

**TITLE 16 BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS**

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Horton Grand Hotel, 311 Island Avenue, San Diego, California, 92101, at 2:00 p.m. on Thursday, February 17, 2005.

Written comments must be received by the Board at its office including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this notice not later than 5:00 p.m. on February 14, 2005, or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.60, 4987, and 4990.14 of the Business and Professions Code and Section 11400.20 of the Government Code, and to implement, interpret or make specific Sections 4982, 4986.70, and 4992.3 of the Business and Professions Code and Sections 11400.20 and 11425.50 (e) of the Government Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Amend Section 1888.

The Board of Behavioral Sciences "Disciplinary Guidelines" document is incorporated by reference in the California Code of Regulations Section 1888, which was approved into regulation in 1997. These guidelines are used by Board staff, Deputy Attorneys General, Administrative Law Judges, licensees and attorneys to assist in determining penalties in the disciplinary process against Marriage and Family Therapists, Licensed Clinical Social Workers, Licensed Educational Psychologists, Registered Marriage and Family Therapist Interns, and Registered Associate Clinical Social Workers.

On February 20, 2003, The Board created an Ad Hoc Disciplinary Guidelines Committee. Its objective was to determine amendments that would make the Disciplinary Guidelines document more clear, comprehensive, user-friendly, and up to

date. The document been amended as follows:

1. Revised Introduction
2. New Penalty Guidelines statement
 - (a) Explains document purpose and format
 - (b) Explains and provides direction regarding Optional Terms and Conditions of Probation
 - (c) Provides direction to Administrative Law Judge requesting explanation of deviations or omissions from guidelines
3. Penalty Guidelines
 - (a) Reformatted Penalty Guidelines in table format
 - (b) Edited various minimum and maximum penalties
 - (c) Violation categories re-titled to accurately reflect all violations
4. Added description of Model Disciplinary Orders
5. Renumbered Optional and Standard Terms and Conditions of Probation
6. Optional Conditions section now precedes Standard Conditions section
7. Optional Terms and Conditions of Probation
 - (a) Added request for Optional Conditions to be listed first in decisions
 - (b) Added "Psychiatric" to Psychological Evaluation
 - (c) "Psychotherapy" now precedes "Supervised Practice"
 - (d) Renamed "Supervision of Respondent's Practice" to "Supervised Practice"
 - (e) Moved Law and Ethics course from Standard to Optional Conditions and included a NOTE explaining when this term is appropriate
 - (f) Added NOTE regarding the appointment of evaluators for psychological or psychiatric evaluations
8. Standard Terms and Conditions of Probation
 - (a) Deleted Tolling of Probation
 - (b) Added Residing or Practicing Out-of-State Terms and Conditions
 - (c) Added Failure to Practice – California Resident Terms and conditions
 - (d) Added NOTE to Notification to Clients explaining when this term is appropriate
 - (e) Added supplementary direction to probationer regarding when notification to client is needed and included NOTE providing direction to probationer regarding appropriate application of the condition

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action would not have any affect on small businesses, as these proposals would only affect individuals in the Board's disciplinary process.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice. Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing or to the address listed under Contact Person.

CONTACT PERSON

General or substantive inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Christy Berger

Address: 400 R Street, Suite 3150
Sacramento CA 95814
Telephone: 916-445-4933, extension 1026
Fax: 916-445-1116
Email: BBSWebMaster@bbs.ca.gov

OR

Name: Julie McAuliffe
Address: 400 R Street, Suite 3150
Sacramento, CA 95814
Telephone: 916-445-4933, extension 1142
Fax No.: 916-323-0707
E-Mail: BBSWebMaster@bbs.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL AND AVAILABILITY OF MODIFIED TEXT

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from either of the Contact Persons listed above.

If the regulations adopted by the Board differ from and are substantially related to the action proposed, the text of the proposed regulations with changes clearly indicated will be made available to the public for 15 days prior to the date of adoption.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection from either of the Contact Persons listed above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to either of the Contact Persons named above or by accessing the website listed below.

INTERNET ACCESS

Materials regarding this proposal, including the proposed revisions to the Disciplinary Guidelines document, can be found at www.bbs.ca.gov