care is huge."

"So many more associates are getting private practice experience now b/c they don't have work in their supervisor's space. It's good for business experience, but I do hope the supervisors are paying attention and giving them good training."

"I am strongly in favor of offering video conferencing as an option in all settings for supervision, without caveat. I believe this is a social justice issue, which would address barriers for a SW's and their clients throughout the state."

"It is not the methodology that is the important factor, it is the quality of supervision that matters, which is being currently address by the Board."

"I firmly believe that all forms of telehealth should be allowed for supervision including phone conferencing. If it's allowed by major insurance companies like Medicare why is it not allowed for supervision. There are not enough supervisors available in California, especially now with everything happening. Personally if I could utilize both telehealth via video and phone I would be able to take on additional supervises."

"It is imperative that the Board continue to provide this ability to provide telehealth as well as videoconferencing for supervision; stepping into the modern day would be an asset to all and especially help those that don't have the privilege ability to meet in person."

"Allowing tele-supervision would be hugely beneficial for special populations. For example, I am Native American, one of only a few and there is a huge need for supervisors to assist trainees and interns working at programs that serve Native Americans. Being that many programs are rural or very remote it makes it difficult to accept opportunities. That not only impacts those of us who supervise who are members of smaller cultural groups and doesn't provide associates and trainees to learn from supervisors with the clinical knowledge and lived experience. In my view, issues regarding race and cultural are still present which negatively impact outcomes for all."

## Q22 Do you have any additional comments?

Answered: 474 Skipped: 1,464

### SAMPLING OF COMMENTS (continued):

"This is a disability justice access issue first and foremost. We need to open up the field and services to more people and allowing virtual services as an option allows us to serve more people and nurture more emerging therapists. It is a racial equity issue since those most impacted by the challenges of providing services in person are disproportionately BIPOC, who are already underrepresented in the field. It is also a service delivery issue. The Bay Area is pouring money into mental health services but it is still not compensating programs and clinicians enough for them to sustain a good quality of life here. We do not have enough clinicians and supervisors for all the positions that are currently open. Putting more restrictions on how the work is able to be done, makes our ability to provide services for all of the clients who are in need severely compromised. Forcing folks to go back to in person services while we are still in a Pandemic is also not trauma informed and puts us in the position of threatening our staff and trainees with putting their health and well-being at risk."

### AGAINST/MIXED FEELINGS ON ALLOWING TELEHEALTH HOURS and/or SUPERVISION VIA VIDEOCONFERENCING:

"Appears to me to be damaging to client care and training needs of associates to put any limitations on teleservices that are not directly the result of excluding minority of clients who are not appropriate for telehealth."

"In a world where there's less and less human interactions and in-person connections and along with the recent research results on the effects of technology on human brain, our field needs to take a stand on what we believe as truly therapeutic and healing, instead of having our practice being dominated by insurance companies and those who can afford advanced technology."

"I know several therapists who abuse this modality: multi-tasking, conducted with non-therapist in the room or within earshot, while on vacation in hotel rooms. etc."

"I am in favor of having some type of hybrid model for clinical supervision."

"I don't want to see supervision moved to primarily videoconferencing, but I do think there is a place for it. It can be effective, efficient, and convenient. I think the way to make sure it isn't overused and abused is to limit the number of supervision hours that can be gained via videoconferencing (fewer for trainees, more for associates; fewer in private practice, more in exempt settings)."

"I have mixed feelings about telehealth and supervision via videoconferencing. I worry there are not enough protections in place to make sure clients are getting quality care. I also worry supervisees are missing out on valuable experience that can only come with in-person sessions."

Q23 Provide your name and contact information in case the Board has any follow-up questions or to be informed of future discussions on the topic.  
(OPTIONAL)

Answered: 623 Skipped: 1,315

ANSWER CHOICES	RESPONSES	
Name	99.52%	620
Company	67.58%	421
Address	81.70%	509
Address 2	15.73%	98
City/Town	84.75%	528
State	85.71%	534
Zip/Postal Code	83.15%	518
Email Address	95.99%	598
Phone Number	85.55%	533

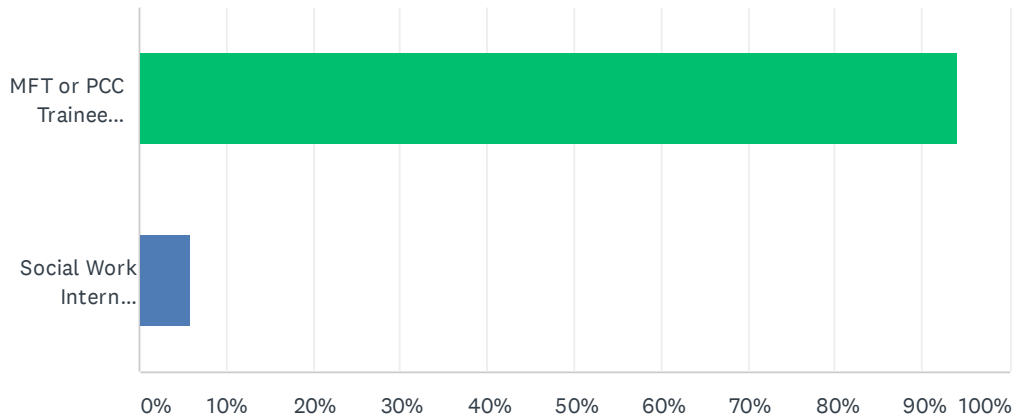


## Attachment C

# BBS Telehealth Survey for Students

Q1 Please indicate your current status.

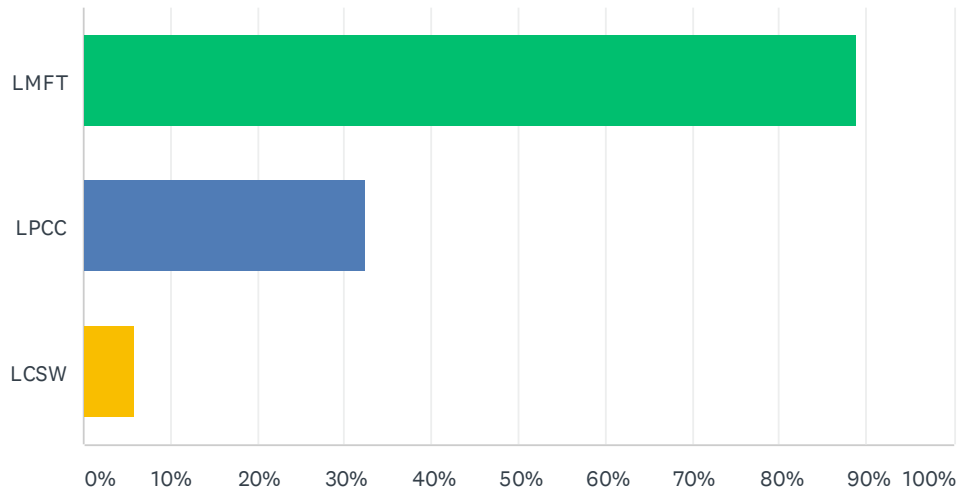
Answered: 784 Skipped: 0



ANSWER CHOICES	RESPONSES	
MFT or PCC Trainee (student)	94.13%	738
Social Work Intern (student)	5.87%	46
TOTAL		784

## Q2 Please indicate the type of license(s) you plan on pursuing.

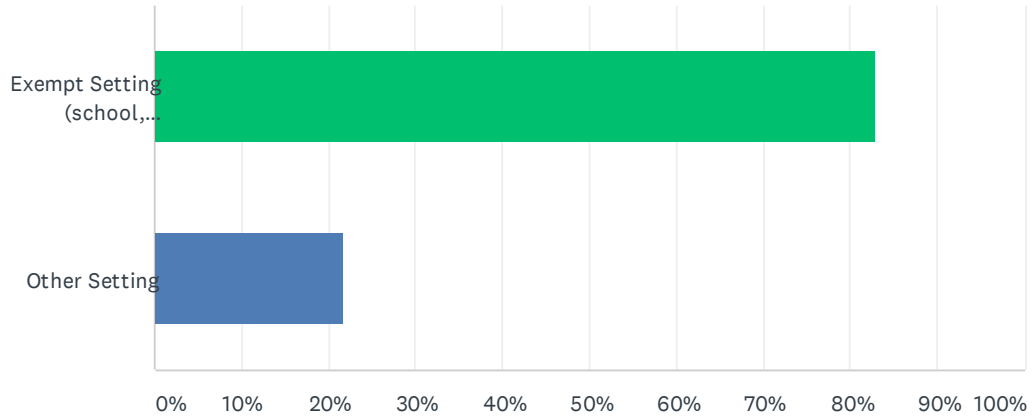
Answered: 784 Skipped: 0



ANSWER CHOICES	RESPONSES	
LMFT	88.90%	697
LPCC	32.53%	255
LCSW	5.87%	46
Total Respondents: 784		

### Q3 What type of setting(s) are you working in?

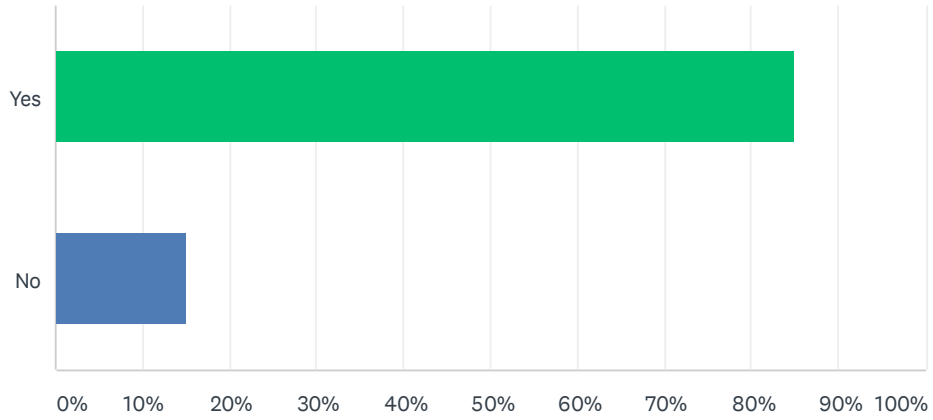
Answered: 784 Skipped: 0



ANSWER CHOICES	RESPONSES	
Exempt Setting (school, college or university, or a nonprofit and charitable entity)	82.78%	649
Other Setting	21.81%	171
Total Respondents: 784		

## Q4 Do you provide mental health services to clients via telehealth?

Answered: 633 Skipped: 151



ANSWER CHOICES	RESPONSES	
Yes	84.99%	538
No	15.01%	95
TOTAL		633

## Q5 If yes, what have been the advantages of providing services to clients via telehealth?

Answered: 505 Skipped: 279

### SAMPLING OF COMMENTS:

"Accessibility for clients from marginalized communities. These clients may not have the regional access to affirming and knowledgeable clinicians near their home, but through telehealth they have been able to access these life-changing services."

"Ease of access, continuity of care, providing therapy for clients unable to get into the office, providing therapy to quarantined individuals, clients opened up more in the relaxing environment of their home."

"It was more useful for clients with physical disabilities or individuals who were also caregiving."

"It has provided my clients better access to services and has allowed me more access to clients as well."

"Greater availability and more consistent attendance. Clients are more comfortable sharing emotionally sensitive content from the comfort of their own homes."

"More flexibility for the client in terms of when they can schedule appointments. I can see more clients. I don't have to commute 1.5 hours each way, thus lessening the damage on the environment. I have a health condition and it is less challenging to my body to be able to work via telehealth. Some students are more likely to do video sessions than to come to a physical location."

"Accessibility of services for clients; ability for me to manage school/work/practicum much more easily; increasing ability for self-care with reduced commuting."

"I have found that the clients open up quicker over telehealth than in person. Clients appreciate they do not have to drive to an in-person location, they can be relaxed in their own home. I can also quickly and easily share online resources with them."

" Fewer cancellation and tardiness. Being able to see client's face without exposure to COVID-19."

"Greater flexibility in meeting with clients. It allowed me to seek training working with the LGBTQ demographic group, otherwise, I would not have been able to train at the center given the location is a bit far if I could only work in person. Going multiple times a week would have been difficult but telehealth has proven wonderful and helpful."

"Flexible hours, seeing faces not covered by masks, lessened health anxiety."

## Q6 If yes, what have been the disadvantages of providing services to clients via telehealth?

Answered: 483 Skipped: 301

### SAMPLING OF COMMENTS (excluding those that said "none"):

"Not being able to read full body language (although therapy in person with a mask would be worse)."

"I do not get to take advantage of the energy in the room between words. There is more pressure to fill the space with words and less room for silences. There is less of the "experience" of therapy. It is like operating with only two senses instead of five. Functional but less than. It has been hard for people to find privacy. They call in from parks, cars, beside roads. There is no sacred safe space."

"Some clients do not have access to video for sessions and some clients are too distracted at home and not in a confidential area to speak freely."

"Nonverbal cues are sometimes lost. There is an intangible aspect to being in front of a person."

"Some clients did not have reliable internet connection. For younger clients, it can be difficult to engage keep client's attention. Groups can be difficult to facilitate over Telehealth."

"Not being present in the same space as the client. Inability to see client's entire body. Technical issues that either impede communication or make a session not doable. Decreased ability to utilize interventions that include physical activity like play therapy with children."

"Too many distractions. Can't feel the emotions in the room. Hard to work with couples and families, not everyone as engaged."

"a sense of disconnection, regular issues with connectivity. from my own therapy, i am also aware of how much more progress I have made since my own therapist returned to in-person work, implying to me that I am best suited to in-person work. I cannot help but anticipate that I would be similarly impacted by being in-person as the therapist (I have only ever seen clients via telehealth so far)."

"Not being able to do certain interventions via telehealth or certain interventions not being as effective as they would have been in person."

## Q7 If no, please explain why you have not been providing mental health services to clients via telehealth.

Answered: 94 Skipped: 690

SAMPLING OF COMMENTS (excluding comments stating that they have not yet started their practicum/seeing clients):

"I am a student and my practicum will be in person in a hospital setting. I have been going to personal therapy over zoom and it has been wonderful, and will continue to do, much easier to find time for appointments when not having to include travel/parking time as well."

"With this new school year approaching, the administration wants services to be provided in person. Unless COVID goes back into lockdown or for some reason education services are solely online."

"When asked, I was informed it was unlikely I would be able to intern online because agencies were moving forward with in-person services."

"Clients lack accessibility to reliable internet and technology, feedback on telehealth efficacy was poor, clients prefer in person services."

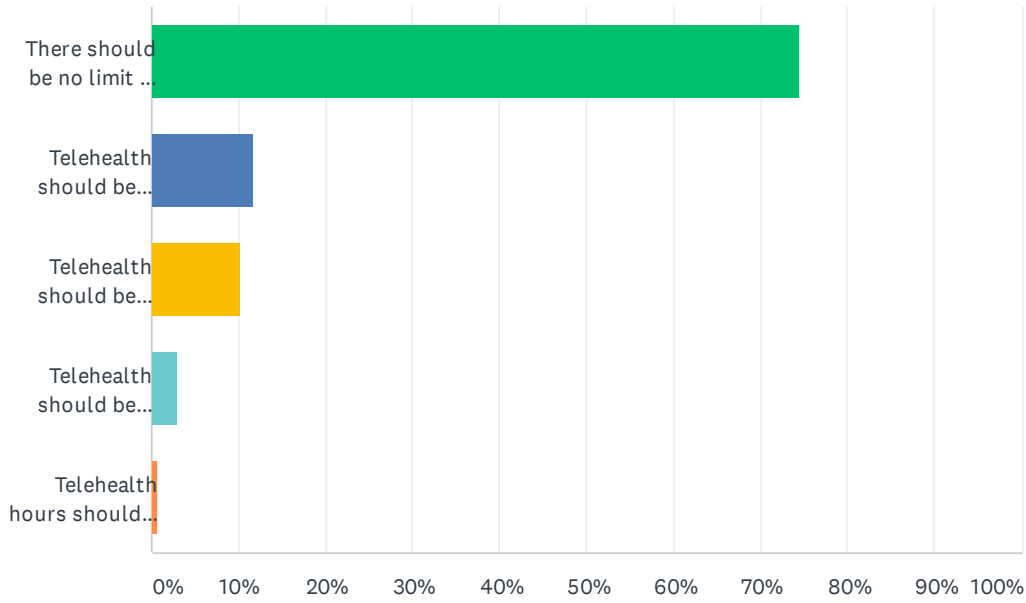
"I work at an inpatient center."

"I will be starting practicum this fall and have been told that my client hours will be in person. However I have classmates whose hours will be via telehealth and they are very concerned about completing enough hours."

"I am at a school so I see the students during school hours."

### Q8 Do you believe Students (defined as MFT trainees, PCC trainees and social work interns) should have a limit on the percentage of supervised experience hours they are allowed to gain in providing mental health services to clients via telehealth?

Answered: 550 Skipped: 234

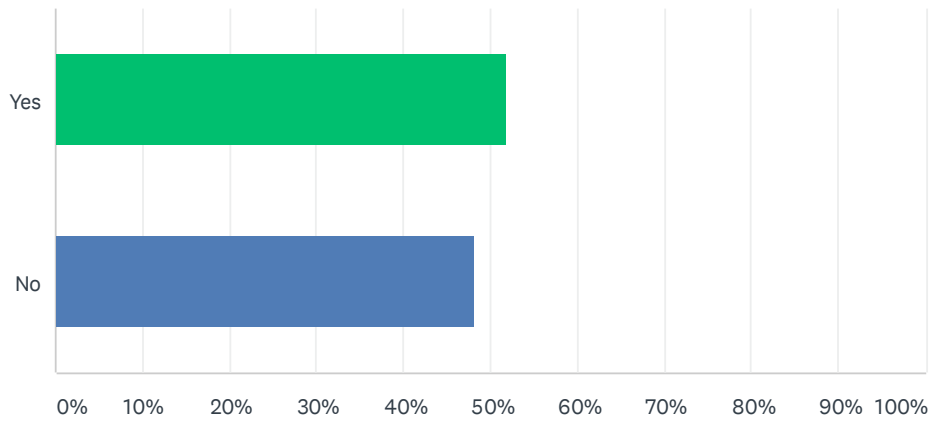


ANSWER CHOICES	RESPONSES
There should be no limit to telehealth hours	74.55% 410
Telehealth should be limited to 75% of hours	11.64% 64
Telehealth should be limited to 50% of hours	10.18% 56
Telehealth should be limited to 25% of hours	2.91% 16
Telehealth hours should not be allowed at all	0.73% 4
<b>TOTAL</b>	<b>550</b>



### Q9 Did your school provide you with coursework or training specific to providing services to clients via telehealth?

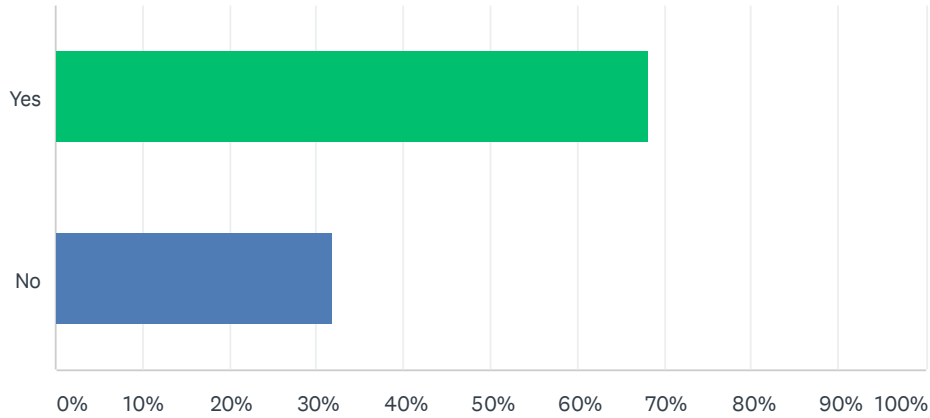
Answered: 550 Skipped: 234



ANSWER CHOICES	RESPONSES	
Yes	51.82%	285
No	48.18%	265
TOTAL		550

### Q10 Do you feel that you received the coursework or training you needed from your school to be adequately prepared to provide services via telehealth?

Answered: 550 Skipped: 234



ANSWER CHOICES	RESPONSES	
Yes	68.18%	375
No	31.82%	175
TOTAL		550

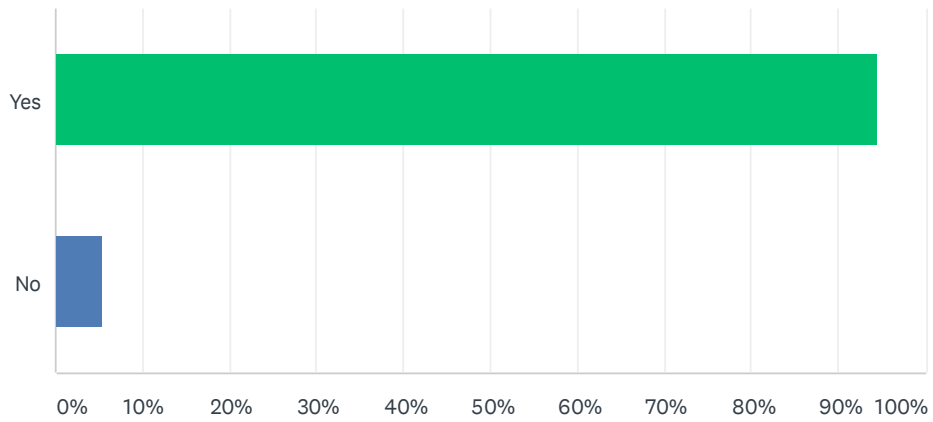
Q11 If coursework regarding providing services to clients via telehealth were required, what topics would you like to see covered to maximize your preparedness for the task?

Answered: 550 Skipped: 234

ANSWER CHOICES	RESPONSES	
Topic 1	99.82%	549
Topic 2	68.55%	377
Topic 3	44.55%	245
Topic 4	21.09%	116
Topic 5	10.91%	60
Topic 6	4.91%	27
Topic 7	4.36%	24

## Q12 Does your school permit you and your supervisor to meet for clinical supervision via videoconferencing?

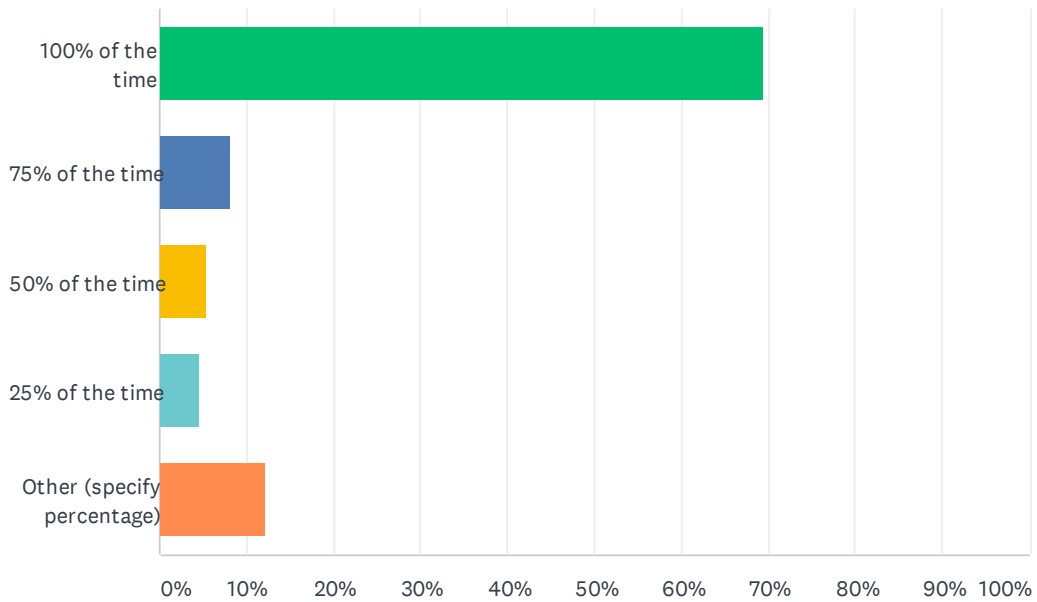
Answered: 550 Skipped: 234



ANSWER CHOICES	RESPONSES	
Yes	94.55%	520
No	5.45%	30
TOTAL		550

### Q13 What percentage of the time do you meet with your supervisor for clinical supervision via videoconferencing?

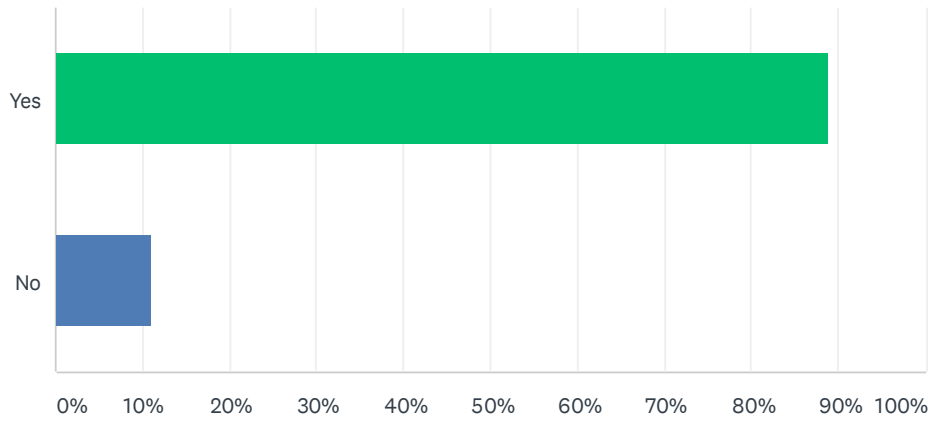
Answered: 499 Skipped: 285



ANSWER CHOICES	RESPONSES	
100% of the time	69.54%	347
75% of the time	8.22%	41
50% of the time	5.41%	27
25% of the time	4.61%	23
Other (specify percentage)	12.22%	61
<b>TOTAL</b>		<b>499</b>

## Q14 Do you feel that it is as effective as in-person clinical supervision?

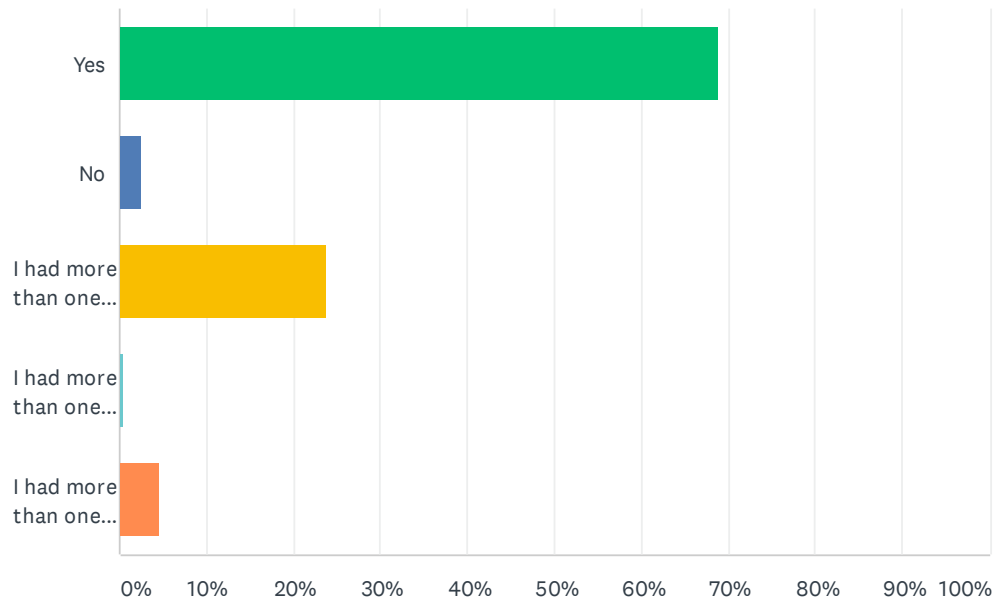
Answered: 481 Skipped: 303



ANSWER CHOICES	RESPONSES	
Yes	88.98%	428
No	11.02%	53
TOTAL		481

## Q15 Do you feel that your supervisor had the competency to provide supervision via videoconferencing?

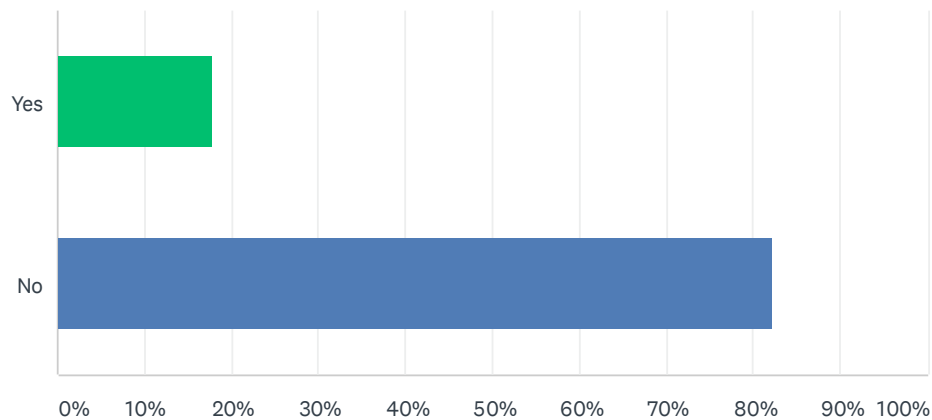
Answered: 483 Skipped: 301



ANSWER CHOICES	RESPONSES	
Yes	68.74%	332
No	2.48%	12
I had more than one supervisor and all were competent in this area	23.81%	115
I had more than one supervisor and none had adequate competency in this area	0.41%	2
I had more than one supervisor and some had adequate competency in this area and some did not	4.55%	22
<b>TOTAL</b>		<b>483</b>

## Q16 Have you experienced any disadvantages or problems with clinical supervision via videoconferencing?

Answered: 483 Skipped: 301



ANSWER CHOICES	RESPONSES	
Yes	17.81%	86
No	82.19%	397
TOTAL		483

### SAMPLING OF COMMENTS FOR THOSE WHO ANSWERED "YES":

"Minimal time for side conversations, making personal connections w/ supervisors & colleagues, etc."

