

Date of Hearing: July 14, 2021

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

SB 801 (Archuleta) – As Amended July 7, 2021

SENATE VOTE: 39-0

SUBJECT: Healing arts: Board of Behavioral Sciences: Board of Psychology: licensees

SUMMARY: Makes various changes to the regulation of licensed and registered professionals under the jurisdiction of the Board of Psychology (BOP) and the Board of Behavioral Sciences (BBS), including psychologists, registered psychologists, psychological assistants, licensed clinical social workers (LCSWs), licensed marriage and family therapists (LMFTs), licensed educational psychologists (LEPs), licensed professional clinical counselors (LPCCs), associate clinical social workers registrants (ASWs), associate marriage and family therapists registrants (AMFTs), and associate professional clinical counselors registrants (APCCs), stemming from the joint sunset review oversight of the BOP and the BBS.

EXISTING LAW:

- 1) Establishes the Psychology Licensing Law, which defines and regulates the practice of psychology in California. (Business and Professions Code (BPC) Section 2900 et seq.)
- 2) Defines the practice of psychology as rendering psychological service involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships, as specified. (BPC Section 2903)
- 3) Creates the Board of Psychology under the jurisdiction of the Department of Consumer Affairs, responsible for the licensing and enforcement of the psychology profession in California. (BPC Section 2920 et seq.)
- 4) Prohibits a person, with certain exceptions, to engage in the practice of psychology or representing themselves as a psychologist without a license granted by the BOP. (BPC Section 2903)
- 5) Enumerates the requirements to qualify for licensure as a psychologist, including:
 - a. Earning a doctorate degree in psychology, educational psychology, or education with the field of specialization in counseling psychology or educational psychology, as specified.
 - b. Accruing at least two years of supervised professional experience under supervision, as specified.

- c. Taking and passing an examination testing the knowledge in any theoretical or applied fields of psychology, as well as professional skills and judgement in the use of psychological techniques and methods and the ethical practice of psychology.
 - d. Completing pre-licensure courses, including alcohol and chemical dependency detection and treatment, spousal or partner abuse assessment detection and intervention strategies, aging and long-term care, suicide risk assessment and intervention, as specified. (BPC Section 2914, Section 2915.5 and Section 2915.4)
- 6) Establishes the “psychological assistant” registration category under the BOP, and allows such registrant to perform psychological functions in preparation for full licensure as a psychologist if the registrant:
- a. Meets specified educational requirements, such as completing a master’s degree, or being admitted to candidacy for a doctoral degree, or having a doctorate degree in psychology, educational psychology, or education.
 - b. Is at all times under the immediate supervision of a licensed psychologist or a licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology or the American College of Osteopathic Board of Neurology and Psychiatry.
 - c. Complies with regulations adopted by the BOP relating to the requirements in continuing education.
 - d. Does not provide psychological services to the public except as a supervisee. (BPC Section 2913)
- 7) Prohibits a licensed psychologist or a board certified psychiatrist from supervising more than three psychological assistants at any given time. (BPC Section 2913(c)(2))
- 8) Establishes the “registered psychologist” registration category under the BOP, and allows such registrant to perform activities of a psychological nature at a nonprofit community agency for a maximum period of 30 months, if the following conditions are met:
- a. The registrant has a doctorate degree in psychology, educational psychology, or in education, as specified.
 - b. The registrant has one year or more of supervised professional experience.
 - c. The nonprofit community agency receives a minimum of 25 percent of their financial support from any federal, state, county, or municipal governmental organizations. (BPC Section 2909.5)