"During triadic and group supervision I find it difficult to get my word in, add my input, or ask for additional help when I can't read body language and we sometimes end up talking over each other. It is not ideal."

"It is more difficult to have a conversation that feels organic, especially in group supervision."

"Wifi lag. Compared to the potential disadvantages and problems of traffic in our area, it pales. If we are providing therapy by telehealth, then we probably should be observed/supervised by telehealth at least sometimes. If we are working a hybrid model, maybe it makes sense to have hybrid supervision."

### SAMPLING OF COMMENTS FOR THOSE WHO ANSWERED "NO":

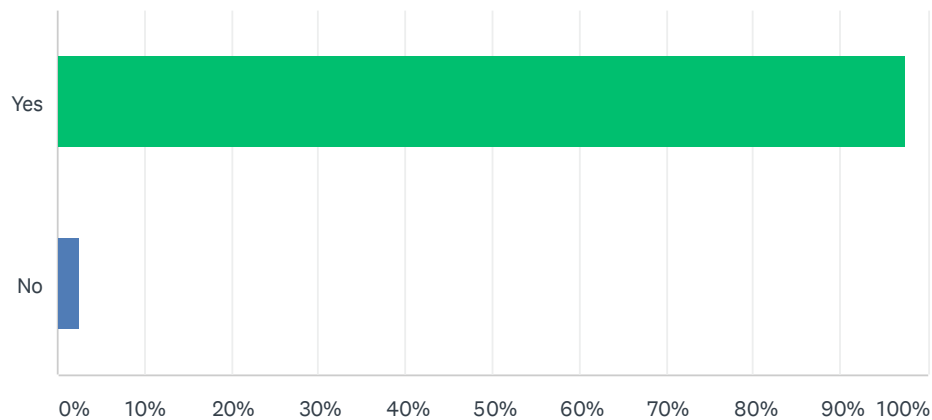
"My supervisor and other staff have office hours and are readily available to help whenever there is a question. My supervisor is also response quickly to email, phone calls, texts when it's an emergency. I have always felt very well supervised and supported even when dealing with very difficult crisis situations for the first time."

"It seems like supervision functions adequately over videoconferencing. Even when technical problems have come up, we have been able to work around them."



## Q17 Do you believe that allowing clinical supervision via videoconferencing provides Students with any benefits?

Answered: 522 Skipped: 262



ANSWER CHOICES	RESPONSES	
Yes	97.51%	509
No	2.49%	13
TOTAL		522

### SAMPLING OF COMMENTS:

"It is cheaper to pay for online supervision than it is for in person. It's more convenient because of times to choose from not typical 9-5 hours. I do not have to drive 3 hours to a supervisor."

"Having supervision the same way that I meet with my clients was a huge benefit. I was able to be fully there both with my clients and supervisor. I didn't have to worry about traffic on the road or running late with a client because I knew that supervision was just a click away. It provided more fluid conversation because we didn't have to pack up and leave."

"I believe that supervision videoconferencing provides many benefits. Doing video conferencing the supervisor and clinician are able to share screens with each other to obtain clarification to questions. In person this is more difficult. Also the supervisor is able to instantly share resources to the clinician that will help them with providing adequate services."

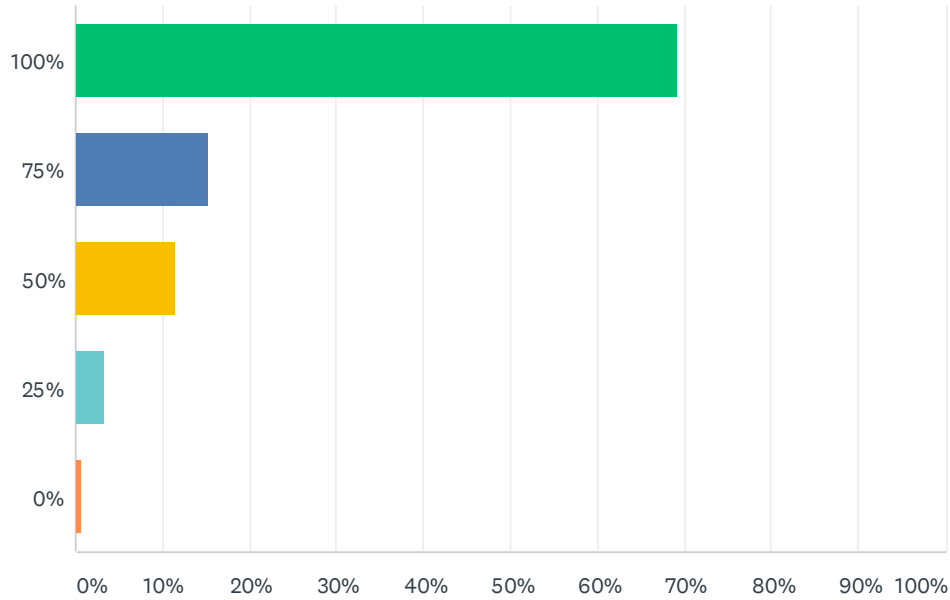
"Yes, student are already juggling so much - including mostly UNPAID traineeship hours. Videoconferencing allows for more flexibility and less commute time, which is critical."

"Convenience, continued supervision despite quarantine requirements, ability to see full facial expression without masks on videoconference vs mask-wearing for in-person supervision."

"in person is better, video is just more convenient."

Q18 If a certain percentage of clinical supervision were to be allowed via videoconferencing in ALL settings (it is currently only allowed in "exempt" settings), what percentage do you think would be most beneficial and why?

Answered: 522 Skipped: 262



ANSWER CHOICES	RESPONSES
100%	69.35% 362
75%	15.33% 80
50%	11.49% 60
25%	3.26% 17
0%	0.57% 3
TOTAL	522

Q18 If a certain percentage of clinical supervision were to be allowed via videoconferencing in ALL settings (it is currently only allowed in "exempt" settings), what percentage do you think would be most beneficial and why?

Answered: 522 Skipped: 262

SAMPLING OF COMMENTS:

"I think it should be up to the supervisor and trainee. If they want to meet in person, or the supervisor or student prefers it, then that makes sense to do. I don't see any reason why this shouldn't be worked out between the supervisor and trainee."

"100% should be allowed, but students and supervisors should have the choice to determine what works best for their schedules and specific concerns."

"Most the time video conferencing can be done but i do feel an in person session periodically is important."

"So long as the supervisor is competent to provide online supervision and the modality is suited to telehealth, there should be no restriction. Sites should be able to set their own policies, and students/schools can hold them accountable."

"I believe a limit should not be placed as each situation and setting have differing needs and requirements. My county agency services clients in far reaching areas, not really suitable for in person contacts each week."

"Allows supervisors from across the state to provide supervision to trainees/associates."

"Both have different advantages. Telehealth flexibility is vital to those who are students, working to pay rent, and getting trainee hours. In person is vital to the connection and support between supervisor and other trainees."

"I don't think supervision should exclusively be offered virtually, or in person. If certain trainings are more conducive to in person practice/ training, then those should be offered in person. General supervision about cases however can be done entirely remotely."

"In person is so beneficial because your supervisor can pick up on more of what you are learning and not learning when you are in the room together."

"It is hard to say the ideal as I have only received clinical supervision via videoconferencing. I think it is hard to say what would be most beneficial without experiencing both. I guess I would encourage flexibility over a hard percentage. Who knows what situations people will face? Why lock yourself into a rigid rule? For someone in a rural area or a huge metropolis videoconferencing might allow access to someone great! I think the focus should be on the quality of supervision, not the mode in which it is delivered."

## Q19 Do you have any additional comments?

Answered: 155 Skipped: 629

### SAMPLING OF COMMENTS:

"This is the way the field is going (telehealth). Any therapist of the future must be adept at both telehealth and live therapy. This hybrid and ease and flexibility to adapt to clients' needs should be the priority."

"Let us keep telehealth 100% of the time, and supervision through video 100% of the time. As our field adapts so must our training and experiences this is the new way. It can also be easier to reach out to less privileged people and people who may not go to a "therapy" office. Thanks for reading."

"My training via telehealth was the most comforting experience when dealing with my anxiety as a new therapist. I have been able to have supervisors directly sit in my sessions and offer real time feedback in private chats as I counseled families."

"It is INCREDIBLY hard as a new trainee to figure out how to work with children via telehealth. I went in person for a month and 1 in person session was like 5 telehealth sessions as far as productivity and having a useful session."

"I think teletherapy should definitely continue to count towards our hours! Now that we realize it can work for most clients, many of them may not want to go back to in-person."

"People with disabilities have been asking for options like videoconferencing for decades. Plus, it is an option that makes everyone's lives a little easier."

"I worked in the mental health service field doing home visits (in neighborhoods with the greatest needs and barriers to those services) and office visits and now telehealth. I also see my own psychiatrist and therapist on line and I can honestly say that I think the most important aspect to providing mental health services is access. Telehealth has made access undeniably easier and safer for both clients and practitioners. It has also opened up opportunities for people to access mental health specialist like someone who works with autistic children with a theory that is relationship-based verses behavioristic. It can also create the same opportunity for those of us who want to train with specialty mental health sites because that is the population we want to work with. Telehealth isn't going away, I think the BBS needs to embrace it and use the opportunities it provides to create better mental health providers."

"I am autistic. I am aware that my perspective on these matters is unique, and I invite the Board to reach out to me with questions. Our profession desperately needs more neurodiverse clinicians, and removing telehealth restrictions would be a powerful move of solidarity for those of us who are neurodiverse and struggling to enter this profession."

Q20 Provide your name and contact information in case the Board has any follow-up questions or to be informed of future discussions on the topic.  
(OPTIONAL)

Answered: 221 Skipped: 563

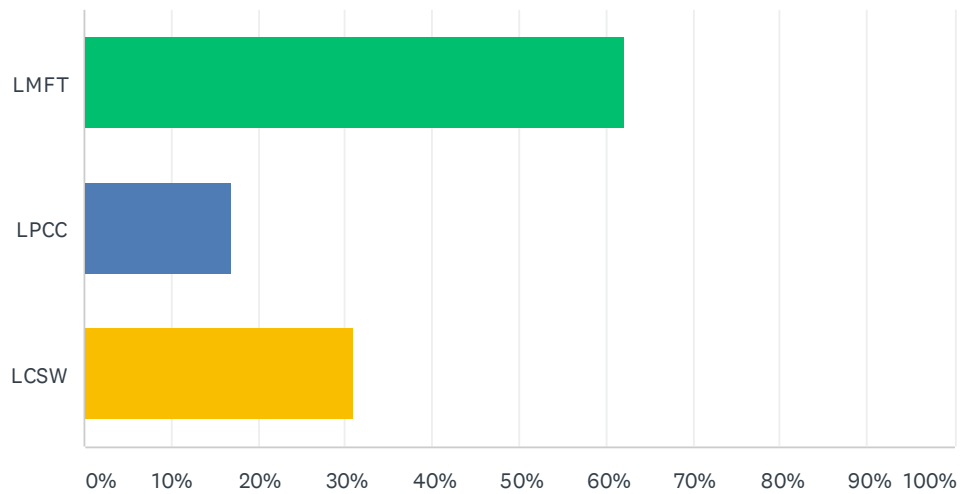
ANSWER CHOICES	RESPONSES	
Name	98.64%	218
Address	83.71%	185
Address 2	16.29%	36
City/Town	87.33%	193
State	88.24%	195
Zip/Postal Code	85.97%	190
Email Address	99.10%	219
Phone Number	81.90%	181

## Attachment C

# BBS Telehealth Survey for Associates

Q1 Please indicate the type of license(s) you plan on pursuing.

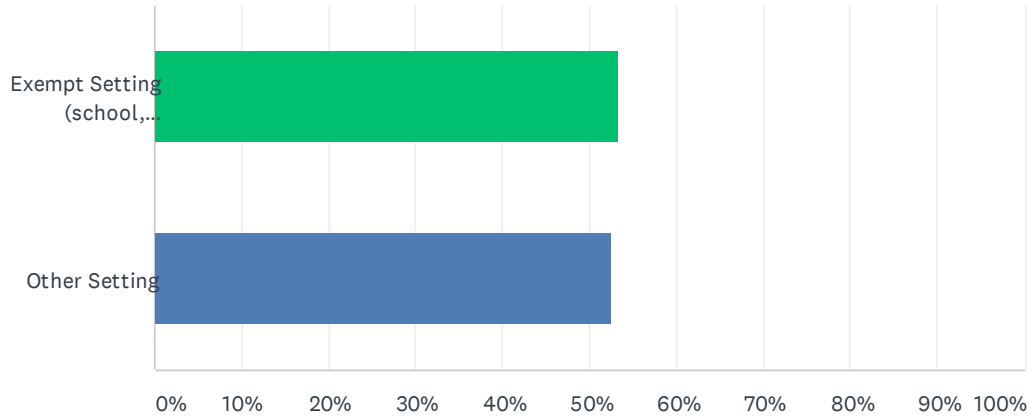
Answered: 2,523 Skipped: 0



ANSWER CHOICES	RESPONSES
LMFT	62.07% 1,566
LPCC	17.04% 430
LCSW	31.03% 783
Total Respondents: 2,523	

## Q2 What type of setting(s) are you working in?

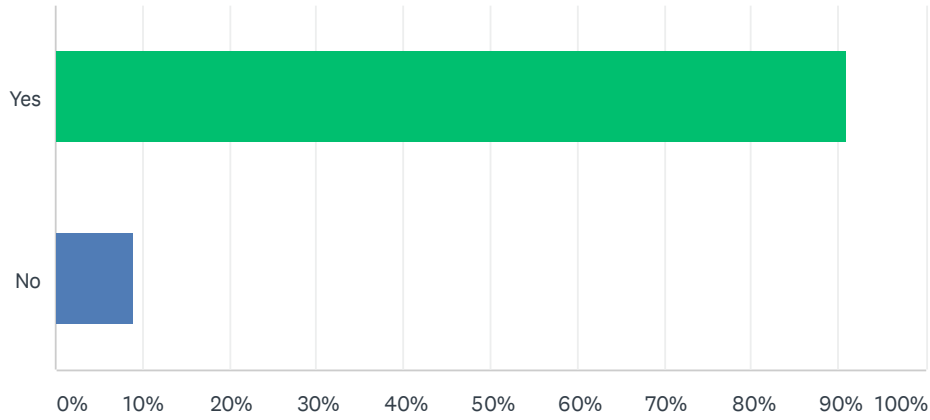
Answered: 2,523 Skipped: 0



ANSWER CHOICES	RESPONSES	
Exempt Setting (school, college or university, or a nonprofit and charitable entity)	53.31%	1,345
Other Setting	52.48%	1,324
Total Respondents: 2,523		

### Q3 Do you provide mental health services to clients via telehealth?

Answered: 2,149 Skipped: 374



ANSWER CHOICES	RESPONSES	
Yes	91.02%	1,956
No	8.98%	193
TOTAL		2,149



## Q4 If yes, what have been the advantages of providing services to clients via telehealth?

Answered: 1,867 Skipped: 656

### SAMPLING OF COMMENTS:

"I get to see clients from all over the state of CA who are in desperate need of HAES and Intuitive Eating-informed care for severe eating disorders. I can see clients who have extremely busy schedules and can't take time off of work or school to drive to and from a therapy appointment. Clients feel comfortable in their environments. Also, some of my clients are in bodies that are differently abled, or have 10/10 anxiety about going outside due to body image disturbance and these clients hugely benefit from telehealth and have been able to make progress regarding reducing anxiety and eventually re-entering their lives."

"Greater access for low-income and/or traumatized clients, who often struggle with logistics of getting to/from appointments. Also greater access for chronically ill and disabled clients to receive therapy services. Higher engagement in treatment overall when telehealth is available."

"Attendance is significantly more reliable. Clients very rarely cancel or no-show. Clients seem comfortable in their space and are able to share more of their circumstance with counselor."

"There are so many! The top advantages include working with clients who are unable to come in-person because of safety concerns or commuting issues, an increase in flexibility for my schedule, and a decrease in associated costs with operating in an office space."

"Clients in other parts of state where specialist is not located. Transportation issues where clients are unable to drive. Able to see clients with agoraphobia not ready to leave house. Able to do at home exposures with clients. Encourages clients to meet virtually if they are not feeling well."

"Ease and availability of treatment to those that need or desire alternative options; elderly, busy working professionals, younger clients that expect a telehealth option, etc."

"Ease and availability of treatment to those that need or desire alternative options; elderly, busy working professionals, younger clients that expect a telehealth option, etc."

"Accessibility to clients, safety with regards to COVID & limiting exposure/risk, consistent clients, support during a time that our society needs it most, flexibility for clients, strengthening our versatility in the way we deliver mental health services, more affordable and reached more people."

"Accessibility to clients, safety with regards to COVID & limiting exposure/risk, consistent clients, support during a time that our society needs it most, flexibility for clients, strengthening our versatility in the way we deliver mental health services, more affordable and reached more people."

## Q5 If yes, what have been the disadvantages of providing services to clients via telehealth?

Answered: 1,801 Skipped: 722

### SAMPLING OF COMMENTS :

"Challenging is not being in the physical office setting to speak to colleagues."

"Not sure where the client is if they change location, but confirming each time is helpful. Clients sitting in a car. Lack of privacy. Some people like to go somewhere. Less boundaries."

"The primary disadvantages have been not being able to see a client's entire body, as that can make it more difficult to understand the client's state, particularly for clients who are prone to dissociation or have difficulty connecting with their bodies. However, I have found this to slow the therapeutic work, not prevent it. The other primary challenge is when there are internet issues or when a child is not given appropriate privacy."

"Not being able to as easily collaborate with colleagues when a client is in crisis, nor being able to regulate client's nervous systems while being in the room with them. Also, engagement is slightly more challenging with teens."

"Sometimes building the relationship is harder."

"As a clinician, it is sometimes difficult to discern a person's full energy and mood on screen, and some interventions are best suited to in-person work."

"It's difficult to do some aspects of play therapy or work with younger kids. Confidentiality limitations, screen fatigue, difficult to run some groups."

"Too many distractions for both client and therapist."

"Decreases activity options, more difficult to read body language, issues with technology, clients sometimes do not want to turn on their camera, more distractions, and a little more difficult to feel human connection."

"Sometimes the clients don't have enough privacy or there are technical challenges with telehealth. Zoom fatigue for the therapist and/or the client. Some clients are students and also have to do telehealth in school or maybe for their jobs too. Not as personable as face to face and can be more challenging to build rapport with some. Some clients don't trust telehealth services and/or are camera shy. If clients turn their video off or prefer a phone call due to these concerns or technical challenges then I am unable to see body language and am limited to tone of voice, which can be misinterpreted. With some therapy telehealth is not appropriate."

## Q6 If no, please explain why you have not been providing mental health services to clients via telehealth.

Answered: 340 Skipped: 2,183

### SAMPLING OF COMMENTS:

"I am not providing mental health services at this time."

"I work at a housing agency where most of the clients do not have access to transportation so it is important to do home visits."

"My work agency does not offer telehealth to their clients and the work setting which I'm in is primarily direct contact care."

"Intensive outpatient program for substance use population."

"Work in a hospital."

"We are open for seeing clients in person and that is what they prefer."

"I have some kids returning to in person but now the issue is their face is covered by the mask. It is really dependent on the clients ability to be treated successfully via Telehealth. Some teens and adults do very well some younger kids are better served in person."

"I have been limiting as much as possible. I don't believe it is true to the therapeutic process."

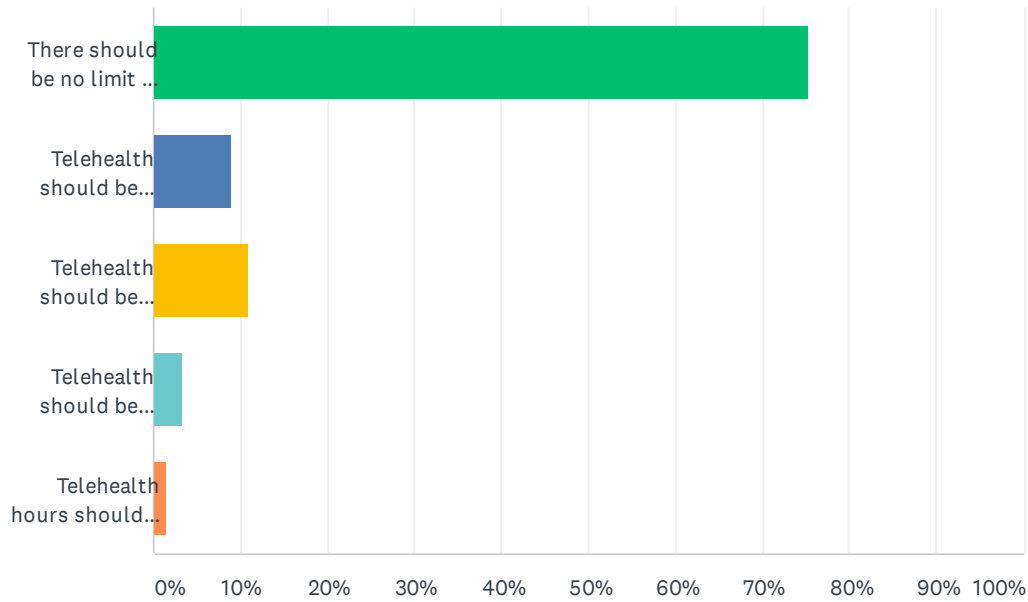
"I work in a dialysis clinic and we have been open since the pandemic began."

"I have concerns about confidentiality, also security and safety for client(s) I am also not certain I have the proper equipment to move forward with telehealth."

"I work with unhoused folks in skid Row. Telehealth is not an option."

## Q7 Do you believe Associates should have a limit on the percentage of supervised experience hours they are allowed to gain in providing mental health services to clients via telehealth?

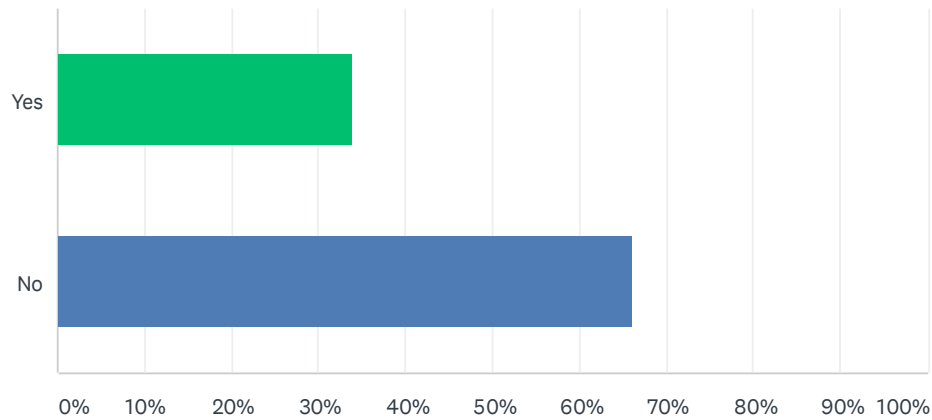
Answered: 1,887 Skipped: 636



ANSWER CHOICES	RESPONSES	
There should be no limit to telehealth hours	75.41%	1,423
Telehealth should be limited to 75% of hours	8.90%	168
Telehealth should be limited to 50% of hours	10.97%	207
Telehealth should be limited to 25% of hours	3.34%	63
Telehealth hours should not be allowed at all	1.38%	26
<b>TOTAL</b>		<b>1,887</b>

## Q8 Did your school provide you with coursework or training specific to providing services to clients via telehealth?

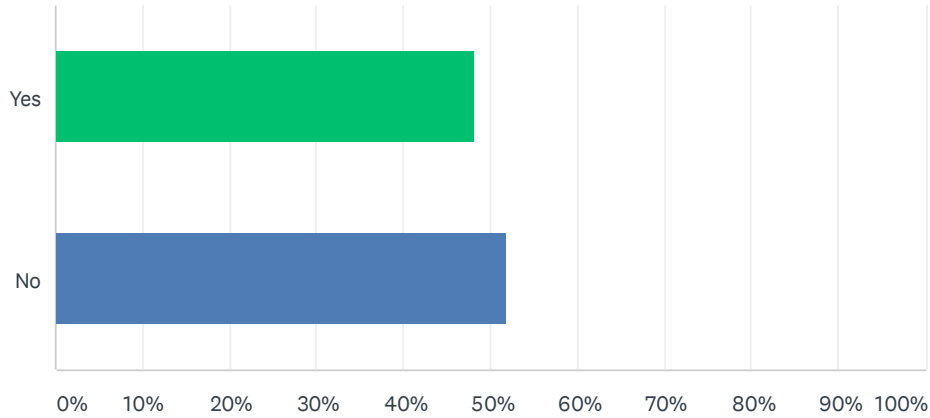
Answered: 1,887 Skipped: 636



ANSWER CHOICES	RESPONSES	
Yes	33.86%	639
No	66.14%	1,248
TOTAL		1,887

### Q9 Do you feel that you received the coursework or training you needed from your school to be adequately prepared to provide services via telehealth?

Answered: 1,887 Skipped: 636



ANSWER CHOICES	RESPONSES
Yes	48.07% 907
No	51.93% 980
TOTAL	1,887

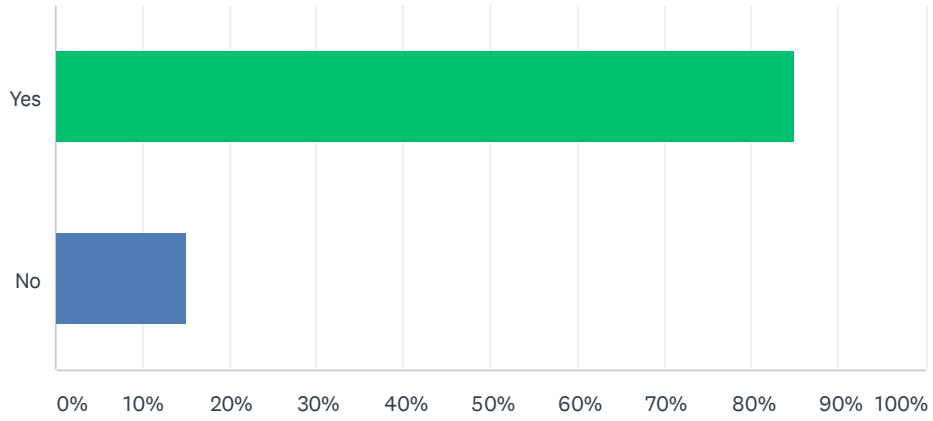
Q10 If coursework regarding providing services to clients via telehealth were required, what topics would you like to see covered to maximize your preparedness for the task?

Answered: 1,887 Skipped: 636

ANSWER CHOICES	RESPONSES	
Topic 1	100.00%	1,887
Topic 2	69.16%	1,305
Topic 3	44.41%	838
Topic 4	21.52%	406
Topic 5	9.70%	183
Topic 6	4.77%	90
Topic 7	2.81%	53

## Q11 As an ASSOCIATE, do you and your supervisor meet for clinical supervision via videoconferencing?

Answered: 1,818 Skipped: 705

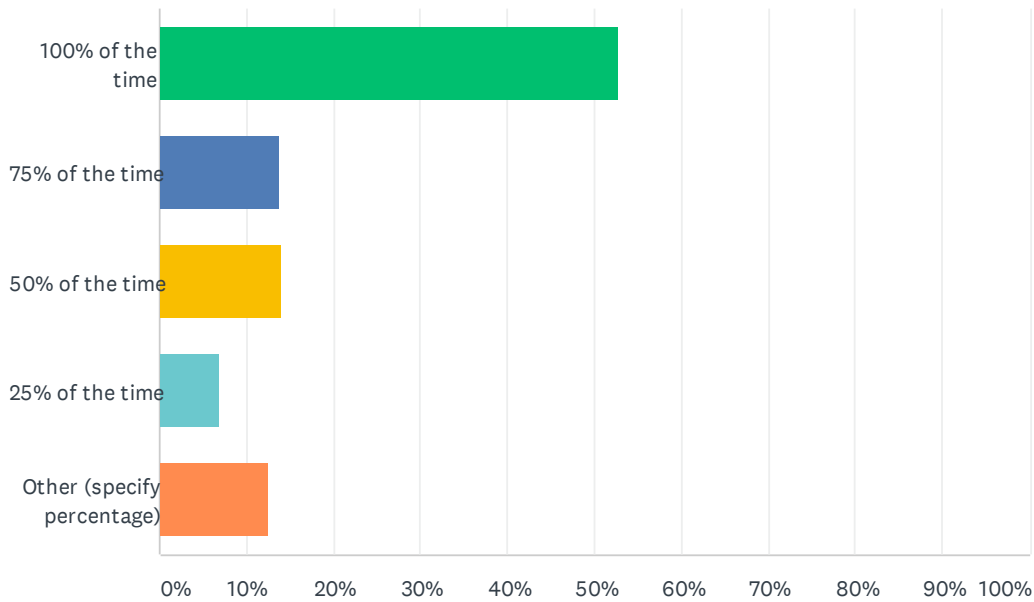


ANSWER CHOICES	RESPONSES	
Yes	84.93%	1,544
No	15.07%	274
TOTAL		1,818



## Q12 What percentage of the time did you meet with your supervisor for clinical supervision via videoconferencing as an Associate?

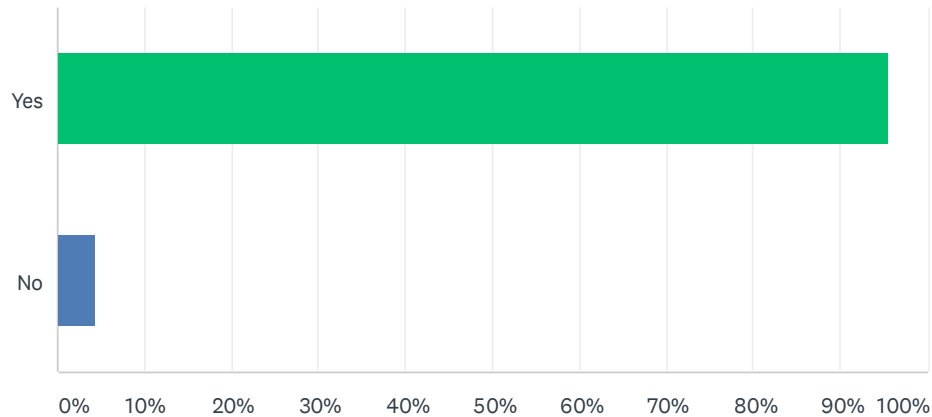
Answered: 1,514 Skipped: 1,009



ANSWER CHOICES	RESPONSES	
100% of the time	52.77%	799
75% of the time	13.80%	209
50% of the time	13.94%	211
25% of the time	6.94%	105
Other (specify percentage)	12.55%	190
<b>TOTAL</b>		<b>1,514</b>

## Q13 Do you feel that it was as effective as in-person clinical supervision?

Answered: 1,506 Skipped: 1,017



ANSWER CHOICES	RESPONSES	
Yes	95.68%	1,441
No	4.32%	65
TOTAL		1,506

### SAMPLING OF COMMENTS:

"I get all the answers I need and find it easy to speak and be heard in clinical supervisor."

"If anything, it's better because my Supervisor is in an entirely different city. We're able to meet regularly and easily, and can share resources with zero problems."

"We review clients as we would in person, she checks in w/ me and will take same time and care when needing support or processing difficult cases. At times, I feel it's better because she has provided tools and resources for me and clients that are online - she wouldn't do that when we are face to face."

"I believe the quality of supervision is not the same as in-person. Not to say that my questions were not answered, but the need to connect and the need to feel supported was diminished by videoconferencing. The same applies to group supervision or triadic."

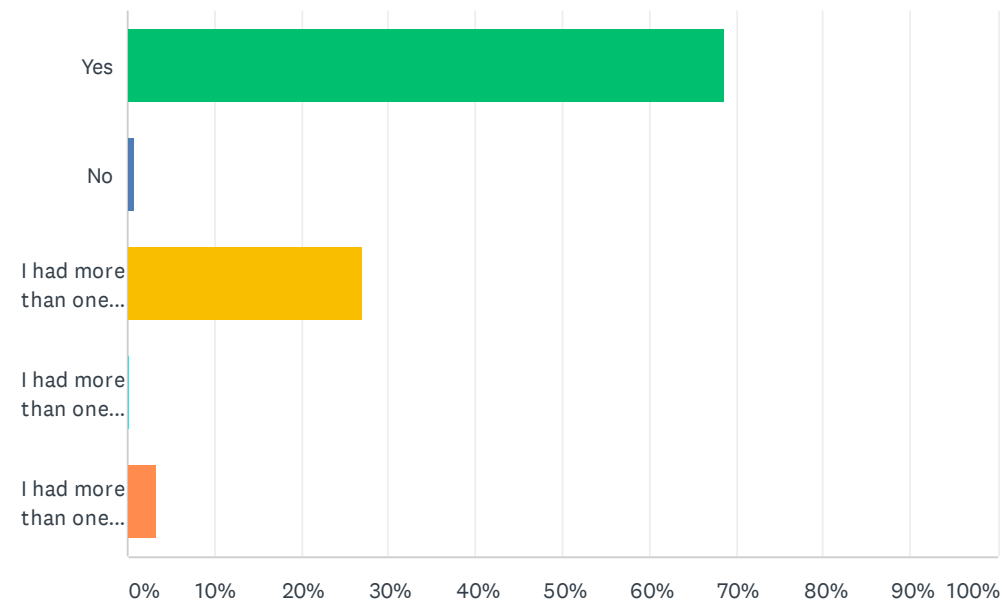
"I feel there were even fewer challenges with meeting via video conference for supervision than there were for providing therapy via telehealth. "

"As effective or more effective for 1 on 1 supervision. Less effective for group supervision of more than 2 supervisees."

"Ability to use materials in own location versus having to haul to meeting location. It felt no different than in person other than physically being able to touch them. Still able to see non-verbal cues, use of tech for research, ability to review documents."

## Q14 Do you feel that your supervisor had the competency to provide supervision via videoconferencing?

Answered: 1,517 Skipped: 1,006



ANSWER CHOICES	RESPONSES	
Yes	68.69%	1,042
No	0.86%	13
I had more than one supervisor and all were competent in this area	26.90%	408
I had more than one supervisor and none had adequate competency in this area	0.13%	2
I had more than one supervisor and some had adequate competency in this area and some did not	3.43%	52
<b>TOTAL</b>		<b>1,517</b>

### SAMPLING OF COMMENTS:

"All of my supervisors have put in extra effort to be knowledgeable in this area."

"They have all been able to engage with the technology and even though some weren't a good fit, I don't think the problem was due to it being over video."

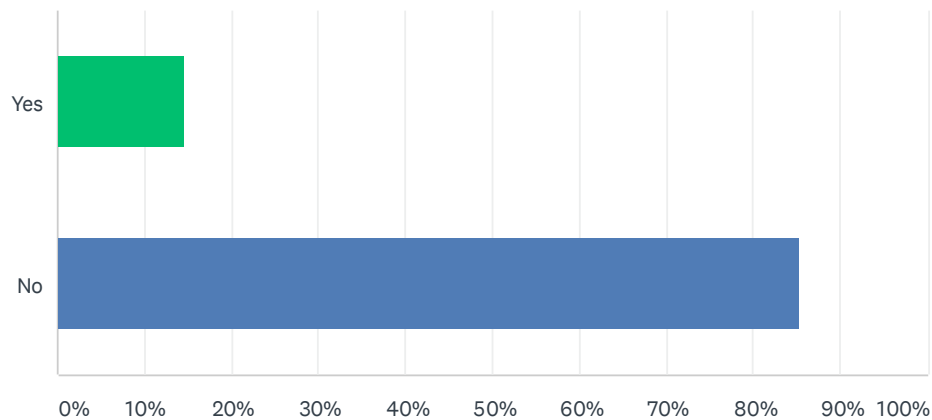
"Supervision via video was far more effective than supervision in person. It was easier to share resources, stay focused, and even consult with therapists elsewhere."

"I had some very great supervisors, but I also had another supervisor who was constantly getting interrupted by children in home, and did not provide supervision from an adequate working space."

"I found that I did have one supervisor who was not competent on the computer. But to be quite honest, I think that would have been the same in person. This supervisor didn't manage her own stress, workload, or countertransference at all."

## Q15 Have you experienced any disadvantages or problems with clinical supervision via videoconferencing?

Answered: 1,506 Skipped: 1,017



ANSWER CHOICES	RESPONSES	
Yes	14.67%	221
No	85.33%	1,285
TOTAL		1,506

### SAMPLING OF COMMENTS:

"My supervisor struggles in group supervision making sure each supervisee participates, e.g., providing feedback to colleagues who showed video."

"With triadic and group supervision it can sometimes be more challenging to engage a flow of ideas in light of internet bandwidth and audio/microphone limitations."

"I had 2 crises to deal with, and it was challenging as an intern not being able to talk and problem solve in person."

"I feel less connected over telehealth and less willing to contribute to the group."

"The only thing I can say to this is if your supervisor is not up to par in person, it will not be better via videoconferencing. That was my experience at my practicum site when covid started in 2020."

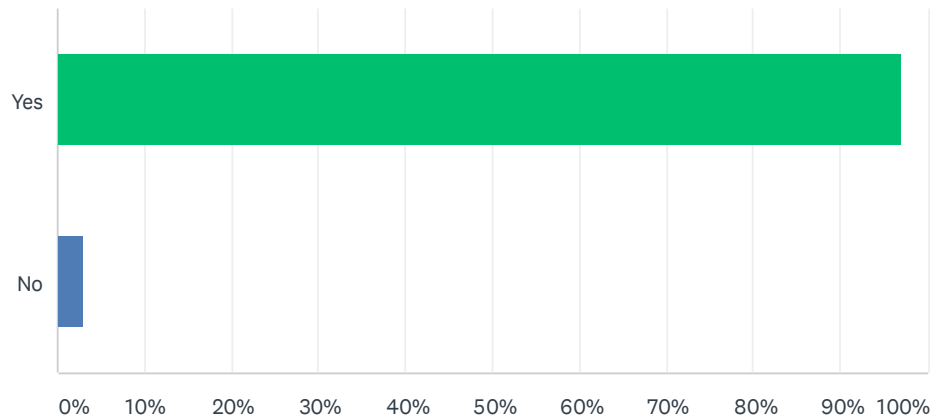
"Supervisors were not as present via videoconferencing. While they may be more attuned or concentrated in person."

"It took longer for us to establish the culture of our supervision group online than in person. But once this was established, it felt quite seamless."

"Zoom fatigue. it was more difficult to engage during supervision due to distractions or inability to see material during case presentations."

## Q16 Do you believe that allowing clinical supervision via videoconferencing provides Associates with any benefits?

Answered: 1,759 Skipped: 764



ANSWER CHOICES	RESPONSES	
Yes	97.04%	1,707
No	2.96%	52
TOTAL		1,759

### SAMPLING OF COMMENTS:

"Associates are already woefully underpaid and exploited in terms of hours. Expecting an associate to drive, pay extra for supervision, parking, and spend extra hours is insulting and needless."

"virtual meetings are here to stay for many individuals. Therefore, videoconferencing with supervisors can act as trainings and learning for Associates. "

"Ease of meeting, esp for associates with physical or mental health disabilities."

"It is easier, allows us to share electronic material easier through shared drive, PDF, chat, etc."

"Convenience.. access to a supervisor you may otherwise not, e.g. an LCSW vs another mental health professional."

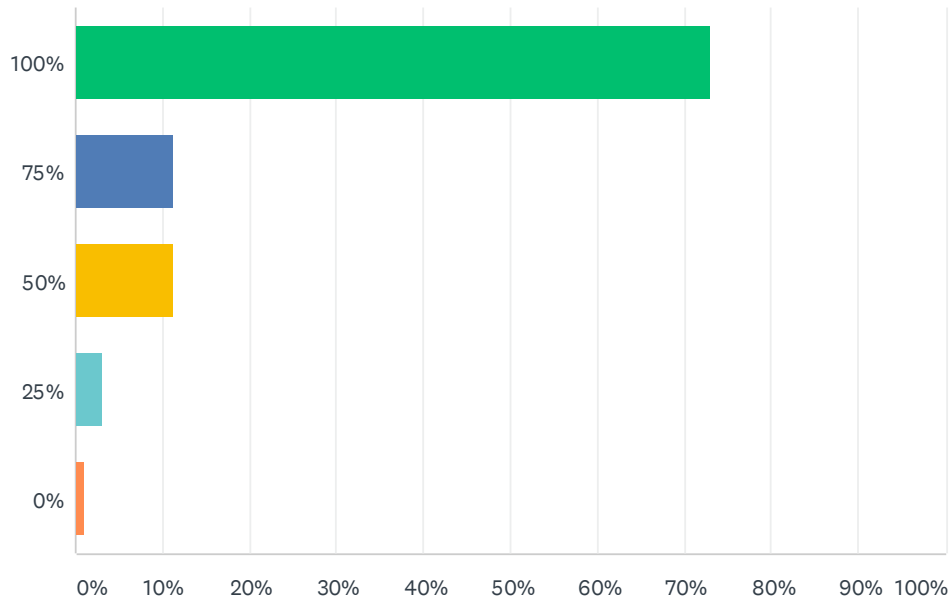
"I am able to have a fantastic supervisor who lives far from my clinic - but volunteered during the pandemic to help in any way she could. I will lose her if we have to go back to in person. Online allows us freedom to be supervised by therapists with specialties we are interested in rather than just having to use someone based on geography."

"Saves time to focus on clients and not extra time finding parking and driving."

"We can access supervisors who give us incredible support and respect. I've seen terrible supervisors, ones I would've been stuck with if I hadn't had the opportunity to move to video conferencing."

Q17 If a certain percentage of clinical supervision were to be allowed via videoconferencing in ALL settings (it is currently only allowed in "exempt" settings), what percentage do you think would be most beneficial and why?

Answered: 1,759 Skipped: 764



ANSWER CHOICES	RESPONSES	
100%	73.11%	1,286
75%	11.31%	199
50%	11.26%	198
25%	3.24%	57
0%	1.08%	19
TOTAL		1,759

## Q18 Do you have any additional comments?

Answered: 550 Skipped: 1,973

### SAMPLING OF COMMENTS:

"Removing videoconferencing clinical supervision will result in associated needing to leave jobs they have secured during COVID."

"Many clients like and prefer telehealth services over in-person services. By allowing more components of our work to occur through videoconferencing, you are providing more opportunities for people to practice their telehealth skills and continue to develop competence in this area."

"Telehealth has been just as effective in my work with clients as well as my supervision experiences. Many if not most of my clients are requesting to stay telehealth regardless of the pandemic status as many barriers such as travel, parking and gas have been removed and they enjoy the comfortability of therapy in their own home; I also have many clients in other counties in CA so telehealth is increasing accessibility to clients all over California."

"As a therapist that navigates my own disability, it was super disheartening to think that with private practice remote supervision no longer being permitted that I might have to choose a more high risk way of receiving supervision because only some settings are exempt."

"Frankly put, ending or further restricting the televideo option for clients and associates would upend and destabilize my entire caseload, and I wouldn't be the only one."

"In the process of becoming licensed I've observed that underserved communities are underserved in a large part due to professionals who would otherwise choose to serve their own communities being unable geographically to meet the BBS requirements for supervision. Many are forced to choose between driving distances that are prohibitive or relocating to more densely populated areas. If online supervision became available I believe there will be a more equitable distribution of mental health services to residents across California and associates would have increased access to highly skilled supervisors."

"Please increase accessibility of services by allowing 100% telehealth therapy services AND supervision in all settings and let schools, trainees, associates, licensed clinicians, and licensed clinical supervisors decide for themselves how they wish to practice."

"I have been able to train in a county that I may not have ever gotten the opportunity to train in. I was exposed to a more diverse population, and I was able to learn more resources for future patients. I also appreciate that I save 15 hours a week that can be spent on self care rather than driving, which reduces my probability for burnout."

"Please allow video conferencing in private practice settings. This will ensure the availability of BIPOC therapists in hard to reach areas, and decrease barriers for associates who are already managing several responsibilities and expectations."

Q19 Provide your name and contact information in case the Board has any follow-up questions or to be informed of future discussions on the topic.  
(OPTIONAL)

Answered: 630 Skipped: 1,893

ANSWER CHOICES	RESPONSES	
Name	99.05%	624
Address	80.48%	507
Address 2	13.02%	82
City/Town	84.44%	532
State	85.24%	537
Zip/Postal Code	83.65%	527
Email Address	93.65%	590
Phone Number	86.19%	543





**Question 12: Did the platform ever match you to clients in states where you are not licensed?**

The majority (82%) indicated they were not ever matched to clients in states where they were not licensed. However, 18% indicated that they were.

**Question 13: Did the platform provide you with any instructions regarding treating clients located in states where you are not licensed? If so, please describe.**

A large number of responses indicated that no instructions were provided. However, many reported being instructed that practice in a state where not licensed was not allowed, and to have any incorrectly matched out-of-state clients re-referred. Many noted that they had the ability to decline a client if they were out-of-state. Some were told it was their responsibility to know each state's requirements for practice in that state.

A few responses did indicate they were asked to see clients out of their license jurisdiction, or told it was ok briefly for continuity of care if a client was travelling. A couple responses mentioned that they were allowed to accept international clients.

**2. Custodian of Record and Informed Consent Agreements**

**Question 20: How was the client informed consent agreement handled when you worked for, or contracted with, the online-only therapy platform?**

A majority (70%) indicated the platform handled the informed consent agreement and maintained it as part of the client's records. 19% indicated that they handled the informed consent agreement and maintained it.

In the comments, several respondents indicated that they also did this themselves, even though the platform did as well.

**Question 21: Who served as the custodian of record for client health information and records when you were working for or contracting with the online-only therapy platform?**

65% indicated the online-only therapy platform served as the custodian of record. Only 17% indicated they served as custodian of record.

In the notes, several therapists indicated that even though the company was the custodian of record, they also kept their own files for their records.

**Question 22: How did the online-only therapy platform communicate its privacy policy and data sharing practices to your clients?**

Most indicated that these were delivered in writing by the company to the client, prior to beginning services (56%). However, 29% indicated that they did not know how this information was communicated to clients.

**3. Emergency Plan**

**Question 25: Did the platform have a clear emergency plan in place for clients in crisis?**

60% responded yes; 40% responded no.

**Question 26: Please briefly summarize the emergency plan.**

Below is a sampling of answers:

- Crisis team in place for emergencies with a protocol for therapists to follow.
- Emergency resources provided for each county they serve in CA (spread sheet available to all clinicians). Clinical staff are available for consultation by phone or on secured chat.
- Contact platform director to discuss case and need for 5150, or 911 call.
- They had a brief training on their crisis procedure. Basically the therapist would have access to the crisis team who was able to contact local emergency services (911, pmrt, etc) the client based on their location (also could cancel the therapist's other clients while on a crisis call). Then I'd they were contacted we would work with the crisis team to stay on the line with client until help arrived. Afterwards we were to write up a report about the crisis and submit to the clients file.
- Clients were required to contact 911. The platform stated they were not a crisis facility and clients were to be referred to a crisis line, emergency contact.
- There was a button on each client's platform where therapists could request help with a client and platform would provide full name, address, phone, and, contact person for the client.
- List of phone numbers on safety plan
- Each client required to complete a safety plan in initial session with Therapist. Saved electronically.
- Client notified if emergency please call 911 or go to nearest emergency room. Client also provided information of National Suicide Prevention Line and also Text Crisis Line numbers.

**Committee Direction**

After identifying and discussing the above areas of concern, the Committee directed staff to take two actions in advance of its next meeting.

1. **Meet with Staff Members from the Senate and Assembly Business and Professions Committee**

The Committee asked staff to meet with these committees' staff to discuss the survey results, the identified issues of concern, and the Board's consumer protection mandate as it relates to regulating individual practitioners versus online-only therapy platforms.

Staff met with the representative assigned to the Board from both the Senate and Assembly Business and Professions Committees. Staff provided them with the

survey results, relayed the Board's areas of concern and discussed how the areas of concern relate to the Board's mandate.

The Committee staff were appreciative of the meeting and the survey results. They both indicated that they would report the information to their respective committee chairs, and reach out with any further feedback and questions.

2. Draft a Letter Providing Guidance to Online-Only Therapy Platforms  
A draft of the letter is shown in **Attachment A**.

### **Recommendation**

Conduct an open discussion regarding the Committee's concerns about online-only only therapy platforms and potential next steps for the Board to take.

### **Attachments**

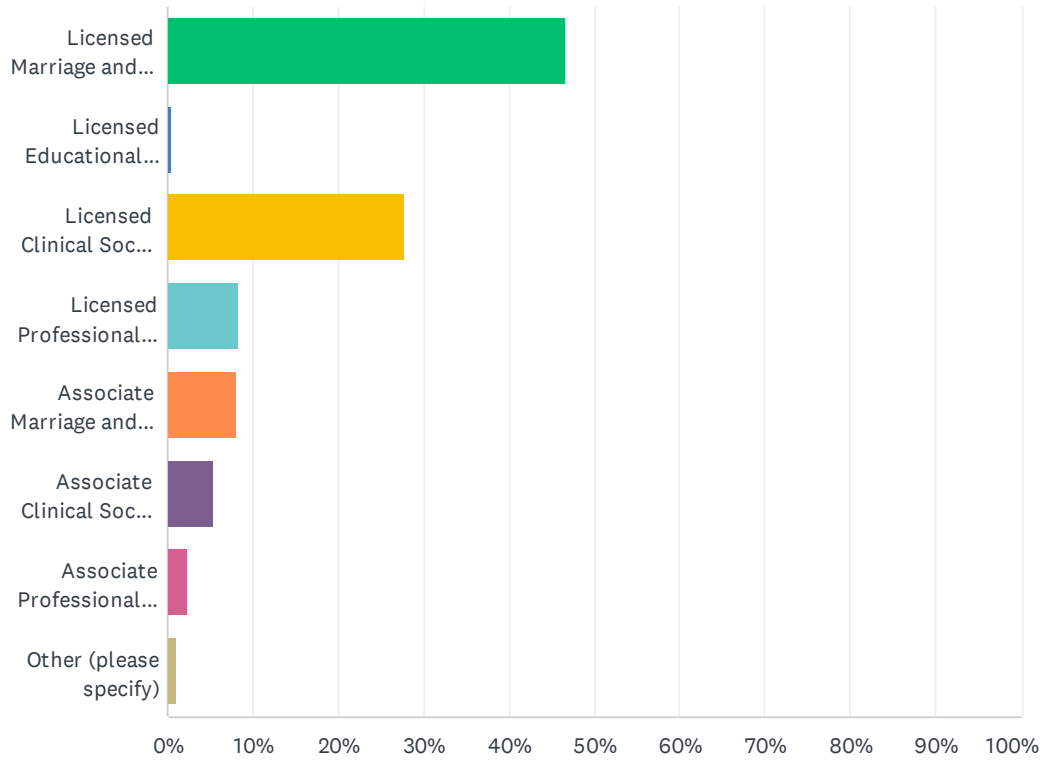
**Attachment A:** Guidance Document: A Note About Use of Online-Only Therapy Platforms

**Attachment B:** Online-Only Therapy Platform Survey Results

# ATTACHMENT B ONLINE-ONLY THERAPY PLATFORM SURVEY RESULTS

Q1 Please indicate your license or registration type:

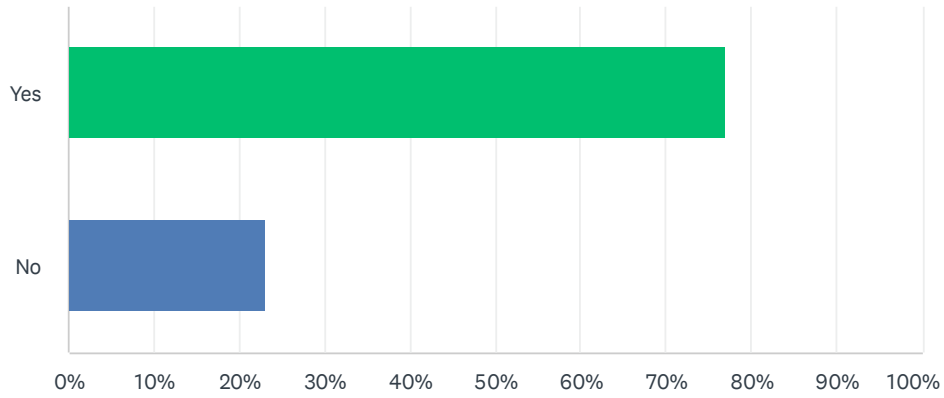
Answered: 1,785 Skipped: 0



ANSWER CHOICES	RESPONSES	
Licensed Marriage and Family Therapist	46.67%	833
Licensed Educational Psychologist	0.34%	6
Licensed Clinical Social Worker	27.79%	496
Licensed Professional Clinical Counselor	8.35%	149
Associate Marriage and Family Therapist	8.12%	145
Associate Clinical Social Worker	5.32%	95
Associate Professional Clinical Counselor	2.30%	41
Other (please specify)	1.12%	20
<b>TOTAL</b>		<b>1,785</b>

## Q2 Have you worked for or contracted with an online-only therapy platform?

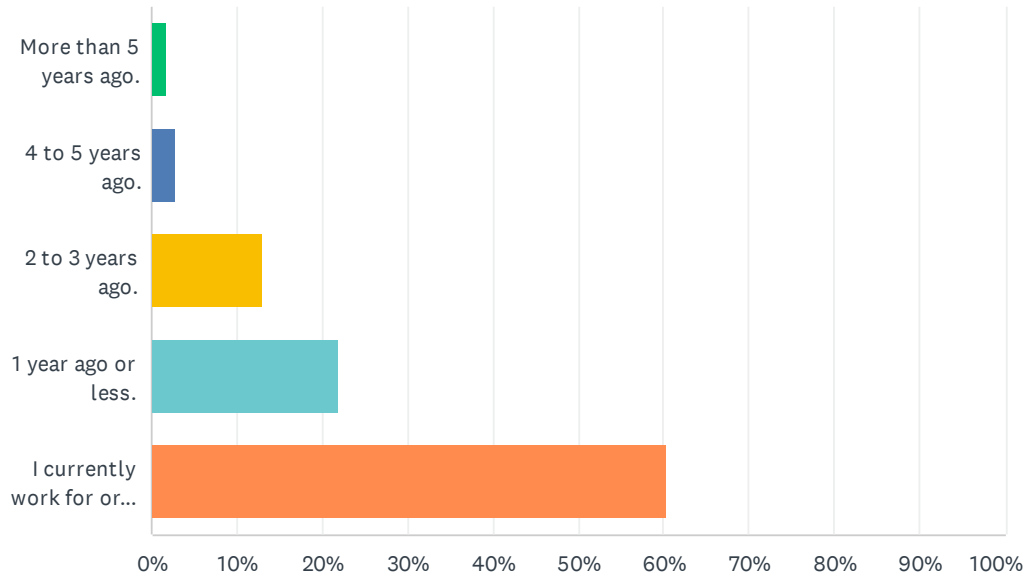
Answered: 1,785 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	76.97%	1,374
No	23.03%	411
TOTAL		1,785

### Q3 When did you last work for or contract with an online-only therapy platform?

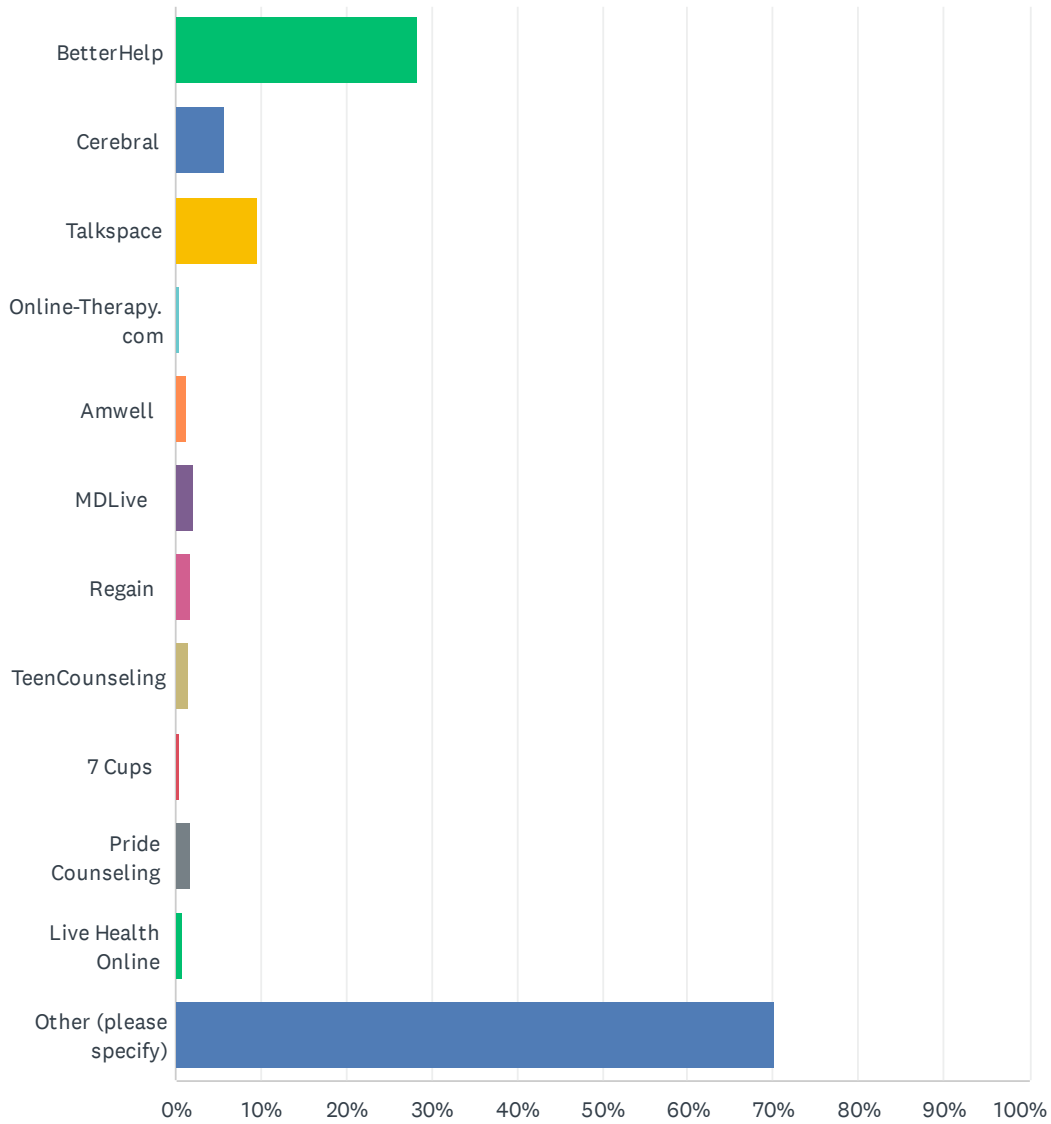
Answered: 1,342 Skipped: 443



ANSWER CHOICES	RESPONSES	
More than 5 years ago.	1.79%	24
4 to 5 years ago.	2.83%	38
2 to 3 years ago.	13.04%	175
1 year ago or less.	21.91%	294
I currently work for or contract with an online-only therapy platform.	60.43%	811
<b>TOTAL</b>		<b>1,342</b>