- 9) Authorizes the following unlicensed individuals to perform activities of a psychological nature, as long as those persons are performing those activities as part of the duties for which they were employed, are performing those activities solely within the confines of or under the jurisdiction of the organization in which they are employed, and do not render or offer to render psychological services:
- a. Individuals who hold a valid and current credential as a school psychologist issued by the Commission on Teacher Credentialing.
 - b. Individuals who are employed in positions as psychologists or psychological assistants by accredited or approved colleges, junior colleges, or universities, or by federal, state, county, or municipal governmental organizations that are not primarily involved in the provision of direct health or mental health services, may conduct research and disseminate their research findings and scientific information. (BPC Section 2909)
- 10) Authorizes individuals who are salaried employees of accredited or approved academic institutions, public schools, or governmental agencies to practice psychology, if those employees are complying with the following:
- a. Performing those psychological activities as part of the duties for which they were hired.
 - b. Performing those activities solely within the jurisdiction or confines of those organizations.
 - c. Do not hold themselves out to the public by any title or description of activities incorporating the words “psychology,” “psychological,” or “psychologist.”
 - d. Are primarily gaining the supervised professional experience required for licensure that is being accrued consistent with the BOP’s regulations and the employees have as the primary supervisor a psychologist licensed in the state. (BPC Section 2910)
- 11) Provides that an applicant for licensure trained in an educational institution outside the United States or Canada must demonstrate that they possess an equivalent doctorate degree in psychology earned from a regionally accredited university in the United States or Canada to be eligible for licensure in California. Requires such applicants to provide a comprehensive evaluation of the degree, performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES). (BPC Section 2914(c)(4))
- 12) Specifies and an individual who passes the BOP’s supplemental licensing examination and has been licensed for at least five years by a psychology licensing authority in another state or Canadian province may obtain a license in California. (BPC Section 2946)

- 13) Establishes the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, the Licensed Professional Clinical Counselor Act, and the Educational Psychologist Practice Act, which outlines the licensure requirements, scope of practice, and professional responsibilities of those respective professions. (BPC Section 4980.04 et seq., BPC Section 4991 et seq., BPC Section 4999.10 et seq., and BPC 4989.10 et seq)
- 14) Establishes the Board of Behavioral Sciences under the jurisdiction of the Department of Consumer Affairs responsible for enforcing the provisions of the Practice Acts described above. (BPC Section 4990 seq.)
- 15) Unless specifically exempted, requires a person to obtain a valid license or registration with the BBS before engaging in the practice of marriage and family therapy, clinical social work, or professional clinical counseling (BPC Section 4980(b), BPC Section 4996(b), and BPC Section 4999.30)
- 16) Exempts from licensure requirements above any 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, as long as the employee or volunteer performs work solely under the supervision of the entity and provides a specified consumer protection form to clients. (BPC Section 4980.01(c), BPC Section 4996.14(b), and BPC section 4999.22(d))
- 17) Requires unlicensed or unregistered employees or volunteers to provide clients, prior to initiating psychotherapy, a notice on information about where to file a complaint. (BPC Section 4980.01, Section 4996.14, and Section 4999.22)
- 18) Requires licensees or registrants under the BBS to provide clients, prior to initiating psychotherapy, a notice on the how to file a complaint with the BBS. (BPC Section 4980.32. Section 4989.17, 4996.75, and Section 4999.71)
- 19) Permits health care providers, including associate marriage and family therapists and qualified autism providers, to provide telehealth services, as specified. (BPC Section 2290.5)
- 20) Outlines the educational, coursework and training requirements for a marriage and family therapist license. (BPC Section 4980.36 and Section 4980.37)
- 21) Defines the practice of marriage and family therapy as a service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate satisfying, and productive marriage and family adjustments. (BPC Section 4980.02)
- 22) States that the application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of

relationships, and the use, application, and integration of marriage and family therapy coursework. (Section 4980.02)

- 23) Permits the BBS to establish continuing education provider fees, as specified. (BPC Section 4980.54, Section 4989.34, Section 4996.22, and Section 4999.76)
- 24) Authorizes the BBS to charge application, examination, and renewal fees, as specified. (BPC Section 4984.7, Section 4989.32, Section 4989.68, Section 4996.3, and Section 4999.120)
- 25) Authorizes the BBS to charge all unpaid prior renewal fees and delinquency fees for LPCC and LEP licensees wishing to renew a license that has expired, as specified. (BPC Section 4989.36, Section 4989.40, and Section 4999.104)
- 26) Prohibits any LMFT, LCSW, LPCC who conducts a private practice under a fictitious business name from using any name that is false, misleading, or deceptive and must inform the patient prior to commencing treatment of the name and license designation of the owner or owners of the practice, as specified. (BPC Section 4980.46, Section 4998.2, and Section 4999.125)
- 27) States that a licensee or registrant under the BBS whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. Specifies the timeframes by which a licensee or registrant may file a petition. (BPC Section 4990.30)
- 28) Specifies that a LCSW can obtain continuing education from an accredited school of social work or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. (BPC Section 4996.22)

THIS BILL:

- 1) Repeals the registered psychologist registration category under the BOP.
- 2) Eliminates the term “psychological assistant” and instead creates the “registered psychological associate” (RPA) registration category under the BOP. Authorizes an RPA to perform psychological functions in preparation for licensure as a psychologist.
- 3) Requires an RPA to complete or be in any of the following:
 - a. Completed a master’s degree in psychology.
 - b. Completed a master’s degree in education with the field of specialization in educational psychology, counseling psychology or school psychology.