### Q4 Which online-only therapy platforms have you worked for or contracted with: (Select all that apply)

Answered: 1,031 Skipped: 754



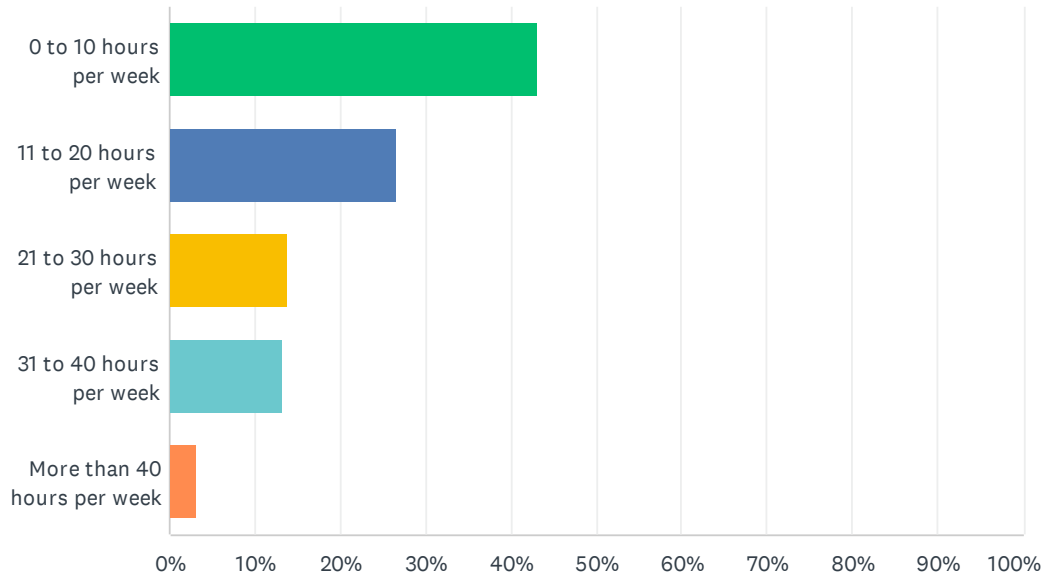


## Online-Only Therapy Platform Survey

BetterHelp	28.32%	292
Cerebral	5.72%	59
Talkspace	9.51%	98
Online-Therapy.com	0.39%	4
Amwell	1.36%	14
MDLive	2.04%	21
Regain	1.65%	17
TeenCounseling	1.55%	16
7 Cups	0.48%	5
Pride Counseling	1.75%	18
Live Health Online	0.78%	8
Other (please specify)	70.22%	724
Total Respondents: 1,031		

## Q5 How many hours, on average, did you work for or contract with the online-only therapy platform?

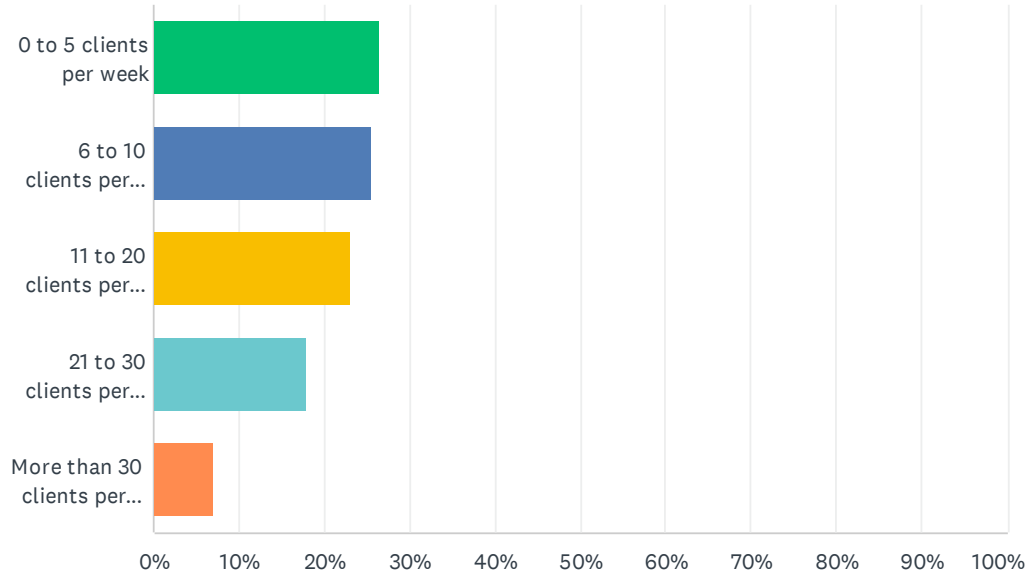
Answered: 1,031 Skipped: 754



ANSWER CHOICES	RESPONSES	
0 to 10 hours per week	42.97%	443
11 to 20 hours per week	26.67%	275
21 to 30 hours per week	13.87%	143
31 to 40 hours per week	13.19%	136
More than 40 hours per week	3.30%	34
<b>TOTAL</b>		<b>1,031</b>

## Q6 How many clients, on average, did you see per week working for or contracting with the online-only therapy platform?

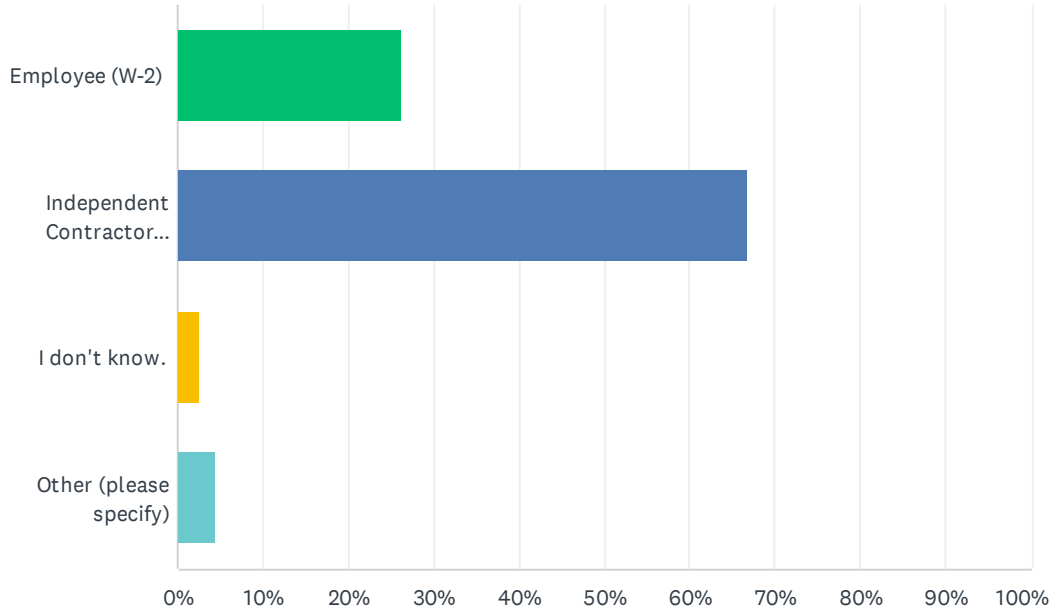
Answered: 1,031 Skipped: 754



ANSWER CHOICES	RESPONSES	
0 to 5 clients per week	26.48%	273
6 to 10 clients per week	25.51%	263
11 to 20 clients per week	23.08%	238
21 to 30 clients per week	17.94%	185
More than 30 clients per week	6.98%	72
<b>TOTAL</b>		<b>1,031</b>

## Q7 Were you considered an employee (issued a W-2), or an independent contractor (issued a 1099)?

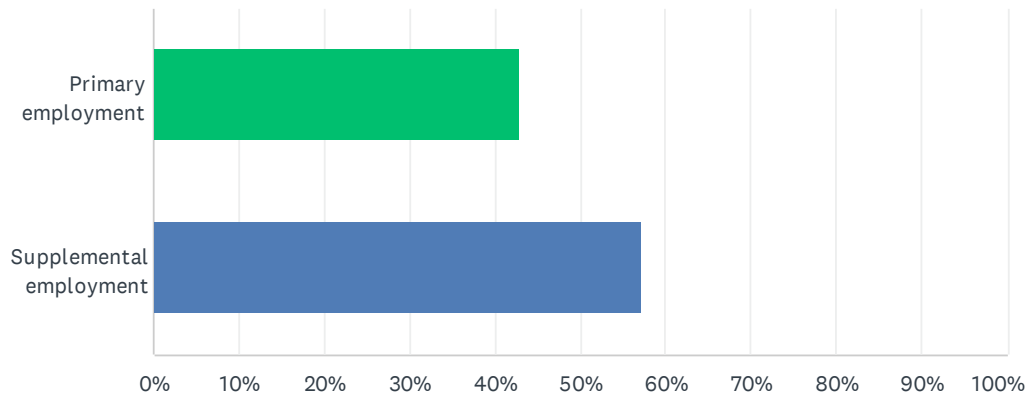
Answered: 1,031 Skipped: 754



ANSWER CHOICES	RESPONSES	
Employee (W-2)	26.29%	271
Independent Contractor (1099)	66.63%	687
I don't know.	2.62%	27
Other (please specify)	4.46%	46
<b>TOTAL</b>		<b>1,031</b>

## Q8 Was this primary employment, or supplemental employment?

Answered: 1,031 Skipped: 754



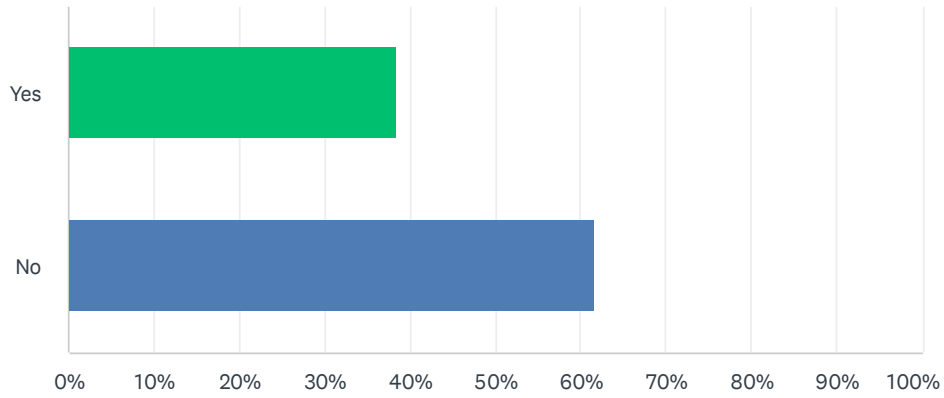
ANSWER CHOICES	RESPONSES	
Primary employment	42.77%	441
Supplemental employment	57.23%	590
TOTAL		1,031

Q9 Please explain how you were paid and your pay rate. (This is optional.)

Answered: 746 Skipped: 1,039

### Q10 Did the platform provide you with any type of bonus or incentive structure?

Answered: 1,031 Skipped: 754



ANSWER CHOICES	RESPONSES	
Yes	38.41%	396
No	61.59%	635
TOTAL		1,031

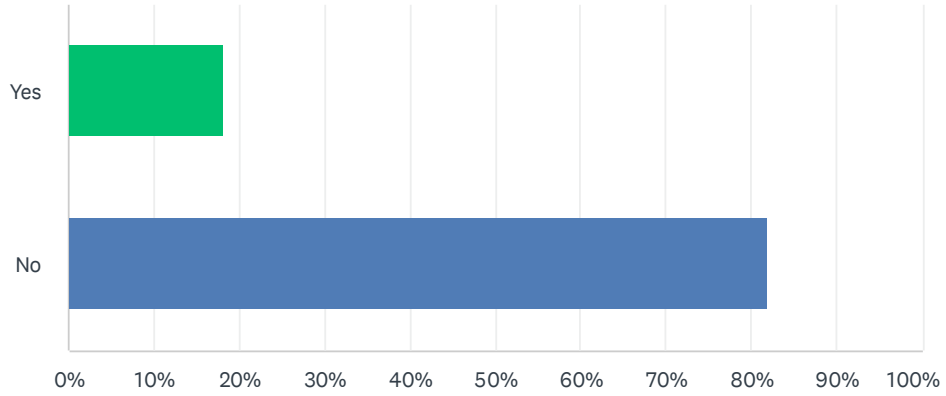
**Q11 Please explain the bonus or incentive structure the platform used.**

Answered: 320 Skipped: 1,465



## Q12 Did the platform ever match you to clients in states where you are not licensed?

Answered: 956 Skipped: 829



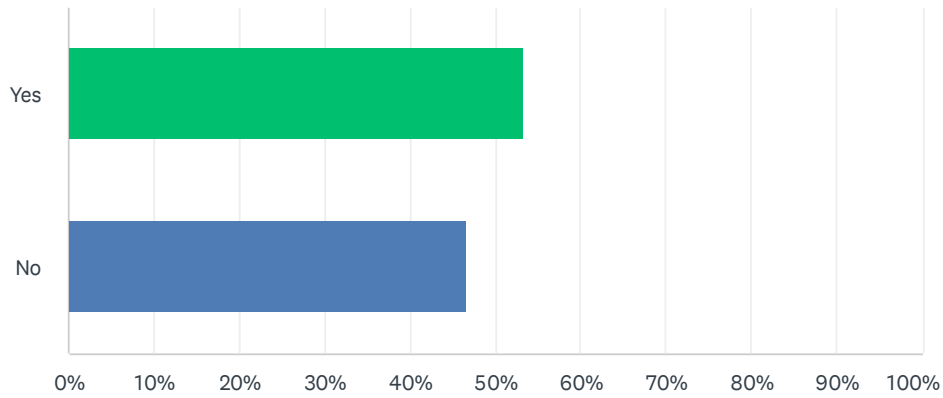
ANSWER CHOICES	RESPONSES	
Yes	18.20%	174
No	81.80%	782
TOTAL		956

**Q13 Did the platform provide you with any instructions regarding treating clients located in states where you are not licensed? If so, please describe.**

Answered: 809 Skipped: 976

### Q14 Did the platform provide you with a way to verify the client's legal name (versus allowing the client to be anonymous, use a pseudonym, etc)?

Answered: 956 Skipped: 829



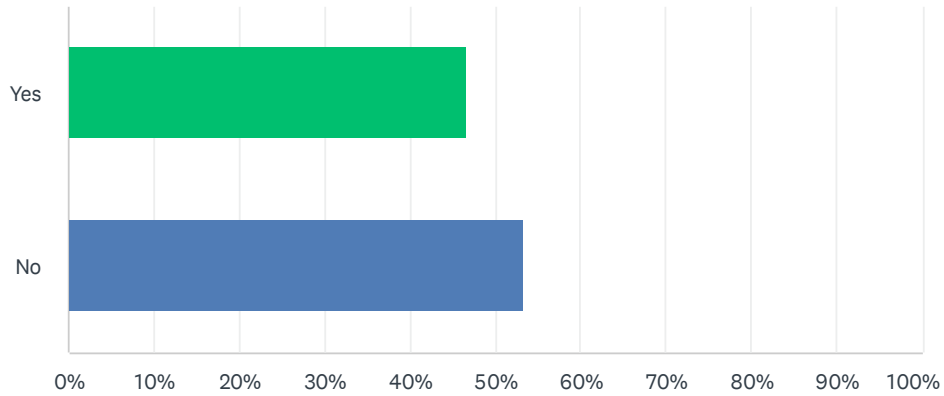
ANSWER CHOICES	RESPONSES	
Yes	53.24%	509
No	46.76%	447
<b>TOTAL</b>		<b>956</b>

**Q15 Please explain how the client's legal name was verified.**

Answered: 439 Skipped: 1,346

## Q16 Did the platform provide you with a way to verify the location of the client?

Answered: 925 Skipped: 860



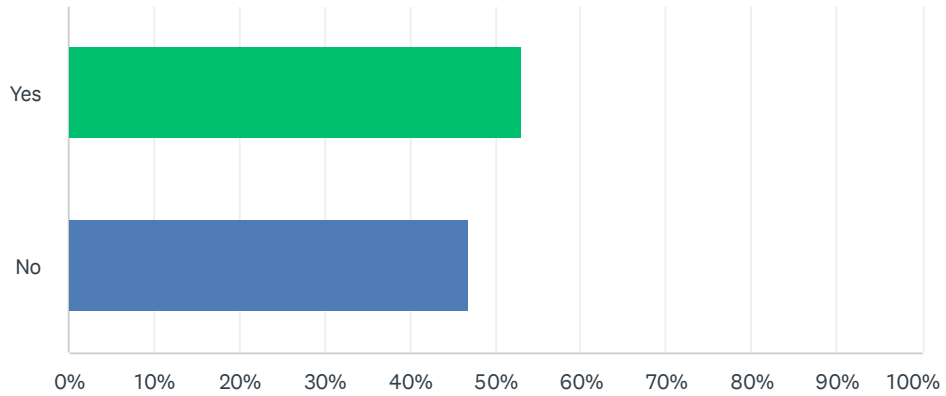
ANSWER CHOICES	RESPONSES	
Yes	46.59%	431
No	53.41%	494
TOTAL		925

## Q17 How were you able to verify the location of the client?

Answered: 389 Skipped: 1,396

### Q18 Did the platform share information with you regarding how they collect and store client health information?

Answered: 907 Skipped: 878



ANSWER CHOICES	RESPONSES	
Yes	53.14%	482
No	46.86%	425
TOTAL		907

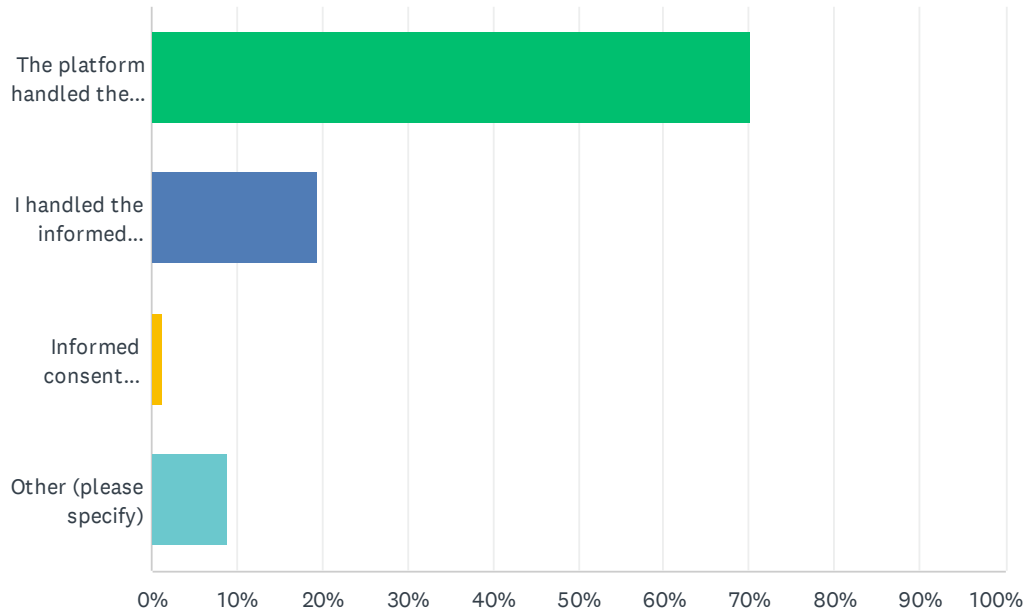
## Q19 If yes, please explain.

Answered: 377 Skipped: 1,408



## Q20 How was the client informed consent agreement handled when you worked for, or contracted with, the online-only therapy platform?

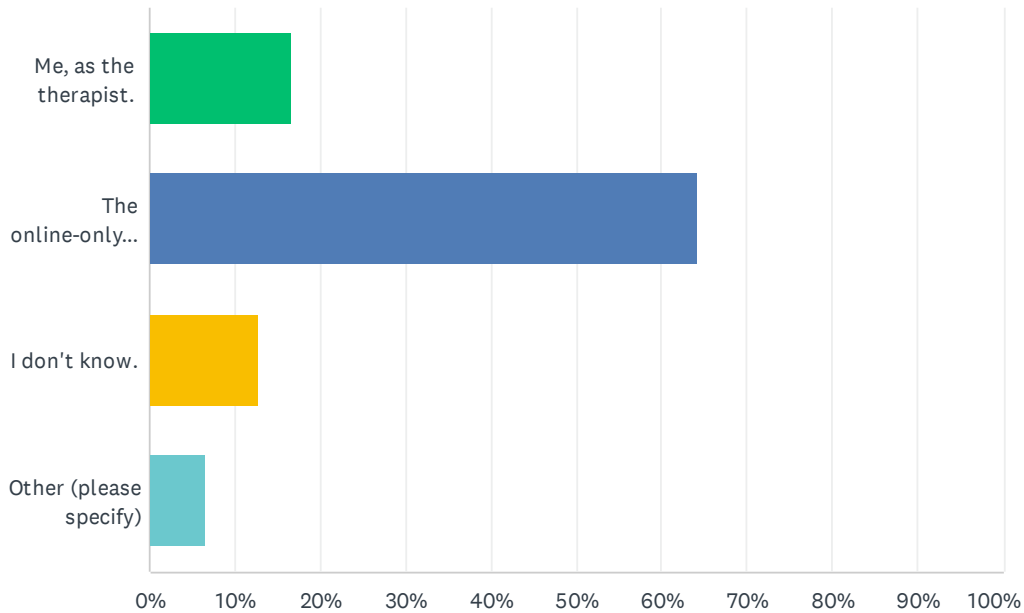
Answered: 827 Skipped: 958



ANSWER CHOICES	RESPONSES	
The platform handled the informed consent agreement and maintained it as part of the client's records.	70.25%	581
I handled the informed consent agreement and maintained it as part of the client's records.	19.47%	161
Informed consent agreements were not done.	1.33%	11
Other (please specify)	8.95%	74
<b>TOTAL</b>		<b>827</b>

## Q21 Who served as the custodian of record for client health information and records when you were working for or contracting with the online-only therapy platform?

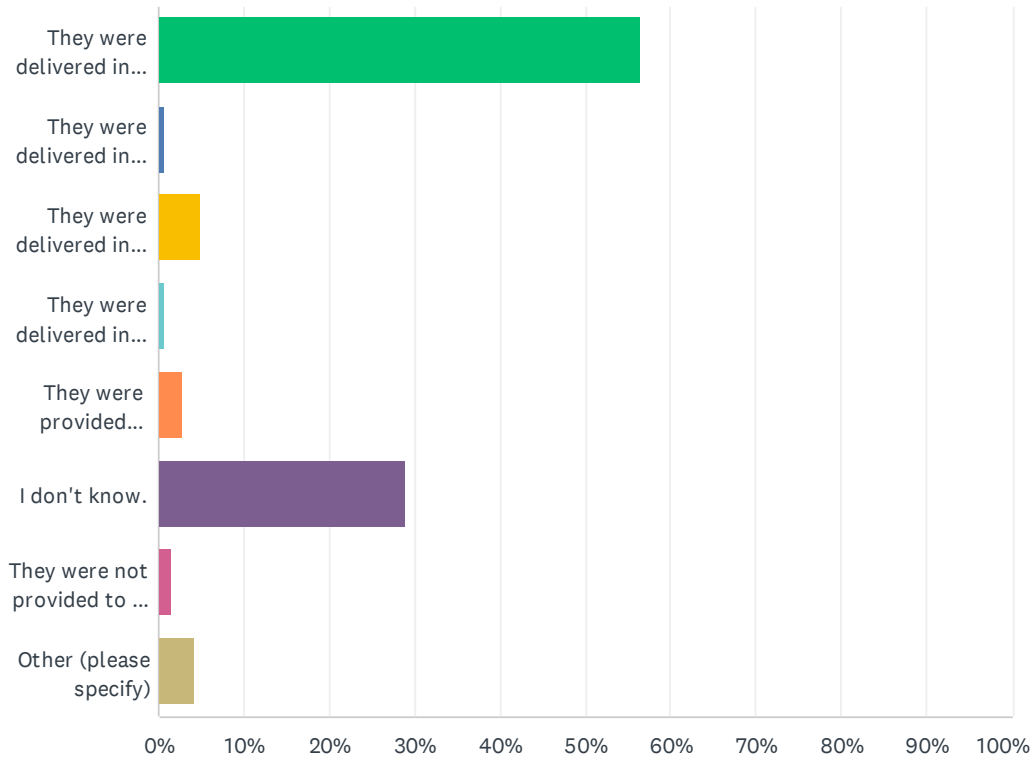
Answered: 827 Skipped: 958



ANSWER CHOICES	RESPONSES	
Me, as the therapist.	16.69%	138
The online-only therapy platform.	64.09%	530
I don't know.	12.70%	105
Other (please specify)	6.53%	54
<b>TOTAL</b>		<b>827</b>

## Q22 How did the online-only therapy platform communicate its privacy policy and data sharing practices to your clients?

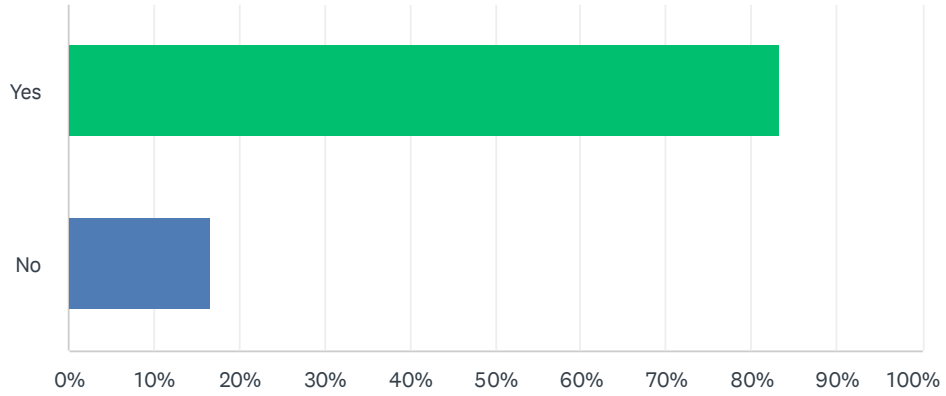
Answered: 827 Skipped: 958



ANSWER CHOICES	RESPONSES	
They were delivered in writing by the company to the client, prior to beginning services.	56.47%	467
They were delivered in writing by the company to the client, upon the client's request.	0.60%	5
They were delivered in writing by the therapist to the client, prior to beginning services.	4.84%	40
They were delivered in writing by the therapist to the client, upon the client's request.	0.60%	5
They were provided verbally by the therapist to the client, prior to beginning services.	2.78%	23
I don't know.	28.90%	239
They were not provided to the client.	1.57%	13
Other (please specify)	4.23%	35
<b>TOTAL</b>		<b>827</b>

### Q23 Were your clients generally familiar and comfortable with the online-only therapy platform's privacy policy and data sharing practices?

Answered: 827 Skipped: 958



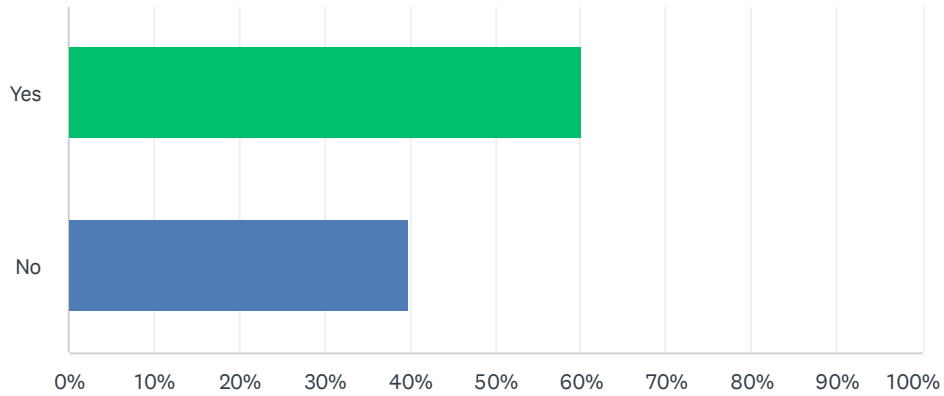
ANSWER CHOICES	RESPONSES	
Yes	83.43%	690
No	16.57%	137
TOTAL		827

**Q24** Were there any concerns that your clients commonly expressed to you regarding the online-only therapy platform's privacy policy and data sharing practices? Please explain.

Answered: 671 Skipped: 1,114

## Q25 Did the platform have a clear emergency plan in place for clients in crisis?

Answered: 820 Skipped: 965



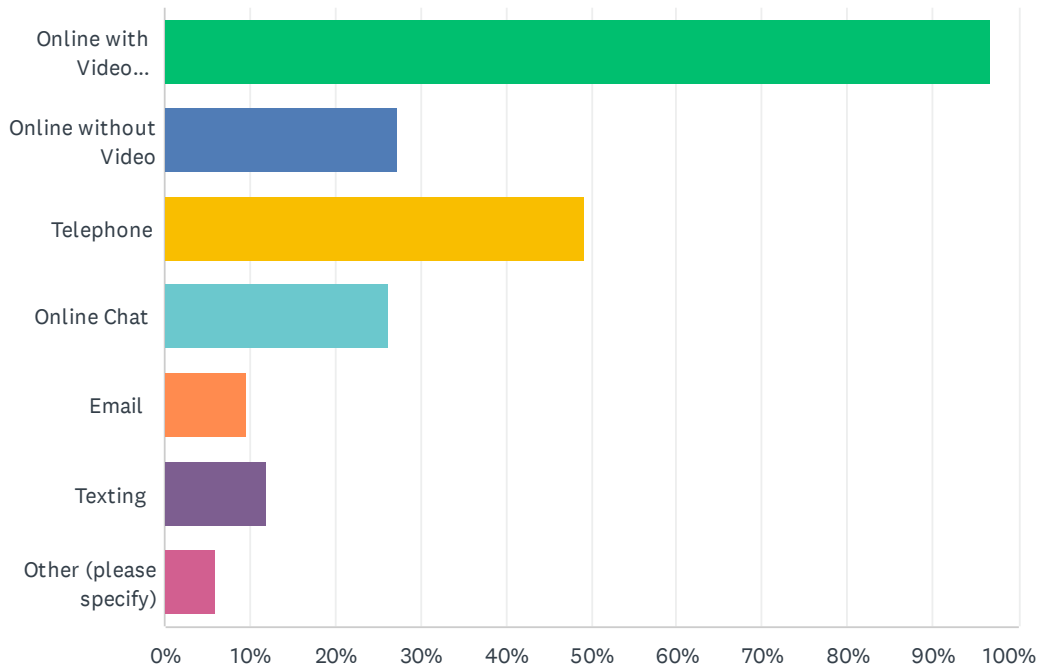
ANSWER CHOICES	RESPONSES	
Yes	60.12%	493
No	39.88%	327
TOTAL		820

**Q26 Please briefly summarize the emergency plan.**

Answered: 417 Skipped: 1,368

**Q27 What methods did you use to provide psychotherapy services to clients when working for or contracting with the platform? Please check all that apply.**

Answered: 795 Skipped: 990

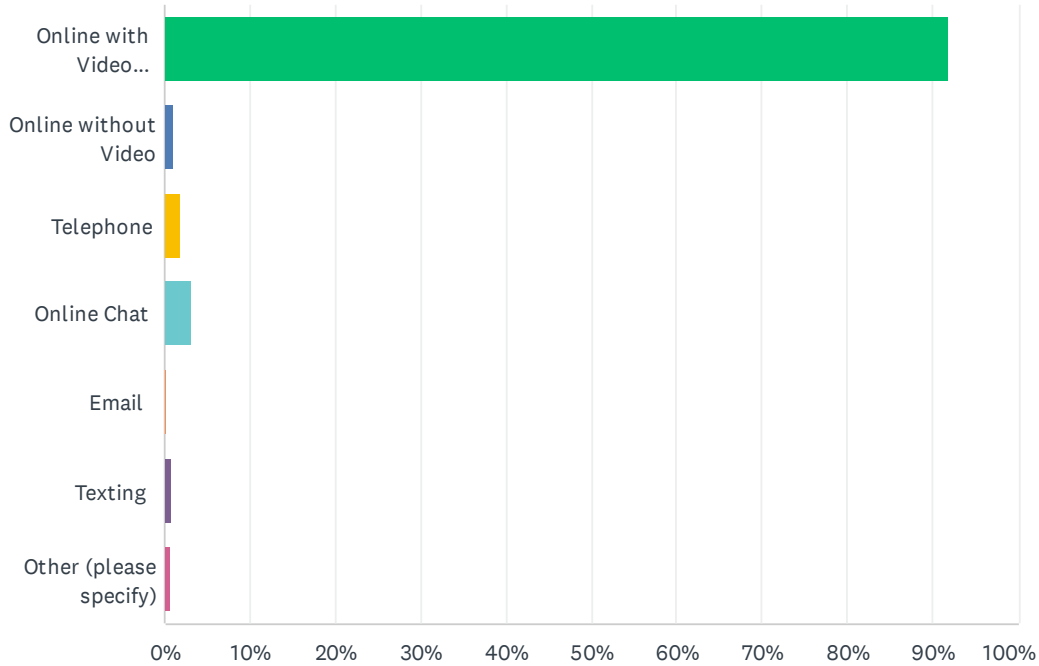


ANSWER CHOICES	RESPONSES	
Online with Video (Videoconferencing)	96.86%	770
Online without Video	27.30%	217
Telephone	49.18%	391
Online Chat	26.16%	208
Email	9.56%	76
Texting	11.95%	95
Other (please specify)	5.91%	47
Total Respondents: 795		



## Q28 What method did you primarily use to provide psychotherapy services to clients when working for or contracting with the platform?

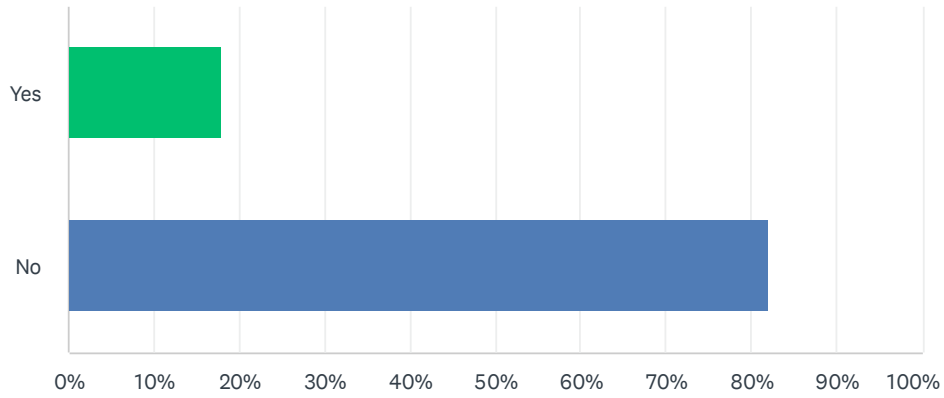
Answered: 795 Skipped: 990



ANSWER CHOICES	RESPONSES	
Online with Video (Videoconferencing)	91.95%	731
Online without Video	1.13%	9
Telephone	1.89%	15
Online Chat	3.27%	26
Email	0.25%	2
Texting	0.88%	7
Other (please specify)	0.63%	5
<b>TOTAL</b>		<b>795</b>

### Q29 Did you ever use texting to provide therapy to your clients when working for or contracting with the platform?

Answered: 795 Skipped: 990



ANSWER CHOICES	RESPONSES	
Yes	17.99%	143
No	82.01%	652
TOTAL		795

**Q30 Please explain how you integrated texting into therapy with your clients.**

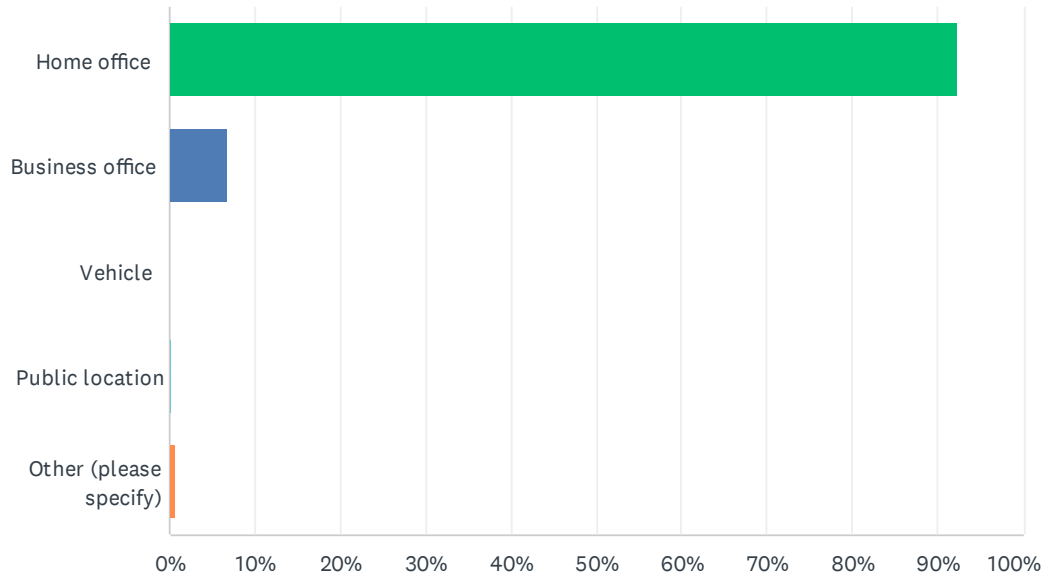
Answered: 111 Skipped: 1,674

**Q31 Please explain the procedure for verifying client's identity when providing therapy via texting with them.**

Answered: 112 Skipped: 1,673

### Q32 Where were you primarily located when you provided therapy services on this platform?

Answered: 751 Skipped: 1,034



**ANSWER CHOICES**

- Home office
- Business office
- Vehicle
- Public location
- Other (please specify)
- TOTAL

**RESPONSES**

Home office	92.28%	693
Business office	6.92%	52
Vehicle	0.00%	0
Public location	0.13%	1
Other (please specify)	0.67%	5
TOTAL		751

**Q33 What confidentiality measures were taken to mitigate for the separate location of the therapist and the client?**

Answered: 661 Skipped: 1,124

**Q34 Did you experience any advantages to working for or contracting with an online-only therapy platform, versus working on your own or for a company with a physical site?**

Answered: 687 Skipped: 1,098

**Q35 Please describe any problems you encountered when working for or contracting with the online-only therapy platform.**

Answered: 664 Skipped: 1,121



Q36 Do you have any other comments or concerns you would like to share related to your experience working for or contracting with an online-only therapy platform?

Answered: 576 Skipped: 1,209



Board of Behavioral Sciences

# Memo

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Sacramento, CA 95834  
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www.bbs.ca.gov

**To:** Workforce Development Committee

**Date:** July 29, 2024

**From:** Steve Sodergren  
Executive Officer

**Subject: Results of the Licensure Pathway Survey**

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## **Background**

At the April 2024 committee meeting staff presented a summary of the data collected from the Board's Licensure Pathway Survey. That survey was completed on April 19, 2024 and resulted in 3,170 complete responses, including free form comments that numbered from 600 to over a thousand per question. This survey was developed to seek input from Board registrants and licensees about barriers that they are facing, or may have faced, during their pathway to licensure.

Board staff reviewed the survey, including the free form comments submitted, to identify common trends in the responses. While the survey was primarily focused on the three major milestones of education, supervision, and examinations there were a number of concerns about the licensing process.

## **EDUCATION**

Common themes pertaining to the barriers faced during education included:

- Balancing full-time work, school, and unpaid practicum positions.
- Difficulty finding practicum placements that aligned with personal schedules.
- A perceived lack of culturally competent, trauma-informed professors and inadequate preparation for practicum.
- Lack of training provided by schools about the licensure pathway and examinations.

## **SUPERVISION**

Common themes pertaining to the barriers faced during supervision included:

- Difficulties in finding qualified or available supervisors and the cost of supervision.

- Inadequate supervision environments that do not adequately prepare individuals for the licensing process and examinations.
- Scheduling supervision hours at convenient times while balancing other job responsibilities and personal commitments.
- The challenge of balancing supervision hours with client hours for those working part-time.
- Concerns that supervisors are not fully knowledgeable about licensing laws pertaining to the supervisee licensure pathway.
- A perception that certain agency policies and various jobs may negatively affect the ability to receive quality supervision.
- The high number of required supervision hours and the specific types of hours (e.g., children or couples) and accumulating these hours without pay.

## **EXAMINATIONS**

Common themes pertaining to the barriers faced during the examination process included:

- The length and perceived difficulty of licensure exams. Many individuals find the exams to be exceedingly challenging, which increases anxiety and stress levels.
- Balancing professional responsibilities with exam preparation, particularly for those working full-time.
- The costs of exams and associated fees, including study materials and application fees.
- The comprehensive nature of the exams requiring extensive preparation, often beyond what is covered in standard educational programs.

## **LICENSING PROCESS**

While the focus on the survey was on education, supervision, and examinations respondents also identified barriers associated with the licensing process. The common themes included:

- Long waiting times to get hours certified and processed.
- Administrative hurdles such as the 90-day rule for live scans for post-graduation supervised hours.
- Difficulties in navigating the licensing requirements and keeping up with changes to the requirements that may require additional coursework.
- Difficulties in understanding and tracking requirements for specific types of hours, such as those involving children or couples.

- The 6-year rule, which invalidates previously accumulated hours if not completed within six years.

## **OFFERED SOLUTIONS**

Within the comments submitted, respondents offered possible solutions to barriers faced during the licensure process.

- Supervisors should discuss the pathway to licensure and career preparation more frequently during supervision.
- Ensure supervisors have access to up-to-date resources and tools that can assist candidates in their preparation and professional development.
- Supervisors are encouraged to be more proactive in their roles, making it a point to assist candidates more thoroughly in their journey towards licensure.
- Implementing an online supervised hours portal to replace paper-based process and reduce administrative burdens.
- Providing clear and consistent guidelines and updates on licensure requirements from the Board
- Providing clearer guidelines and expectations for both supervisors and candidates from the Board.
- Offering dedicated support channels, such as hotlines or chat services, to assist candidates with their queries and issues promptly
- Introducing financial assistance programs, such as grants or scholarships, to help cover the costs of exam fees and supervision.
- Providing comprehensive resources and workshops to help candidates navigate the licensure process effectively.
- Working with professional associations and advocacy groups to propose legislative changes that reduce unnecessary regulatory burden.

## **CURRENT EFFORTS**

Currently, Board staff are working on improvements to the licensure process to address the barriers that were presented in the survey. These efforts are mainly focused on the the licensure process and education requirements:

- Conducting a holistic review of additional coursework requirements to increase consistency, clarity, and relevance.
- Discussion of possible amendments that would allow for early admittance to clinical examinations.

- Discussion of possible amendments to the Board's additional exam time; English as a second language regulations.
- Board staff are working to implement procedural changes that will assist in a more efficient licensing process; online applications, website updates, updates to education materials, and administrative processes to reduce wait times.

To address identified barriers in the education process and supervision processes it may be beneficial for the Board to increase collaboration with education institutions as well as provide better guidance to supervisors.

### **Recommendation**

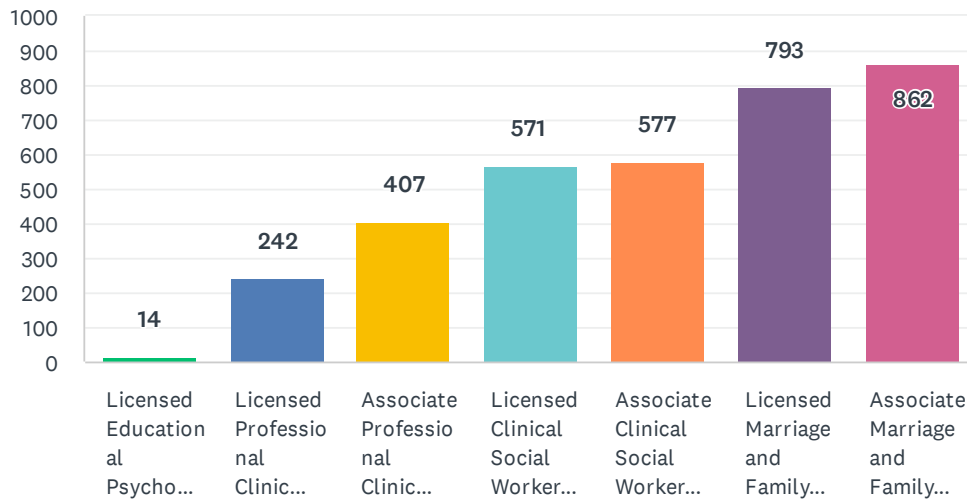
Conduct an open discussion regarding the barriers expressed in the survey and identify possible solutions to reduce those barriers.

### **Attachments**

**Attachment A:** Pathway to Licensure Survey

# Q1 Are you currently a registrant or licensee? (Select all that apply)

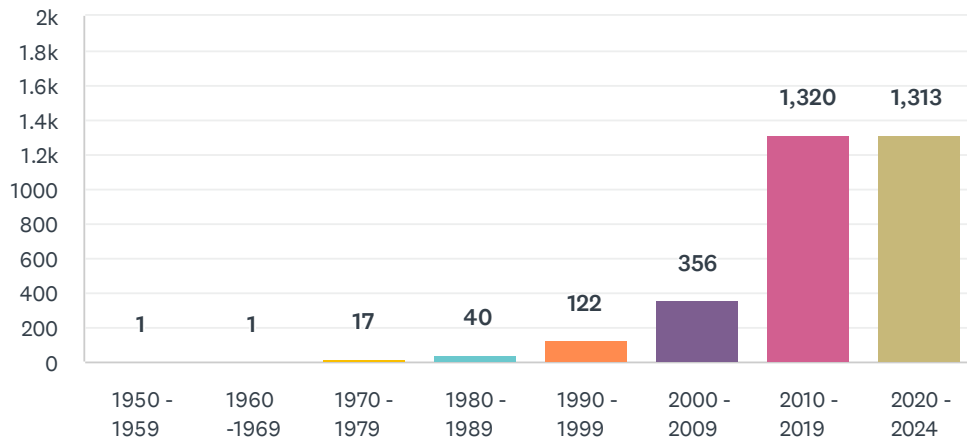
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
Licensed Educational Psychologist (LEP)	0%	14
Licensed Professional Clinical Counselor (LPCC)	8%	242
Associate Professional Clinical Counselor (APCC)	13%	407
Licensed Clinical Social Worker (LCSW)	18%	571
Associate Clinical Social Worker (ASW)	18%	577
Licensed Marriage and Family Therapist (LMFT)	25%	793
Associate Marriage and Family Therapist (AMFT)	27%	862
Total Respondents: 3,170		

## Q2 What year was your graduate degree conferred?

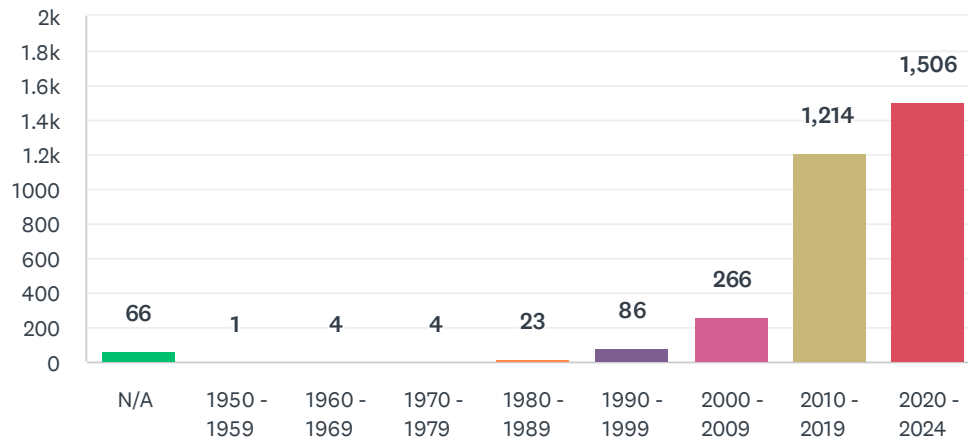
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES
1950 - 1959	0% 1
1960 -1969	0% 1
1970 - 1979	1% 17
1980 - 1989	1% 40
1990 - 1999	4% 122
2000 - 2009	11% 356
2010 - 2019	42% 1,320
2020 - 2024	41% 1,313
<b>TOTAL</b>	<b>3,170</b>

### Q3 What year did you obtain your registration?

Answered: 3,170 Skipped: 0

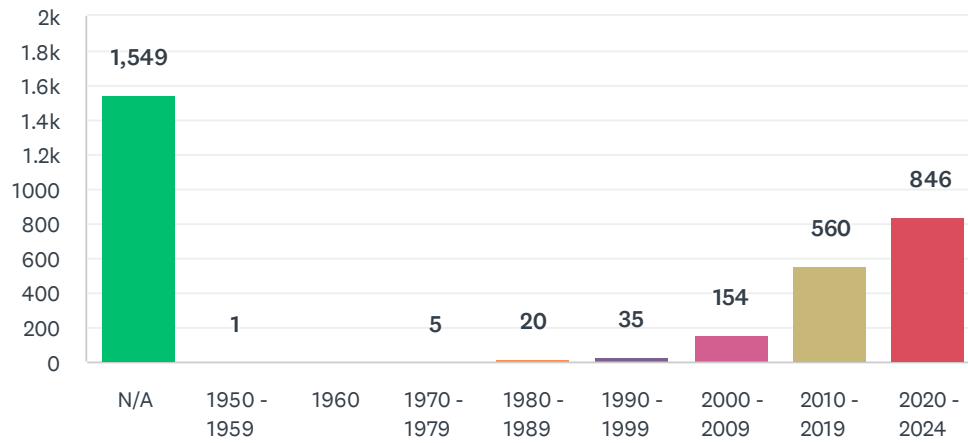


ANSWER CHOICES	RESPONSES
N/A	2% 66
1950 - 1959	0% 1
1960 - 1969	0% 4
1970 - 1979	0% 4
1980 - 1989	1% 23
1990 - 1999	3% 86
2000 - 2009	8% 266
2010 - 2019	38% 1,214
2020 - 2024	48% 1,506
<b>TOTAL</b>	<b>3,170</b>



## Q4 What year did you obtain your full license?

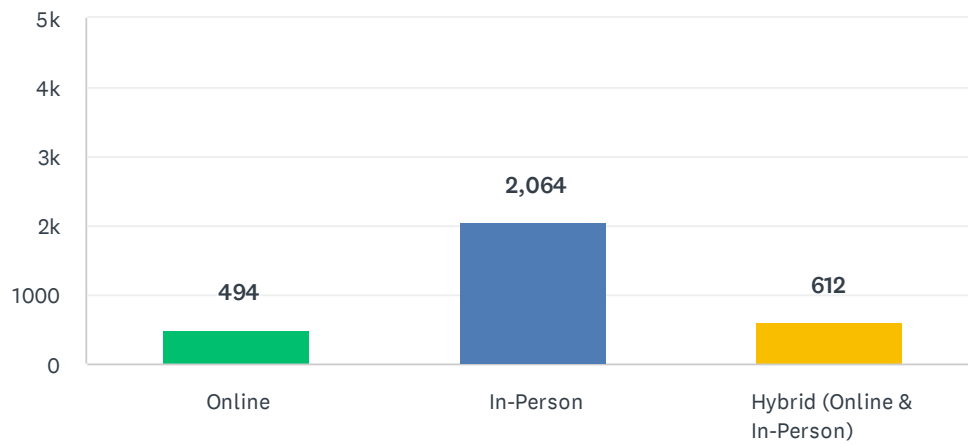
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
N/A	49%	1,549
1950 - 1959	0%	1
1960	0%	0
1970 - 1979	0%	5
1980 - 1989	1%	20
1990 - 1999	1%	35
2000 - 2009	5%	154
2010 - 2019	18%	560
2020 - 2024	27%	846
<b>TOTAL</b>		<b>3,170</b>

## Q5 Was your graduate program:

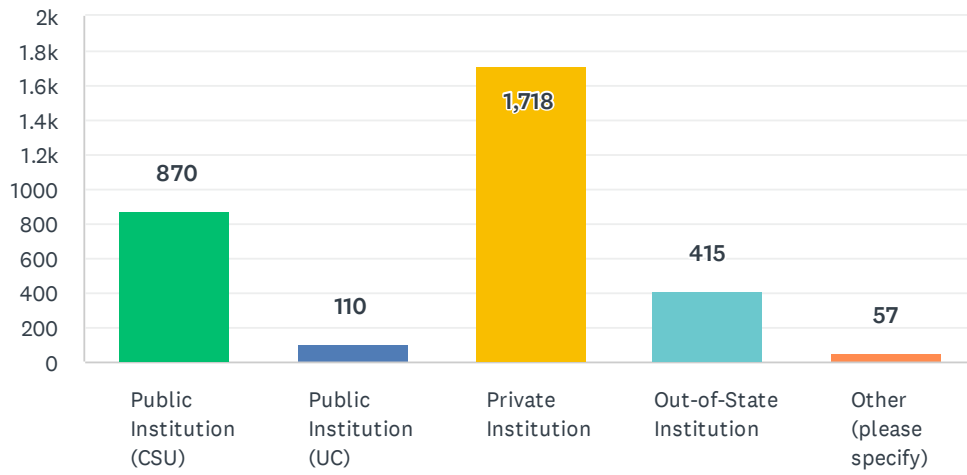
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
Online	16%	494
In-Person	65%	2,064
Hybrid (Online & In-Person)	19%	612
<b>TOTAL</b>		<b>3,170</b>

## Q6 Was your graduate program from a:

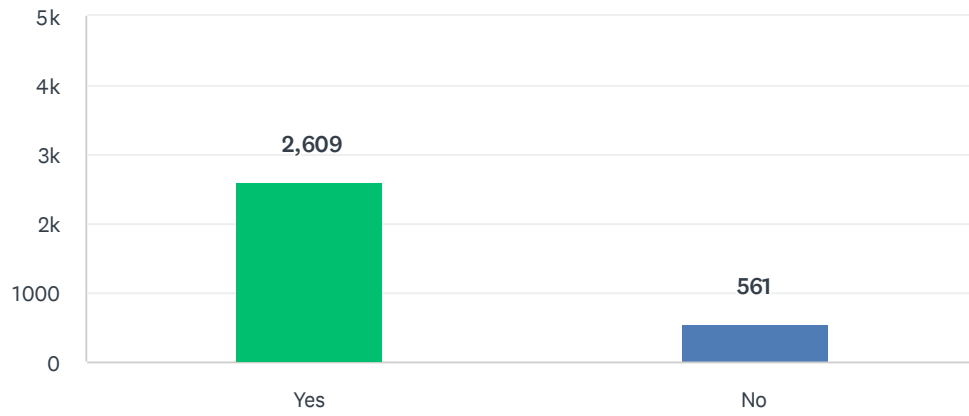
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES
Public Institution (CSU)	27% 870
Public Institution (UC)	3% 110
Private Institution	54% 1,718
Out-of-State Institution	13% 415
Other (please specify)	2% 57
<b>TOTAL</b>	<b>3,170</b>

## Q7 Did you attend school full time during your graduate program?

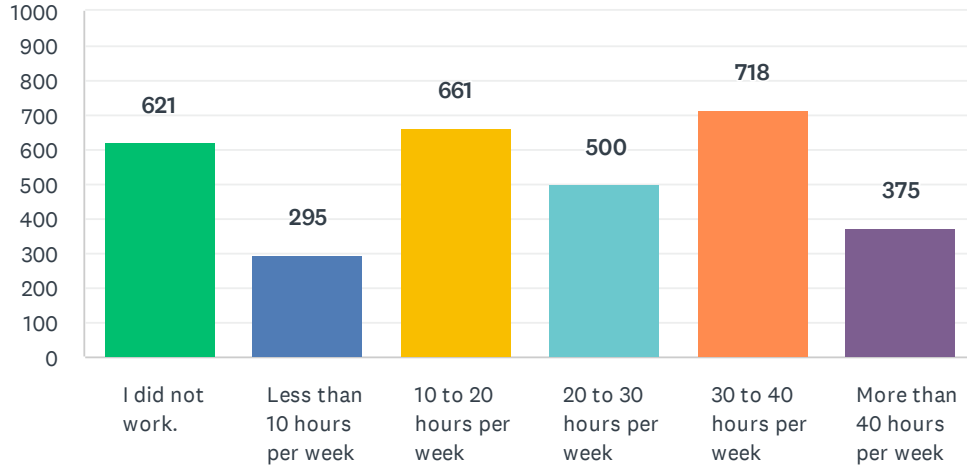
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	82%	2,609
No	18%	561
TOTAL		3,170

## Q8 While attending your graduate program, in addition to practicum hours, how many hours did you work?

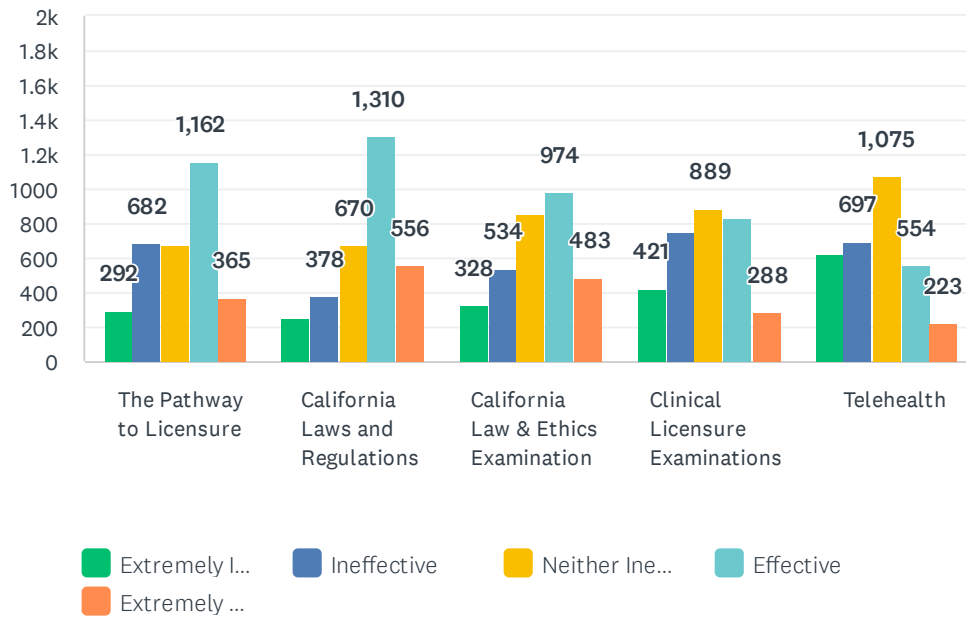
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
I did not work.	20%	621
Less than 10 hours per week	9%	295
10 to 20 hours per week	21%	661
20 to 30 hours per week	16%	500
30 to 40 hours per week	23%	718
More than 40 hours per week	12%	375
<b>TOTAL</b>		<b>3,170</b>

## Q9 How effective was your school at educating you about:

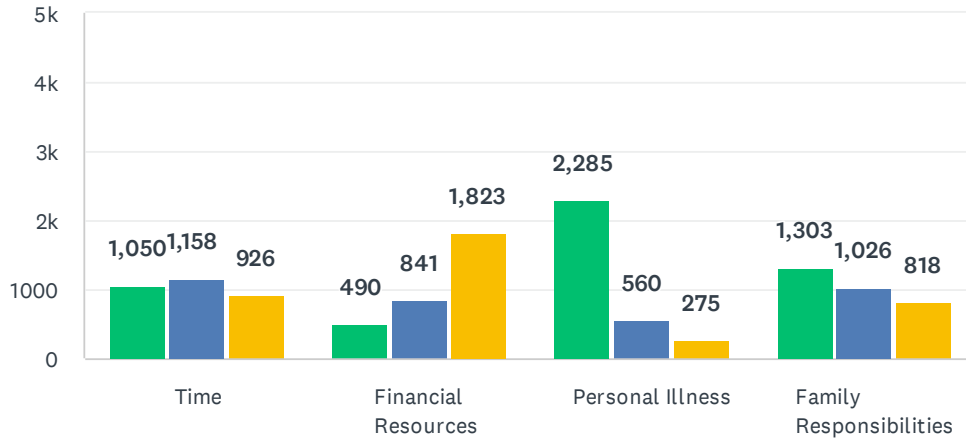
Answered: 3,170 Skipped: 0



	EXTREMELY INEFFECTIVE	INEFFECTIVE	NEITHER INEFFECTIVE OR EFFECTIVE	EFFECTIVE	EXTREMELY EFFECTIVE	TOTAL	WEIGHTED AVERAGE
The Pathway to Licensure	9% 292	22% 682	21% 669	37% 1,162	12% 365	3,170	3.20
California Laws and Regulations	8% 256	12% 378	21% 670	41% 1,310	18% 556	3,170	3.48
California Law & Ethics Examination	10% 328	17% 534	27% 851	31% 974	15% 483	3,170	3.24
Clinical Licensure Examinations	13% 421	23% 744	28% 889	26% 828	9% 288	3,170	2.94
Telehealth	20% 621	22% 697	34% 1,075	17% 554	7% 223	3,170	2.70

## Q10 To what extent would you consider the following as having been a barrier to obtaining your graduate degree?

Answered: 3,168 Skipped: 2

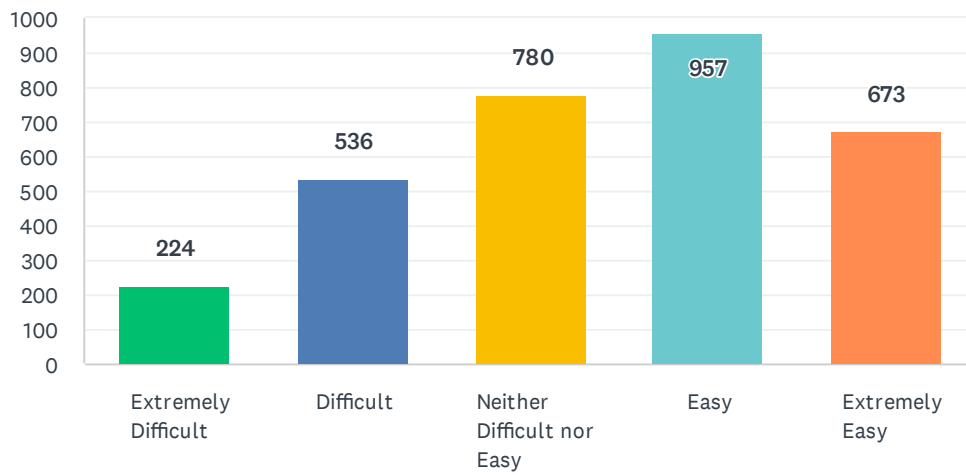


■ Not a Barrier
 ■ A Minor Bar...
 ■ A Significan...