- c. Is an admitted candidate for a doctoral degree in psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.
 - d. Is an admitted candidate for a doctoral degree in educational psychology, counseling psychology, or school psychology.
 - e. Is an admitted candidate for a doctoral degree in a field of specialization designed to prepare graduates for the professional practice of psychology after having satisfactorily completed three or more years of postgraduate education in psychology and having passed preliminary doctoral examinations.
 - f. Completed any of the doctoral degrees above.
- 4) Eliminates psychiatrists as potential immediate supervisors for the purpose of gaining supervised professional experience, and requires RPAs to be supervised by a licensed psychologist.
 - 5) Maintains that an RPA's primary supervisor shall not supervise more than three RPAs at any given time, and that the primary supervisor is responsible for ensuring that the extent, kind, and quality of the psychological services performed are consistent with the RPA's training and experience.
 - 6) Prohibits an RPA to provide psychological services to the public except as a trainee, and prohibits an RPA from receiving payments, monetary or otherwise, directly from clients.
 - 7) Expands the degrees and specializations that are eligible for licensure as a psychologist to include:
 - a. Psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.
 - b. Education with the field of specialization in counseling psychology, educational psychology, or school psychology.
 - c. A field of specialization designed to prepare graduates for the professional practice of psychology.
 - 8) Adds the National Register of Health Services Psychologists (NRHSP) as a foreign credential evaluation service that an applicant for licensure trained outside the United States or Canada may use to perform a degree equivalency evaluation. Specifies that the member of NACES or the NRHSP must submit to the BOP:
 - a. A transcript in English, or translated into English by the credential evaluation service, of the degree used to qualify for licensure.
 - b. An indication that the degree used to qualify for licensure is verified using primary sources.

- c. A determination that the degree is equivalent to a degree earned in a regionally accredited institution in the United States or Canada that qualifies for licensure.
- 9) Reduces the number of contact hours of coursework in aging and long-term care required for licensure as a psychologist from 10 hours to 6 hours. Specifies that applied experience may count towards this requirement.
- 10) Provides that if an applicant for licensure as a psychologist does not have coursework related to aging and long-term care, the applicant may:
 - a. Obtain evidence of compliance as part of their applied experience in a practicum, internship, or formal postdoctoral placement or other qualifying supervised professional experience. The applicant must provide written certification from the director of training for the program or primary supervisor where the qualifying experience occurred stating that the training required by this section is included within the applied experience.
 - b. Take continuing education courses, as specified.
- 11) Reduces the requirement that a person be licensed in another state or Canadian province from 5 years to 2 years in order to be eligible for licensure as a psychologist in California.
- 12) Permits the BOP's licensure committee, upon delegation by the Board, to consider and decide requests from an applicant or licensee pertaining to their qualifications for licensure. Authorizes such licensure committee to convene in closed session, to the extent necessary to protect the privacy of individuals, to consider and decide request for the following:
 - a. An extension of time to gain supervised professional experience to meet the experience requirements for licensure.
 - b. An extension of time to hold a psychological associate registration beyond the maximum period otherwise allowed pursuant to regulations.
- 13) Authorizes the Board to assess a file transfer fee of \$10.
- 14) States that the BOP may accept in writing the offer of a surrender of a license, and that a license surrender shall be public information.
- 15) Provides that the holder of a license that was surrendered to the BOP may petition the Board for reinstatement after a period of not less than one year after the effective date of the acceptance.
- 16) Clarifies that associate clinical social workers and an associate professional clinical counselors may provide telehealth services.
- 17) Requires additional information on the BBS to be included on notices issued by unlicensed or unregistered employees or volunteers providing exempted psychotherapy services to clients.