	NOT A BARRIER	A MINOR BARRIER	A SIGNIFICANT BARRIER	TOTAL	WEIGHTED AVERAGE
Time	34% 1,050	37% 1,158	30% 926	3,134	1.96
Financial Resources	16% 490	27% 841	58% 1,823	3,154	2.42
Personal Illness	73% 2,285	18% 560	9% 275	3,120	1.36
Family Responsibilities	41% 1,303	33% 1,026	26% 818	3,147	1.85

## Q11 How difficult was it for you to find a supervisor?

Answered: 3,170 Skipped: 0

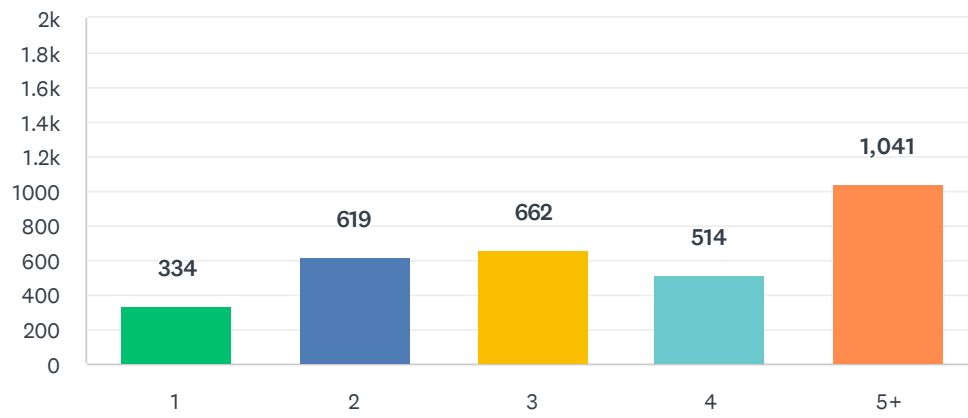


ANSWER CHOICES	RESPONSES	
Extremely Difficult	7%	224
Difficult	17%	536
Neither Difficult nor Easy	25%	780
Easy	30%	957
Extremely Easy	21%	673
<b>TOTAL</b>		<b>3,170</b>



## Q12 How many clinical supervisors do you/or have you had?

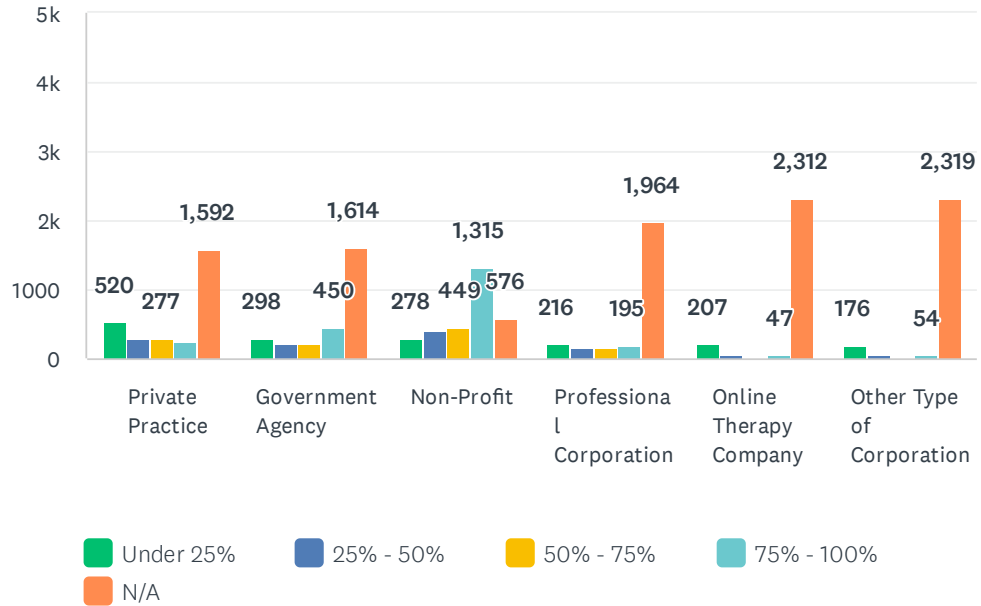
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
1	11%	334
2	20%	619
3	21%	662
4	16%	514
5+	33%	1,041
TOTAL		3,170

### Q13 How much of your supervised experience did you gain in the following settings?

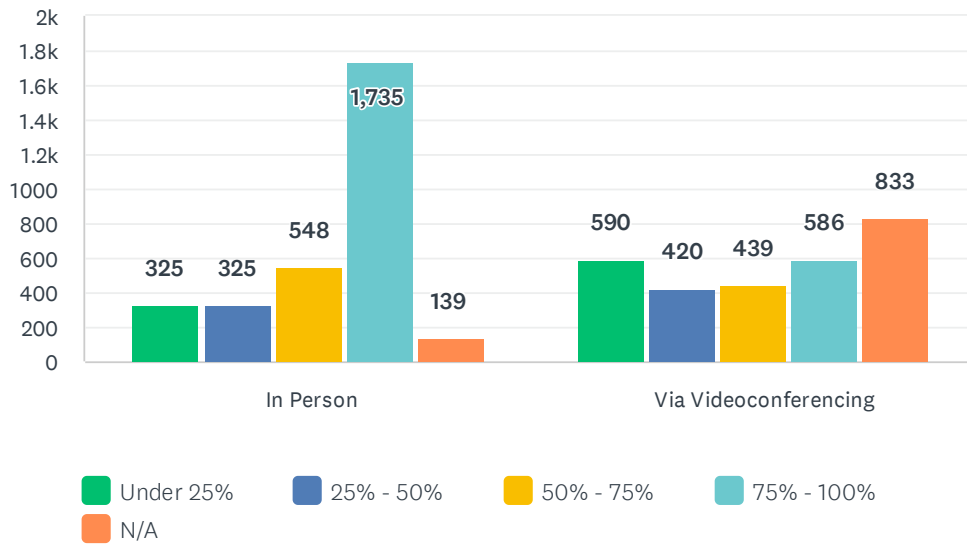
Answered: 3,170 Skipped: 0



	UNDER 25%	25% - 50%	50% - 75%	75% - 100%	N/A	TOTAL
Private Practice	18% 520	10% 295	9% 277	8% 235	55% 1,592	2,919
Government Agency	11% 298	8% 218	7% 206	16% 450	58% 1,614	2,786
Non-Profit	9% 278	13% 402	15% 449	44% 1,315	19% 576	3,020
Professional Corporation	8% 216	6% 166	6% 158	7% 195	73% 1,964	2,699
Online Therapy Company	8% 207	2% 43	1% 35	2% 47	87% 2,312	2,644
Other Type of Corporation	7% 176	2% 46	1% 29	2% 54	88% 2,319	2,624

### Q14 What percentage of your supervision was the following?

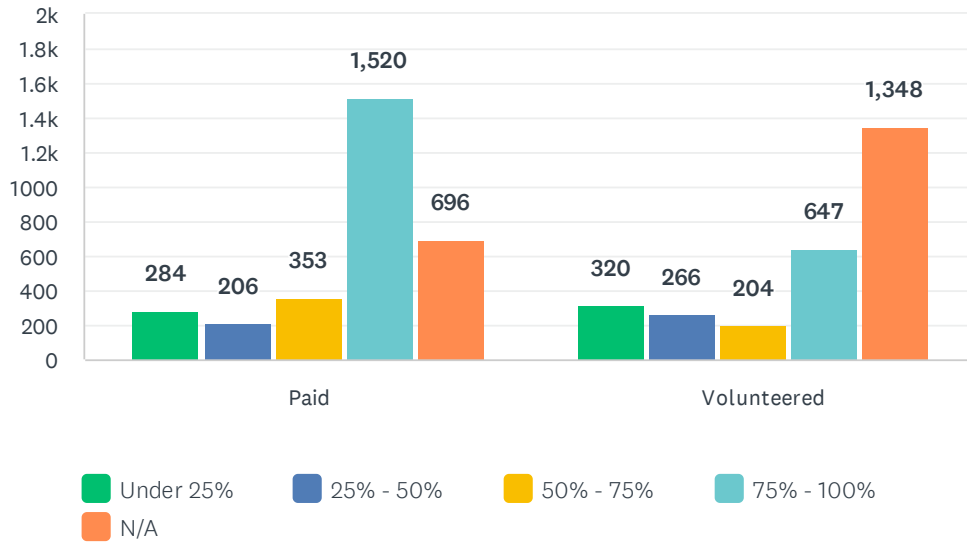
Answered: 3,170 Skipped: 0



	UNDER 25%	25% - 50%	50% - 75%	75% - 100%	N/A	TOTAL	WEIGHTED AVERAGE
In Person	11% 325	11% 325	18% 548	56% 1,735	5% 139	3,072	3.26
Via Videoconferencing	21% 590	15% 420	15% 439	20% 586	29% 833	2,868	2.50

## Q15 What percentage of your supervision was?

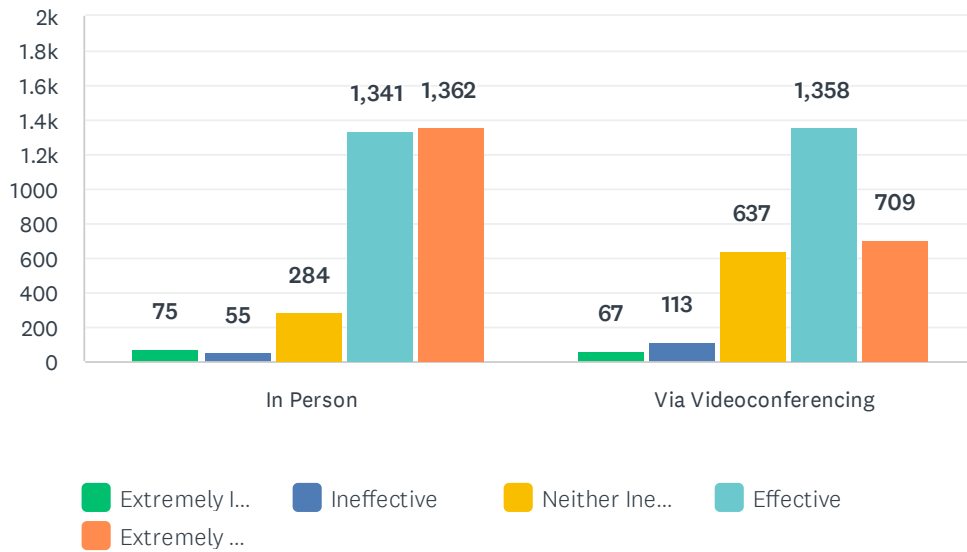
Answered: 3,170 Skipped: 0



	UNDER 25%	25% - 50%	50% - 75%	75% - 100%	N/A	TOTAL	WEIGHTED AVERAGE
Paid	9% 284	7% 206	12% 353	50% 1,520	23% 696	3,059	3.32
Volunteered	11% 320	10% 266	7% 204	23% 647	48% 1,348	2,785	2.82

## Q16 How effective would you consider the types of supervision?

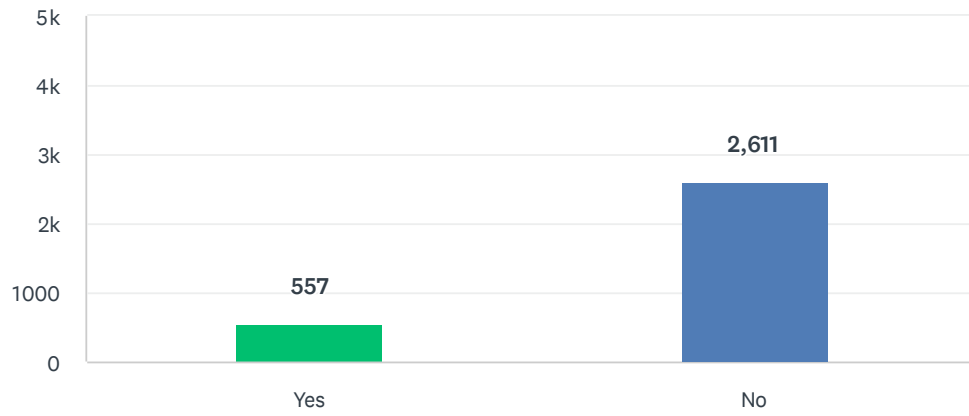
Answered: 3,170 Skipped: 0



	EXTREMELY INEFFECTIVE	INEFFECTIVE	NEITHER INEFFECTIVE OR EFFECTIVE	EFFECTIVE	EXTREMELY EFFECTIVE	TOTAL	WEIGHTED AVERAGE
In Person	2% 75	2% 55	9% 284	43% 1,341	44% 1,362	3,117	4.24
Via Videoconferencing	2% 67	4% 113	22% 637	47% 1,358	25% 709	2,884	3.88

## Q17 Did you pay for supervision?

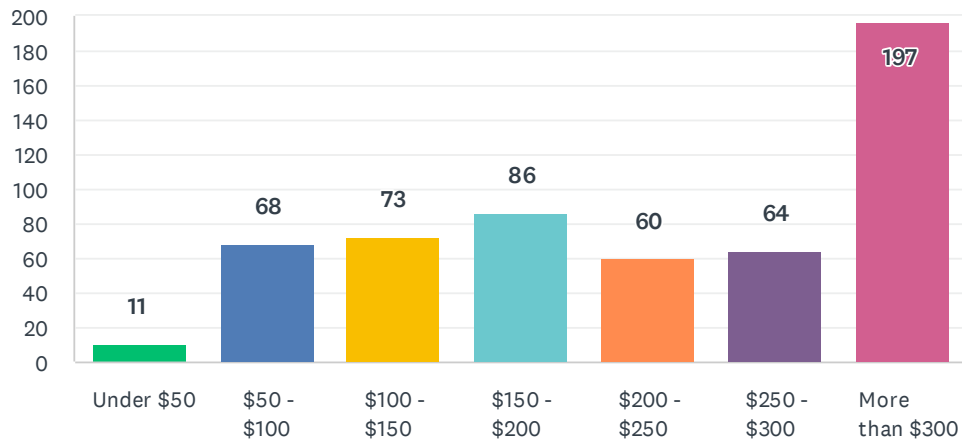
Answered: 3,168 Skipped: 2



ANSWER CHOICES	RESPONSES
Yes	18% 557
No	82% 2,611
TOTAL	3,168

## Q18 How much did supervision cost you per month?

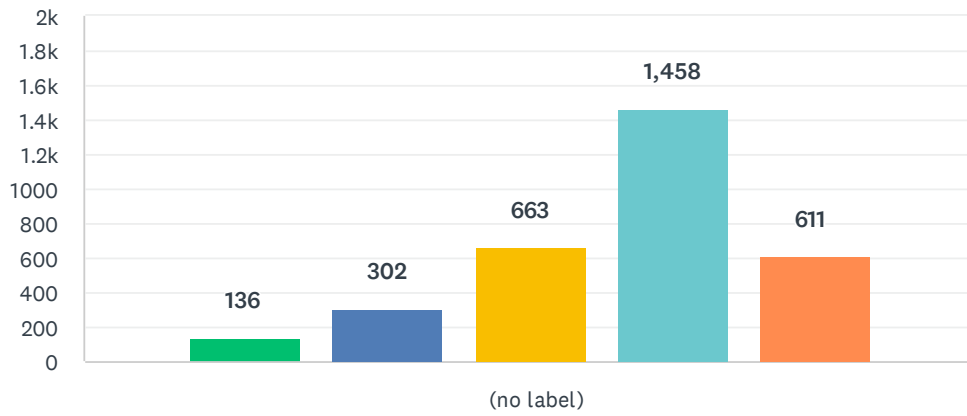
Answered: 559 Skipped: 2,611



ANSWER CHOICES	RESPONSES	
Under \$50	2%	11
\$50 - \$100	12%	68
\$100 - \$150	13%	73
\$150 - \$200	15%	86
\$200 - \$250	11%	60
\$250 - \$300	11%	64
More than \$300	35%	197
<b>TOTAL</b>		<b>559</b>

### Q19 How effective was your supervision in preparing you for licensure?

Answered: 3,170 Skipped: 0



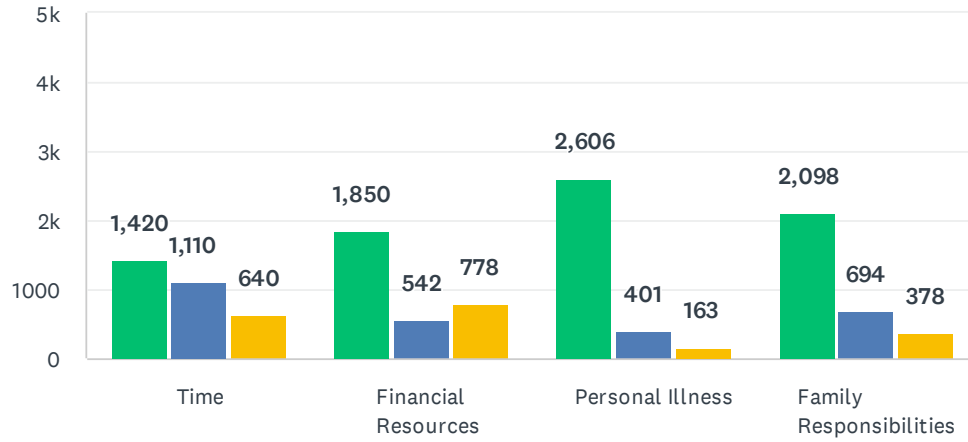
■ Extremely I... 
 ■ Ineffective 
 ■ Neither Ine... 
 ■ Effective 
 ■ Extremely ...

	EXTREMELY INEFFECTIVE	INEFFECTIVE	NEITHER INEFFECTIVE OR EFFECTIVE	EFFECTIVE	EXTREMELY EFFECTIVE	TOTAL	WEIGHTED AVERAGE
(no label)	4% 136	10% 302	21% 663	46% 1,458	19% 611	3,170	3.66



## Q20 To what extent would you consider the following as having been a barrier to obtaining supervision?

Answered: 3,170 Skipped: 0

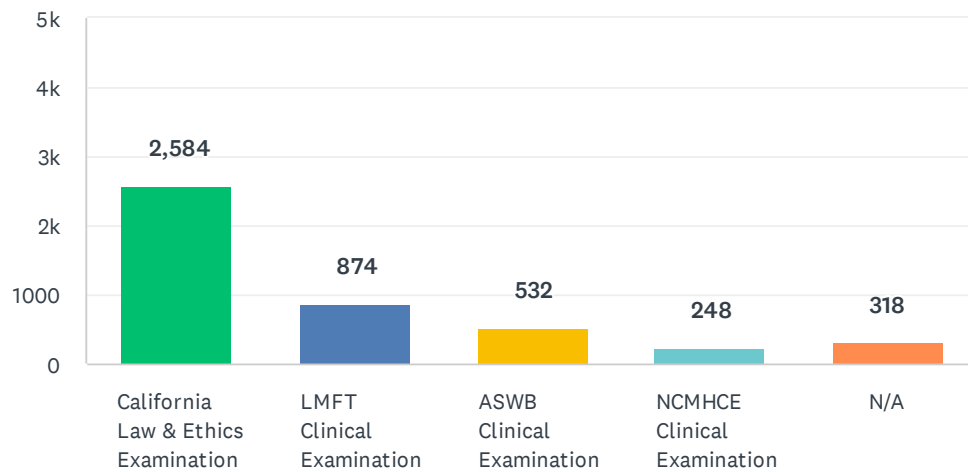


■ Not a Barrier
 ■ A Minor Bar...
 ■ A Significan...

	NOT A BARRIER	A MINOR BARRIER	A SIGNIFICANT BARRIER	TOTAL	WEIGHTED AVERAGE
Time	45% 1,420	35% 1,110	20% 640	3,170	1.75
Financial Resources	58% 1,850	17% 542	25% 778	3,170	1.66
Personal Illness	82% 2,606	13% 401	5% 163	3,170	1.23
Family Responsibilities	66% 2,098	22% 694	12% 378	3,170	1.46

## Q21 Which Board examinations have you participated in?

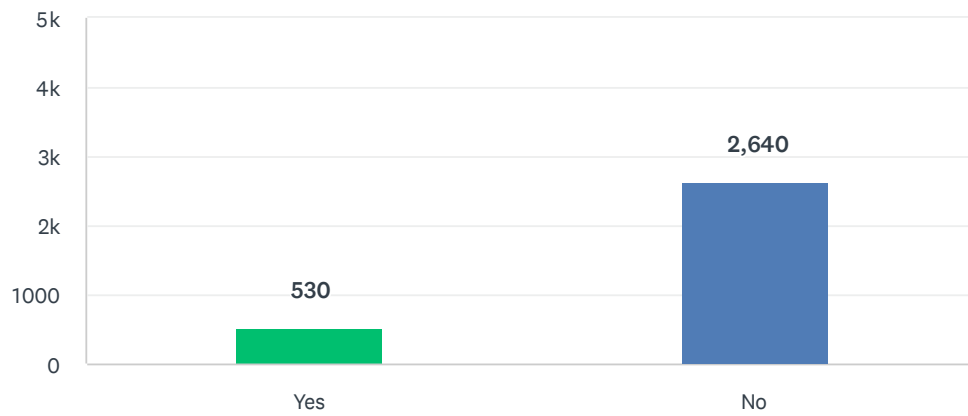
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
California Law & Ethics Examination	82%	2,584
LMFT Clinical Examination	28%	874
ASWB Clinical Examination	17%	532
NCMHCE Clinical Examination	8%	248
N/A	10%	318
Total Respondents: 3,170		

## Q22 Did you have to retake the CA Law and Ethics Examination?

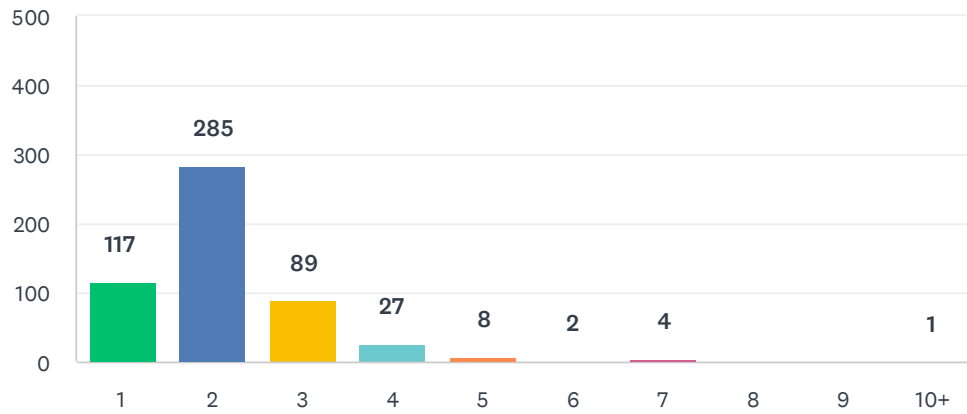
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	17%	530
No	83%	2,640
TOTAL		3,170

## Q23 How many times did you take the CA Law & Ethics Examination?

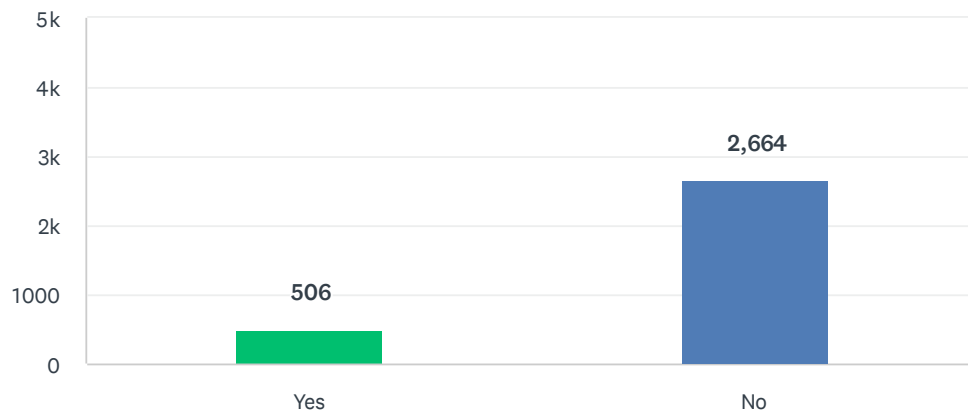
Answered: 533 Skipped: 2,637



ANSWER CHOICES	RESPONSES	
1	22%	117
2	53%	285
3	17%	89
4	5%	27
5	2%	8
6	0%	2
7	1%	4
8	0%	0
9	0%	0
10+	0%	1
<b>TOTAL</b>		<b>533</b>

## Q24 Did you have to retake the clinical examination?

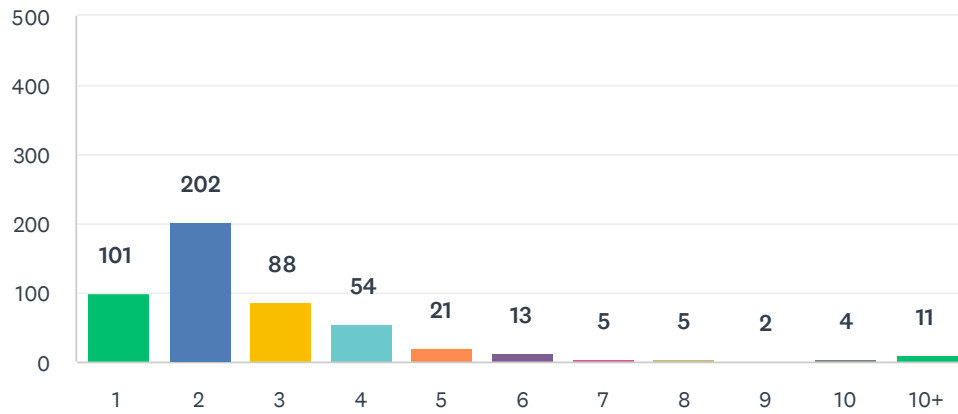
Answered: 3,170 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	16%	506
No	84%	2,664
TOTAL		3,170

## Q25 How many times did you take the clinical examination?

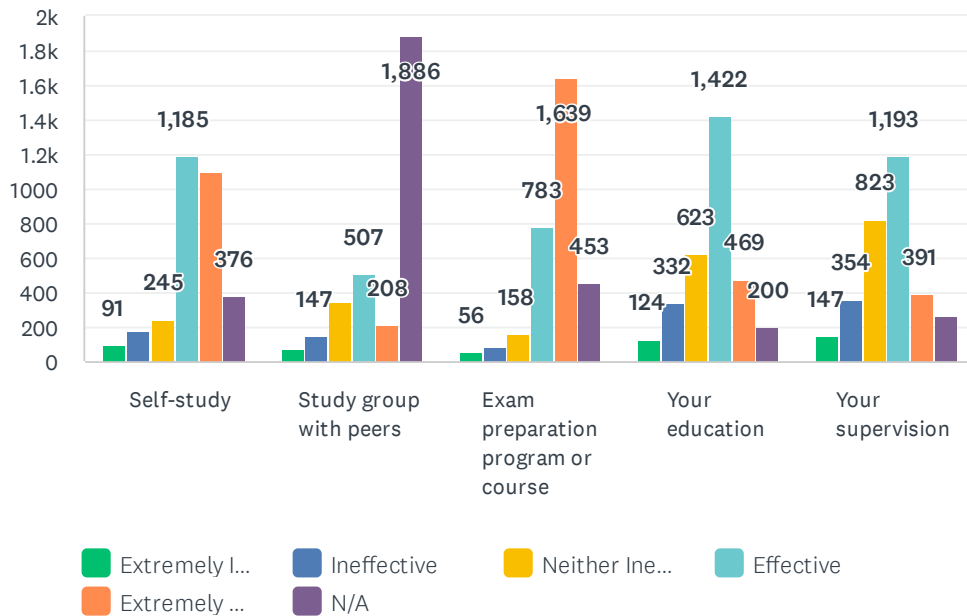
Answered: 506 Skipped: 2,664



ANSWER CHOICES	RESPONSES	
1	20%	101
2	40%	202
3	17%	88
4	11%	54
5	4%	21
6	3%	13
7	1%	5
8	1%	5
9	0%	2
10	1%	4
10+	2%	11
<b>TOTAL</b>		<b>506</b>

## Q26 How effective were the following in preparing for examinations?

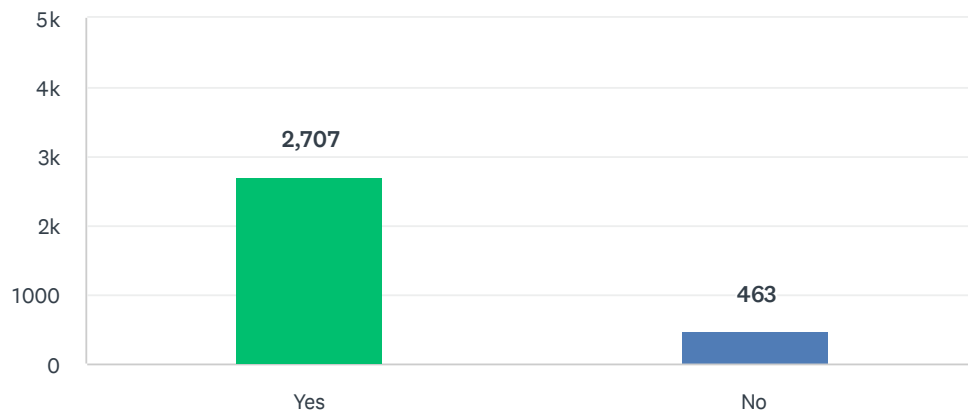
Answered: 3,170 Skipped: 0



	EXTREMELY INEFFECTIVE	INEFFECTIVE	NEITHER INEFFECTIVE OR EFFECTIVE	EFFECTIVE	EXTREMELY EFFECTIVE	N/A	TOTAL	WEIGHTED AVERAGE
Self-study	3% 91	6% 177	8% 245	37% 1,185	35% 1,096	12% 376	3,170	4.08
Study group with peers	2% 77	5% 147	11% 345	16% 507	7% 208	59% 1,886	3,170	3.48
Exam preparation program or course	2% 56	3% 81	5% 158	25% 783	52% 1,639	14% 453	3,170	4.42
Your education	4% 124	10% 332	20% 623	45% 1,422	15% 469	6% 200	3,170	3.60
Your supervision	5% 147	11% 354	26% 823	38% 1,193	12% 391	8% 262	3,170	3.46

## Q27 Did you utilize an examination preparation course or program?

Answered: 3,170 Skipped: 0

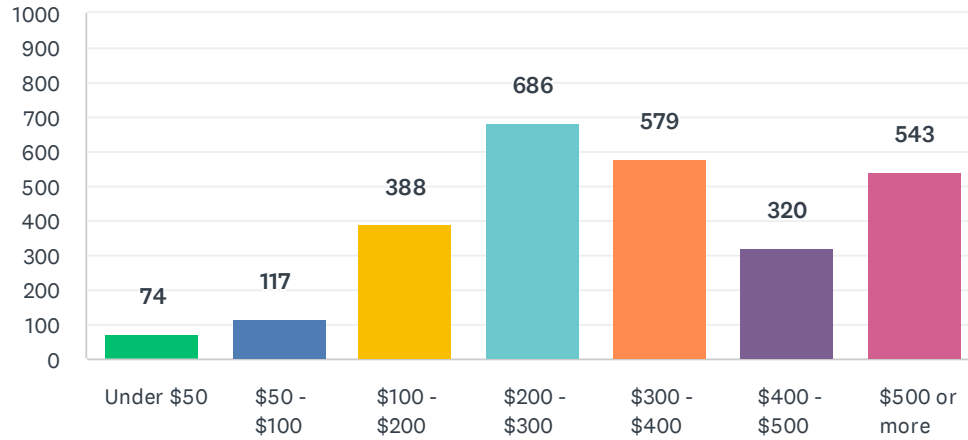


ANSWER CHOICES	RESPONSES	
Yes	85%	2,707
No	15%	463
TOTAL		3,170



## Q28 How much did you spend on course preparation programs or courses?

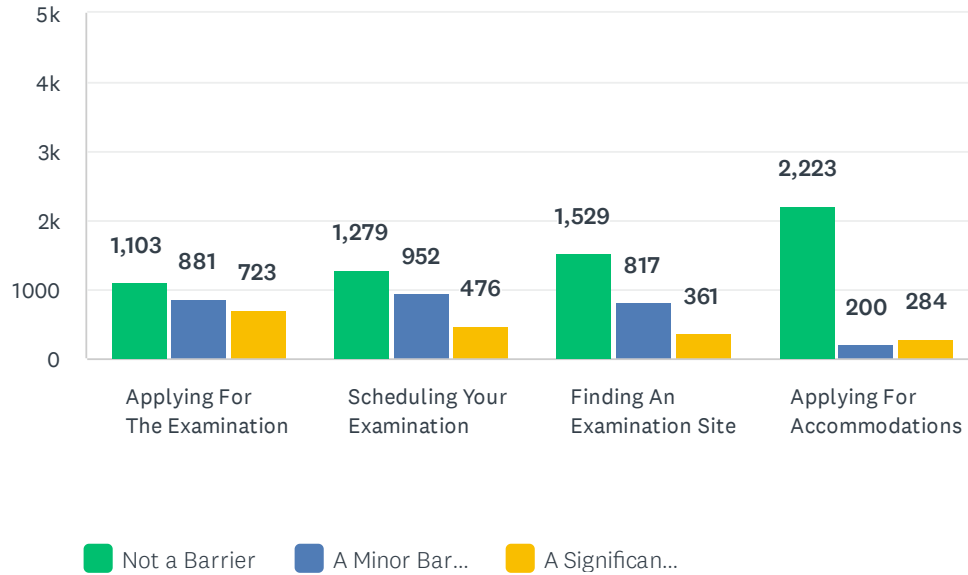
Answered: 2,707 Skipped: 463



ANSWER CHOICES	RESPONSES
Under \$50	3% 74
\$50 - \$100	4% 117
\$100 - \$200	14% 388
\$200 - \$300	25% 686
\$300 - \$400	21% 579
\$400 - \$500	12% 320
\$500 or more	20% 543
<b>TOTAL</b>	<b>2,707</b>

## Q29 To what extent would you consider the following as having been a barrier during your examination experience?

Answered: 2,707 Skipped: 463



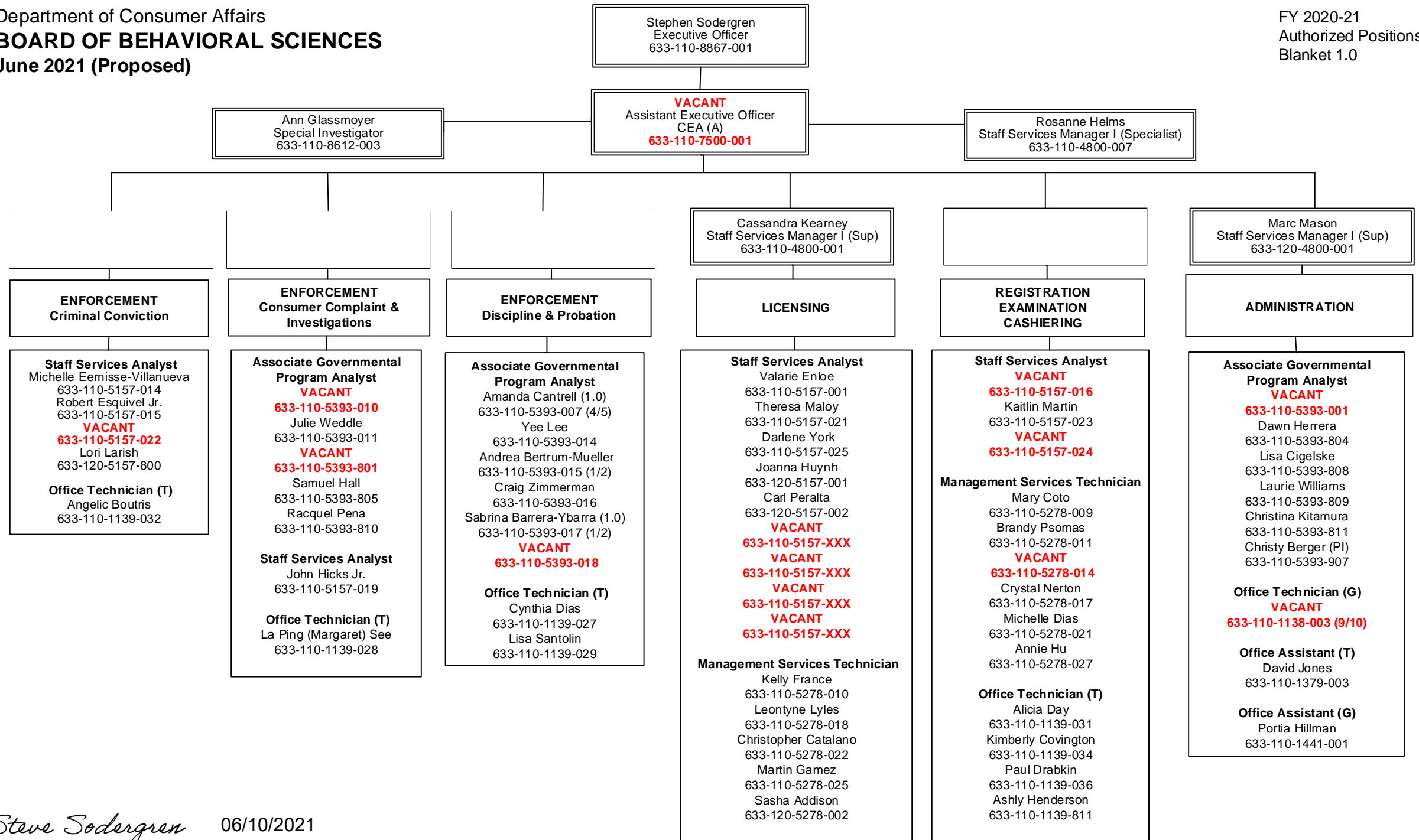
	NOT A BARRIER	A MINOR BARRIER	A SIGNIFICANT BARRIER	TOTAL	WEIGHTED AVERAGE
Applying For The Examination	41% 1,103	33% 881	27% 723	2,707	1.86
Scheduling Your Examination	47% 1,279	35% 952	18% 476	2,707	1.70
Finding An Examination Site	56% 1,529	30% 817	13% 361	2,707	1.57
Applying For Accommodations	82% 2,223	7% 200	10% 284	2,707	1.28

Q30 Is there any additional additional comments about the pathway to licensure that you would like to share?

Answered: 1,578 Skipped: 1,592

Department of Consumer Affairs  
**BOARD OF BEHAVIORAL SCIENCES**  
 June 2021 (Proposed)

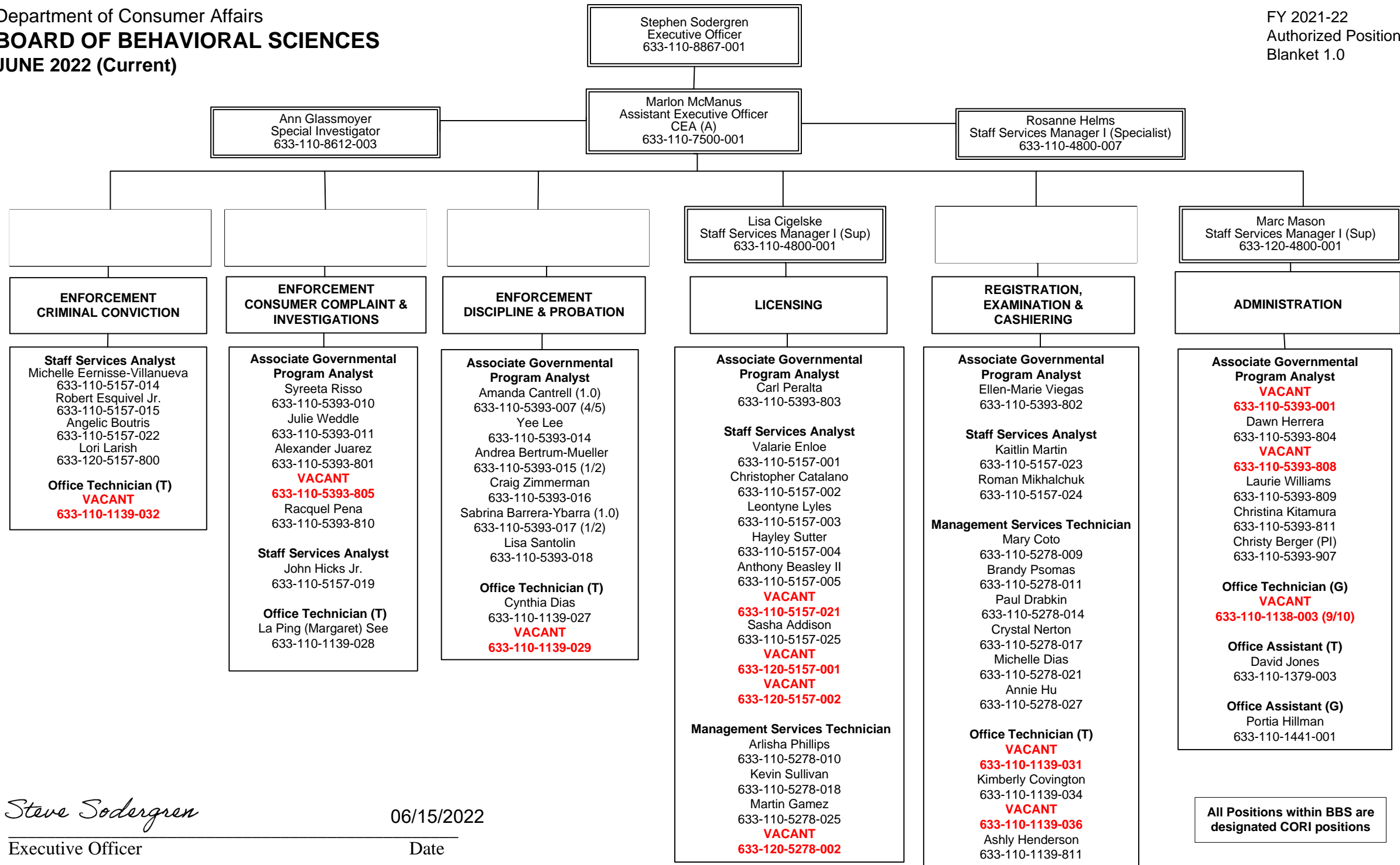
FY 2020-21  
 Authorized Positions: 63.7  
 Blanket 1.0



*Steve Sodergren* 06/10/2021  
 Executive Officer Date

Personnel Analyst Date

All Positions within BBS are  
 designated CORI positions



*Steve Sodergren*

06/15/2022

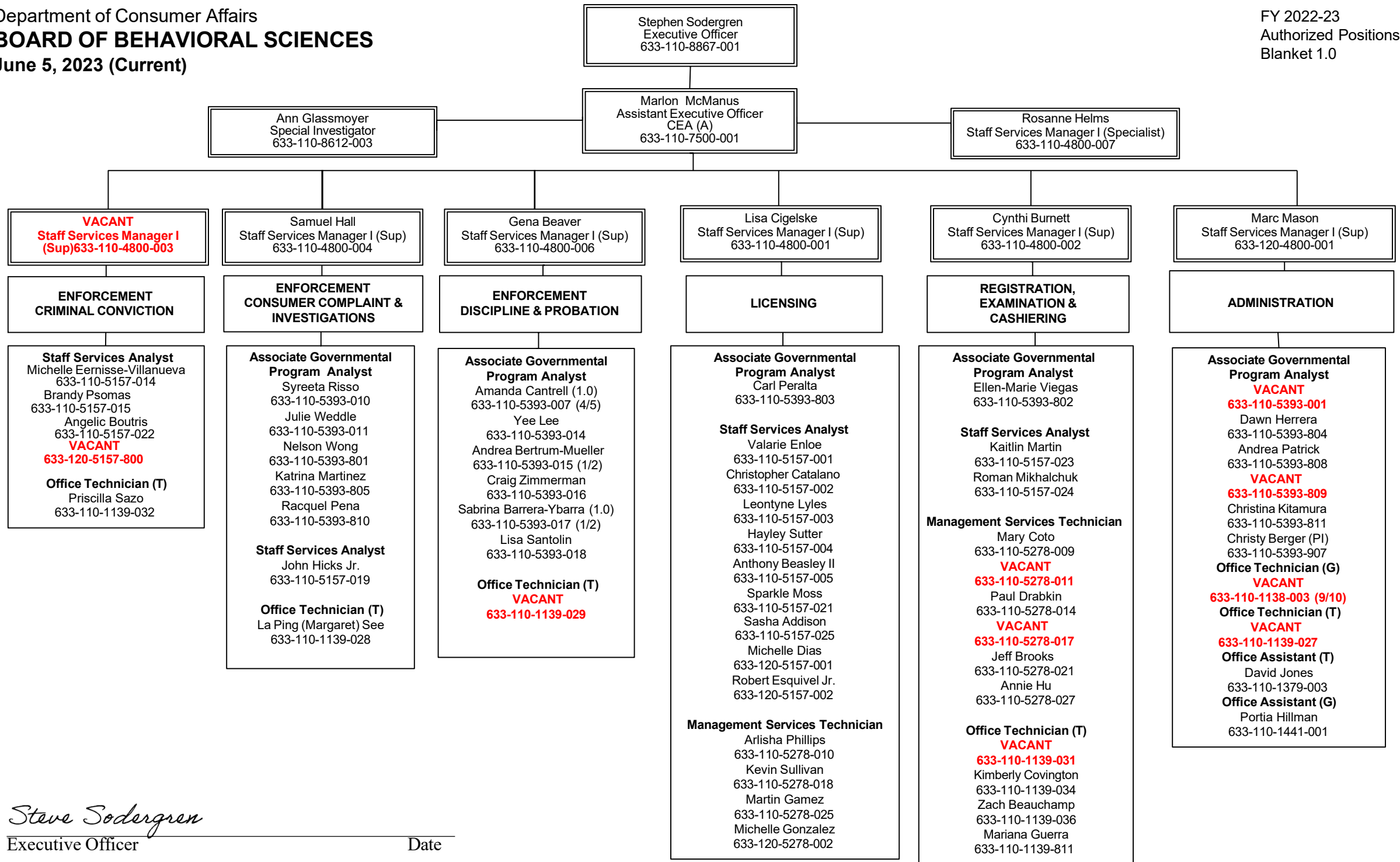
Executive Officer

Date

Classification & Recruitment (C&R) Analyst

Date

All Positions within BBS are designated CORI positions



*Steve Sodergren*  
 Executive Officer

Date

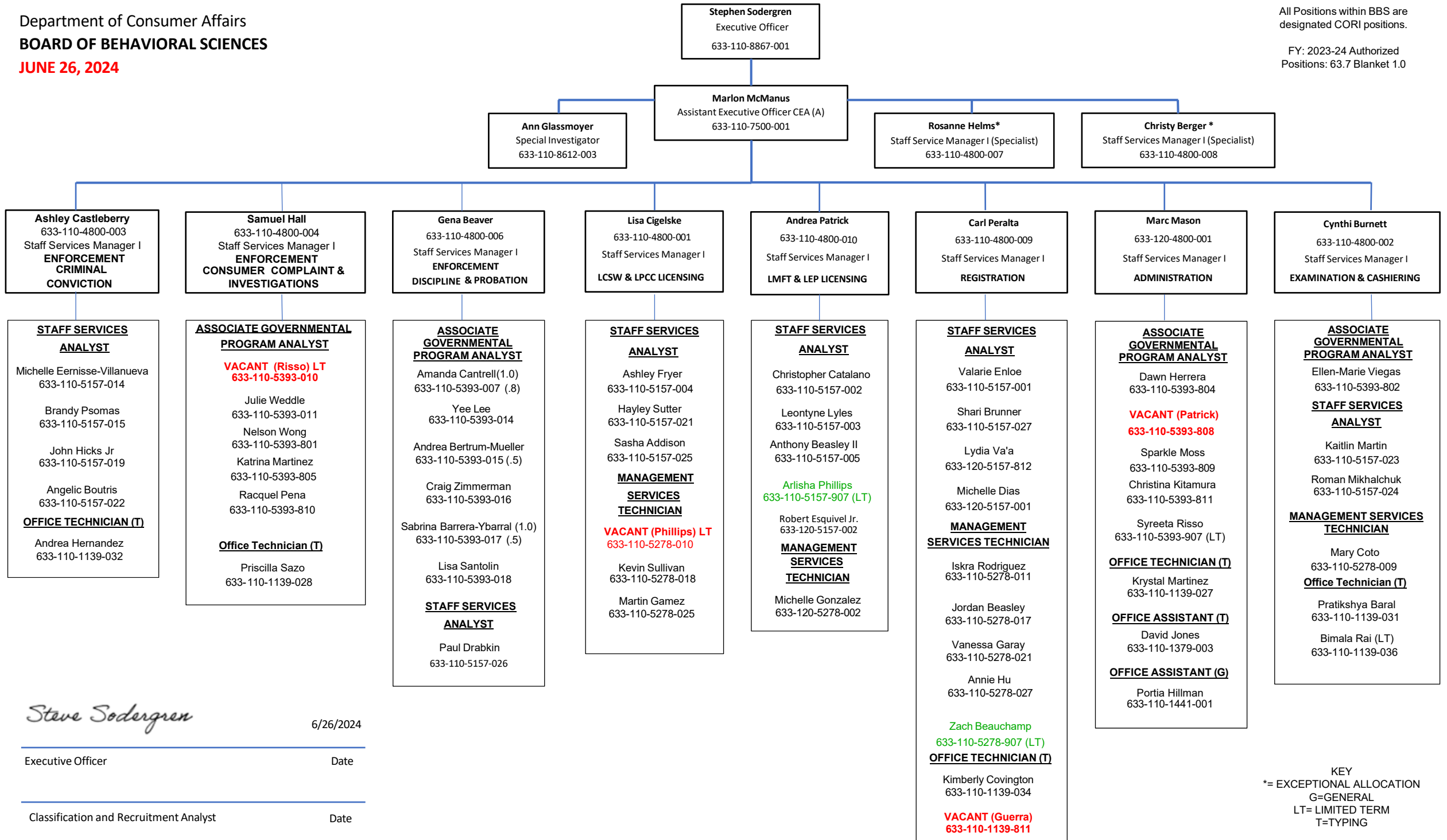
Classification & Recruitment (C&R) Analyst

Date

All Positions within BBS are  
 designated CORI positions

Department of Consumer Affairs  
**BOARD OF BEHAVIORAL SCIENCES**  
**JUNE 26, 2024**

All Positions within BBS are designated CORI positions.  
 FY: 2023-24 Authorized Positions: 63.7 Blanket 1.0



*Steve Sodergren*

6/26/2024

Executive Officer

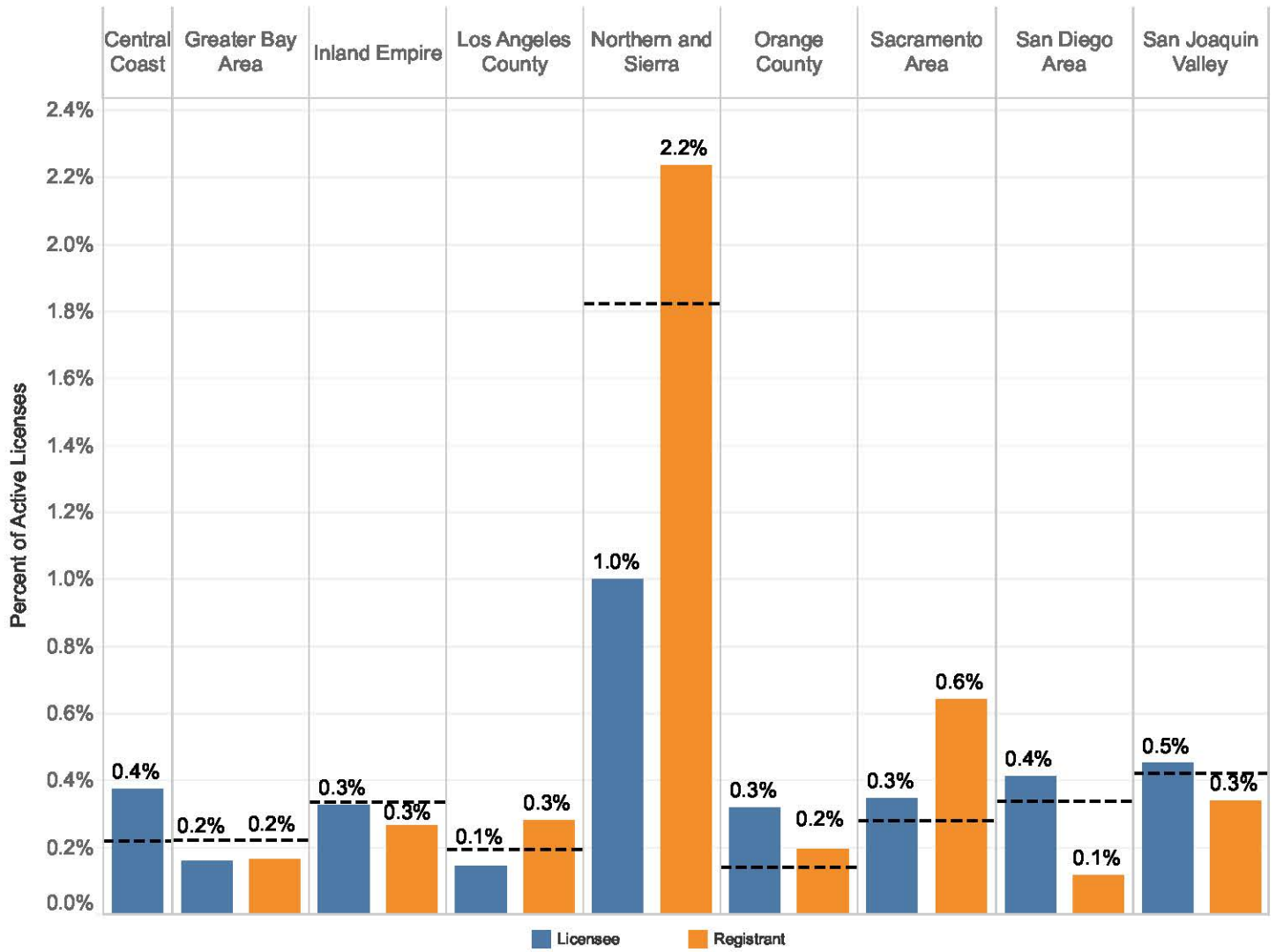
Date

Classification and Recruitment Analyst

Date

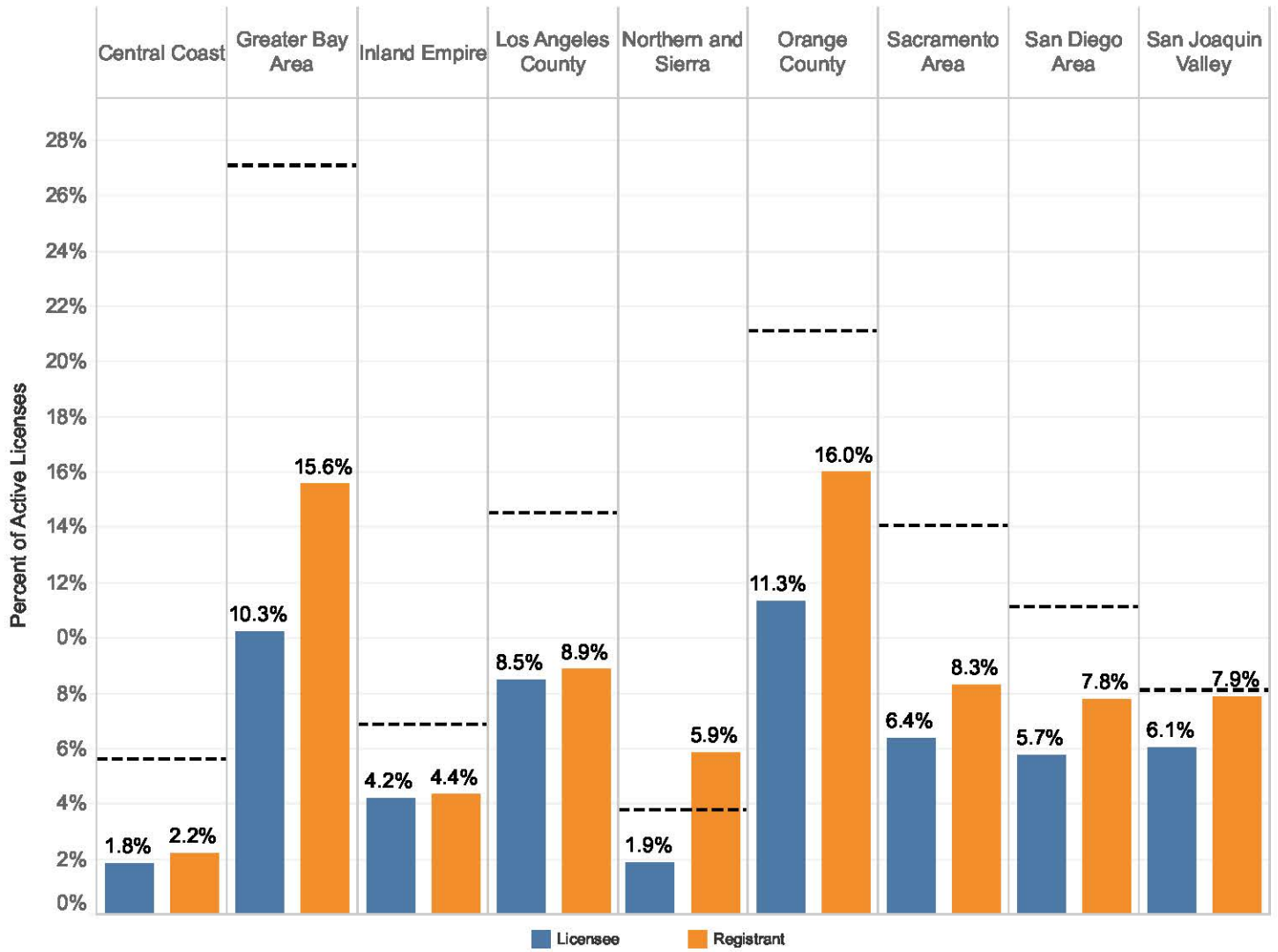
KEY  
 \*= EXCEPTIONAL ALLOCATION  
 G=GENERAL  
 LT=LIMITED TERM  
 T=TYPING

### American Indian, Non-Hispanic

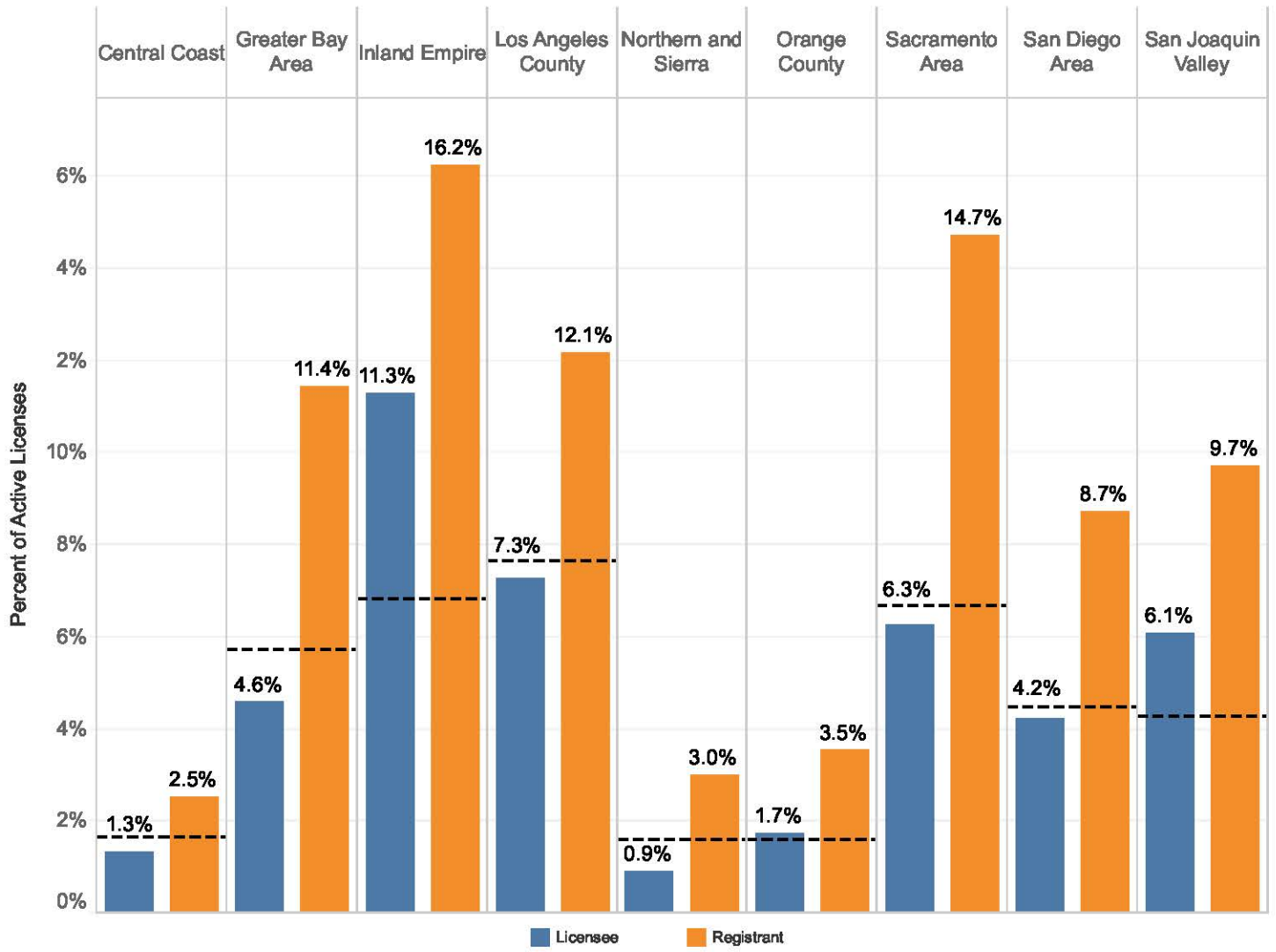




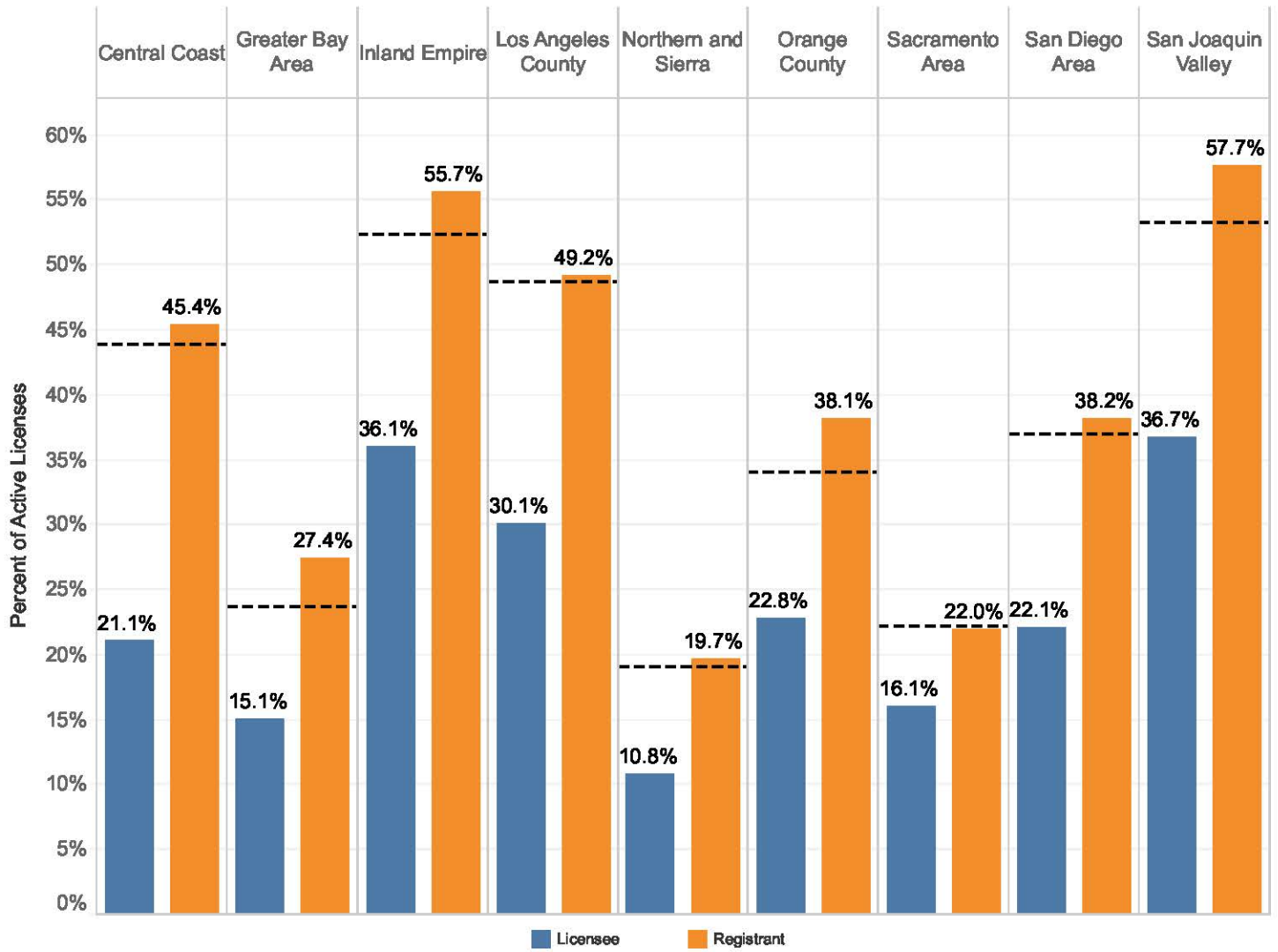
### Asian, Non-Hispanic



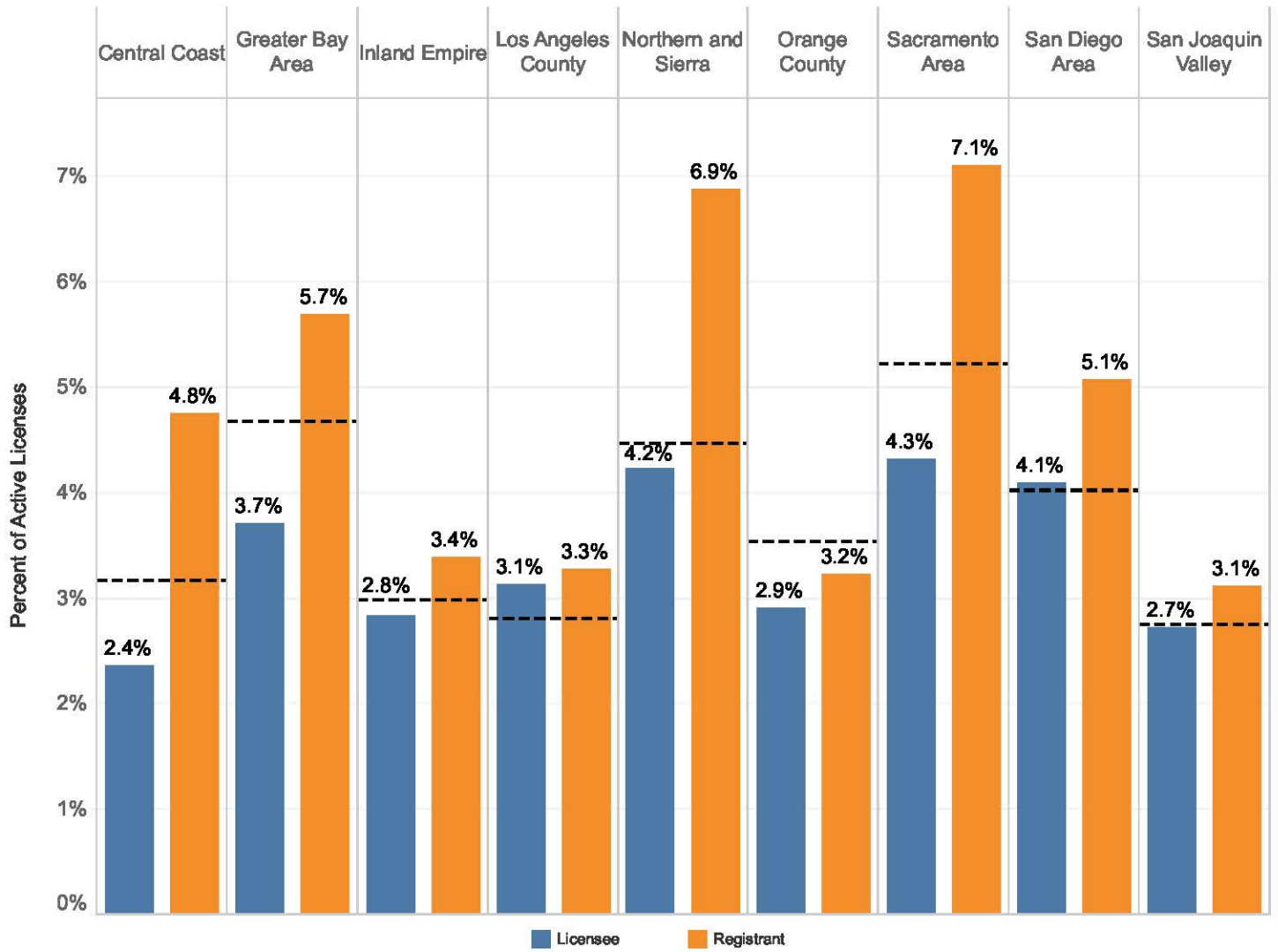
### Black, Non-Hispanic



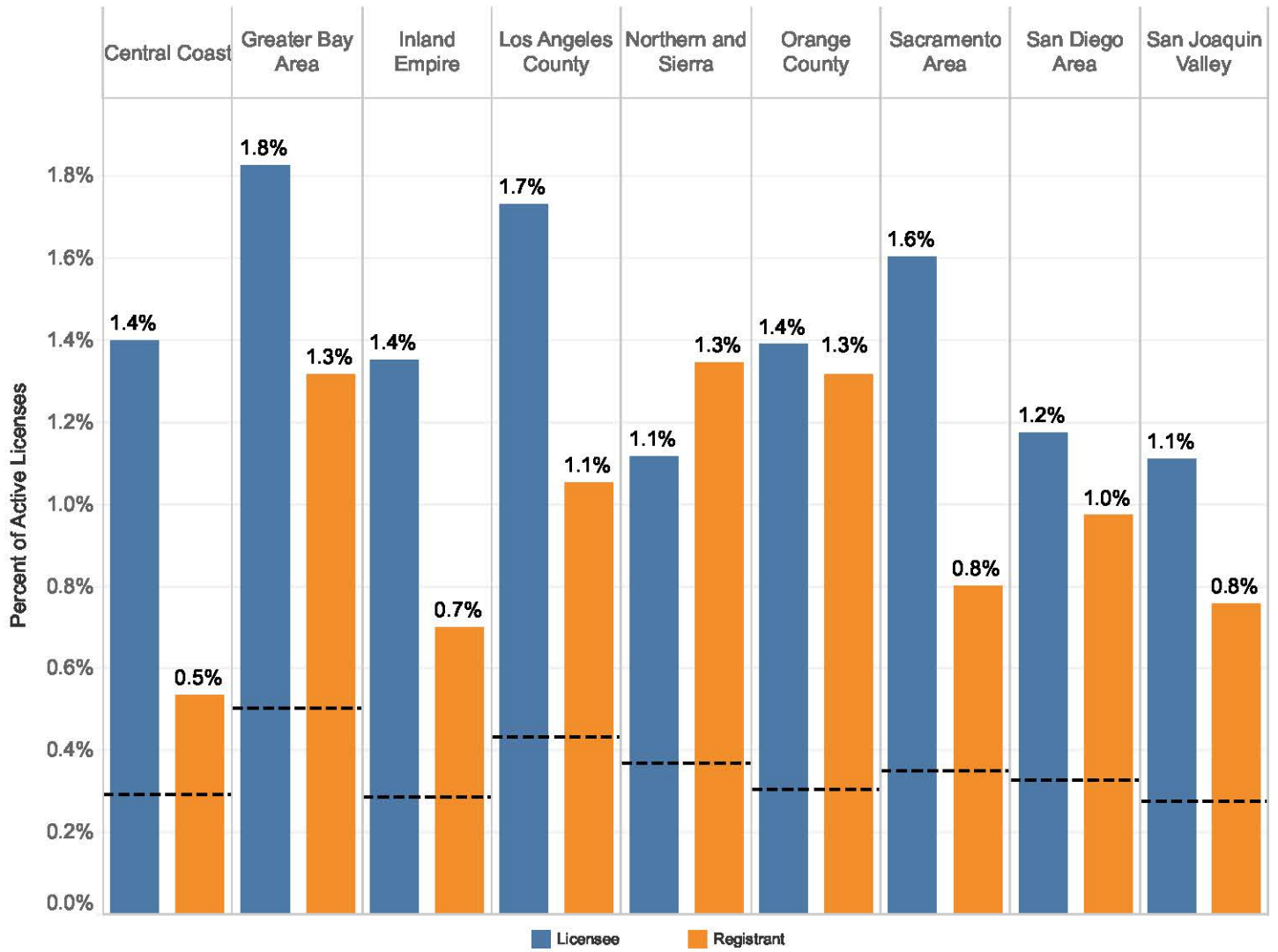
### Hispanic, Any Race



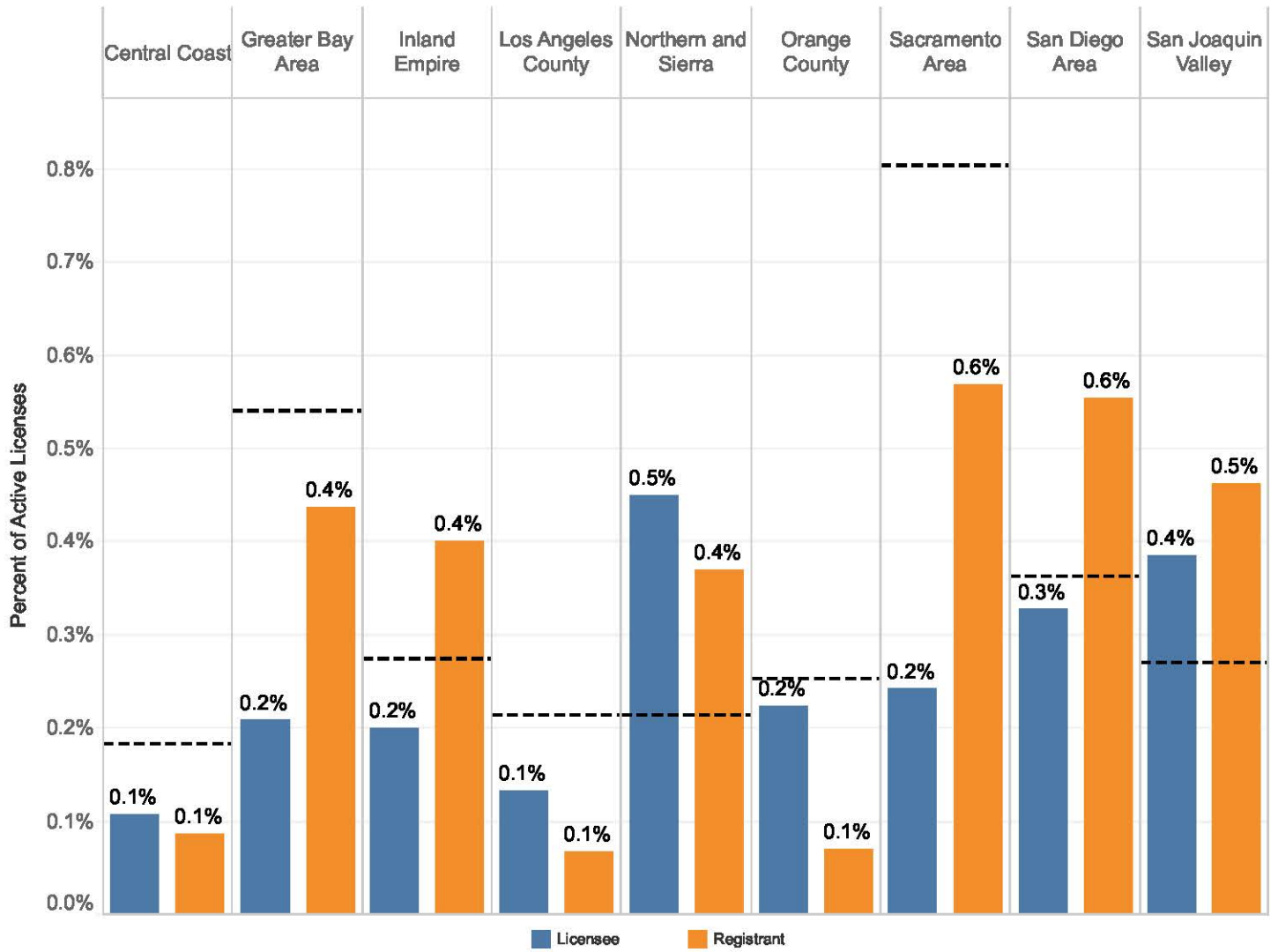
### Multiracial, Non-Hispanic



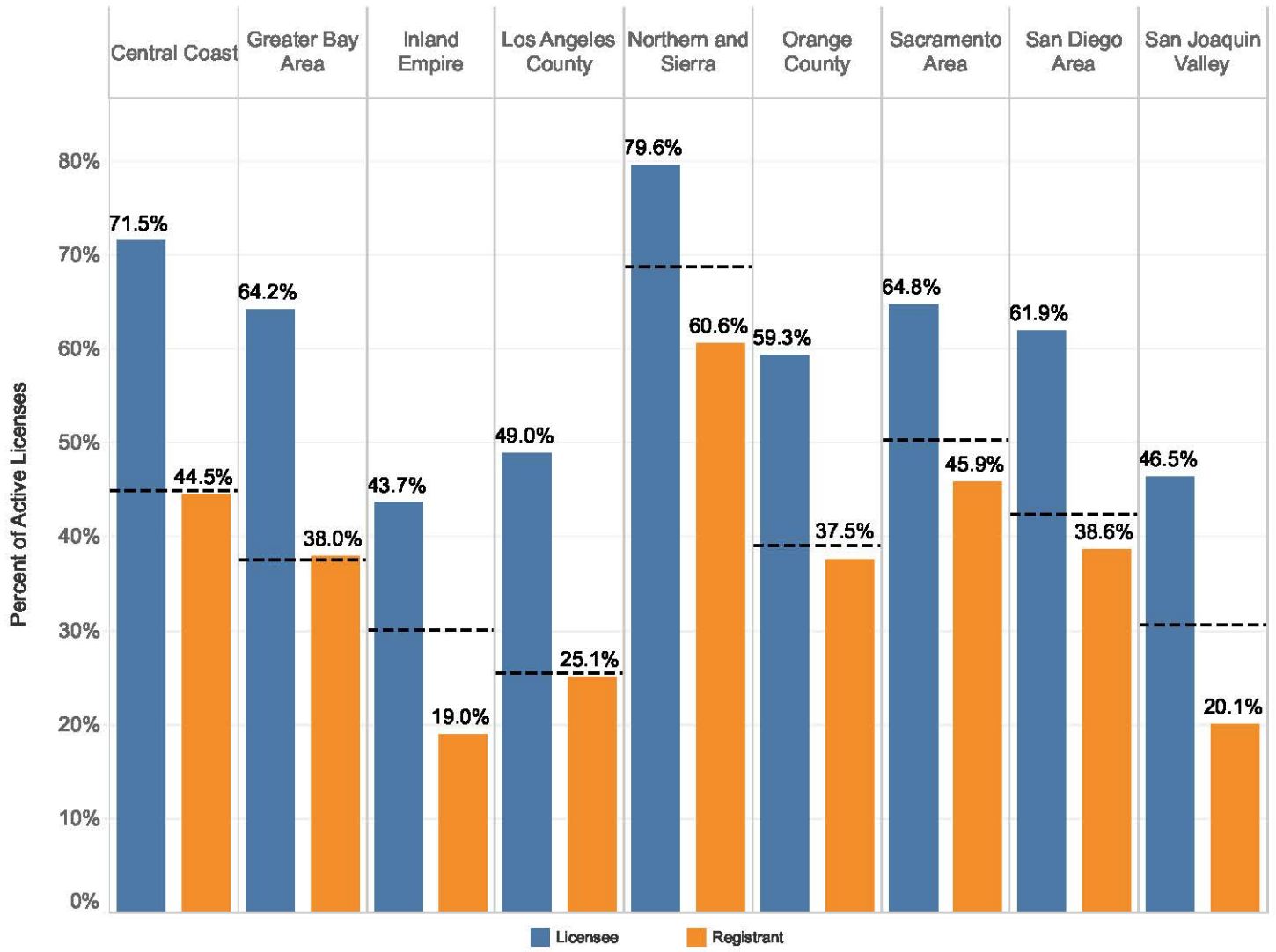
### Other Race, Non-Hispanic



### Pacific Islander, Non-Hispanic



### White, Non-Hispanic





Board of Behavioral Sciences

*Memo*

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[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Committee Members

**Date:** December 18, 2023

**From:** Steve Sodergren  
Executive Officer

**Subject: Review of the Department of Health Care Access and Information (HCAI) Research Data Center's Race and Ethnicity of California Health Workforce Data Set**

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The Department of Health Care Access and Information (HCAI) Research Data Center released an online dashboard for race and ethnicity of California workforce data set. This dashboard allows a user to filter data by workforce category, license name, and region. This dashboard is available at: <https://hcai.ca.gov/visualizations/race-ethnicity-of-californias-health-workforce/>.

In response to a request by Board staff, HCAI representatives created a report of the Board-specific license types filtered by race and ethnicity for each geographical area of California. These reports are attached. (Attachment A). Additionally, included in the materials are HCAI's key findings and background information on the data collection method. (Attachment B).

Board staff will continue to work with HCAI to identify additional data sets, reports, and studies that may assist in future committee discussions.

### **Attachments**

Attachment A: Board Workforce Data Presentation

Attachment B: HCAI Race & Ethnicity Data Background



## **California Department of Health Care Access and Information: Race & Ethnicity of California's Health Workforce Background**

### **Why are the Race & Ethnicity of our Health Workforce important?**

Racial and ethnic representation is critical for a successful relationship between patients and their healthcare providers. Studies show that patient safety and quality of care increase when health care providers and their patients share the same race or ethnicity. By understanding the racial and ethnic makeup of our health workforce, we can better identify areas of over and under representation and improve HCAI's efforts to build a diverse and effective workforce.

### **Key Findings**

- Hispanics are the most underrepresented group in the health workforce, at nearly 50 percent below the population average statewide. They are also underrepresented in all six workforce categories and all nine regions in California.
- Several groups in the health workforce are represented well above their population average statewide; Asians are represented at nearly twice the population average, and Pacific Islanders and Other Races at three times the population average.
- These patterns of representation are consistent across regions, but vary dramatically by workforce category and license type for all groups except Hispanics.
- The representation of Whites has decreased significantly over the last 30 years in all regions and workforce categories.
- Over the last 20 years, the Medicine workforce category has shown the least change in its Racial and Ethnic diversity.

### **How HCAI Created This Product**

- Licensure data was collected by the Department of Consumer Affairs; all data presented represents a snapshot of the active licensee population on July 1<sup>st</sup>, 2023.
- This product is based on HCAI Health Workforce License Renewal Survey data; all data presented as of July 1st, 2023. The responses to these surveys were adjusted using cell-based weighting to create estimates of the full population. Decline to State answers were excluded from the data for each visualization. Licensees without an Issue Date were excluded from the License Issue Date visualization.
- Population data was retrieved from the US Census Bureau's DP05 ACS Demographic and Housing Estimates 2021 ACS 5 year estimate. Race & Ethnicity groups were defined using the US Census Bureau's definitions of Race and Ethnicity. These data are reported at overarching race and ethnicity

categories for accurate comparison to the Census. These groupings may mask the representation of subgroups; for example, an underrepresentation for Vietnamese as a subgroup may be masked when grouped with all Asians as a Census Race & Ethnicity group.