- 18) Specifies that notices issued by unlicensed, unregistered, or licensed and registered individuals may be provided prior to initiating psychotherapy services or as soon as practicably possible thereafter, and that the delivery of the notice to the client must be documented.
- 19) Updates the definition of 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.
- 20) Clarifies that the application of marriage and family therapy principles and methods includes, but is not limited to, the following activities:
 - a. Assessment, evaluation, and prognosis.
 - b. Treatment, planning, and evaluation.
 - c. Individual, relationship, family, or group therapeutic interventions.
 - d. Relational therapy.
 - e. Psychotherapy.
 - f. Client education.
 - g. Clinical case management.
 - h. Consultation.
 - i. Supervision.
 - j. Use, application, and integration of marriage and family therapy coursework as required under existing law.
- 21) Specifies that LMFT and LPCC required education and practicum include training in prognosis.
- 22) Clarifies that a denial issued pursuant to the conviction of a specified crime, must comply with the conditions of denial as specified in BPC Section 480.
- 23) Eliminates the BBS' authority to charge continuing education provider fees.
- 24) Clarifies that associate registration fees under the BBS are to be renewed annually, and that licenses are to be renewed every two years.
- 25) States that the BBS does not charge accrued renewal or delinquency fees.

- 26) Aligns the requirements to renew and reinstate a LCSW suspended license with the existing requirements for LMFT, LEP, and LPCC licenses.
- 27) Adds conforming language for LEPs, which prohibits a LEP who conducts a private practice under a fictitious business name from using any name that is false, misleading, or deceptive, and must inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.
- 28) Requires an applicant, registrant, or licensee who has an electronic mail address to provide the BBS with that electronic mail address no later than July 1, 2022, and further requires an applicant, registrant, or licensee to provide to the BBS any and all changes to their electronic email address no later than 30-calendar days after the changes have occurred.
- 29) States that the electronic mail address is considered confidential and not subject to public disclosure.
- 30) Clarifies that any periods during which a probation was tolled is excluded from the statutory timeframes determining when a petition can be filed by a licensee or registrant whose license has been revoked, suspended, or placed on probation by the BBS.
- 31) Clarifies that if a petition is to be heard by the BBS, the petitioner may request that the BBS schedule the hearing on the petition for a board meeting at a specific city where the BBS regularly meets.
- 32) Increases the maximum LCSW application fee that the BBS may charge from \$400 to \$500.
- 33) Permits an LCSW to obtain continuing education from a school accredited by the U.S. Department of Education or approved by the Bureau for Private Postsecondary Education.
- 34) Extends the BOP and the BBS until January 1, 2026.
- 35) Makes various technical and conforming changes related to the BOP and BBS' operations.

FISCAL EFFECT: According to the Senate Committee on Appropriations, which analyzed the April 13, 2021 version of this bill:

“The [Board of Behavioral Sciences] anticipates costs of approximately \$1,314 (Behavioral Sciences Fund) to revise forms for applicants, registrants, and licensees; update website documents; and perform outreach to its licensing population. These costs are anticipated to be absorbable within existing resources.

The Office of Information Services anticipates costs of approximately \$1,600 to change the email address field on initial and renewal application forms, which is anticipated to be absorbable through the redirection of existing maintenance resources.”

COMMENTS:

Purpose. This bill is author-sponsored, and is one of a number of sunset bills advancing through the legislative process related to sunset review of specific regulatory boards. Each year, the Assembly Committee on Business and Professions and the Senate Business, Professions, and Economic Development Committee (Committees) hold joint sunset review oversight hearings in order to review regulatory boards and bureaus under the jurisdiction of the Department of Consumer Affairs (DCA). As these boards and bureaus are responsible for protecting consumers and the public and regulating the professionals they license, the sunset review process provides an opportunity for the DCA, the Legislature, the boards, and interested parties and stakeholders to discuss the performance of the boards, and make recommendations for improvements.

The joint Committees held sunset review oversight hearings for the Board of Behavioral Sciences on November 18, 2020 and for the Board of Psychology on March 3, 2021. Several of the issues examined during the hearings are also reviewed in a committee background papers “Identified Issues, Background, and Recommendations Regarding the Board of Behavioral Sciences” and “Identified Issues, Background, and Recommendations Regarding the Board of Psychology” – both of which are published and available on the Assembly Committee on Business and Professions’ website.

SB 801 is the sunset review bill that will implement changes to the BOP and the BBS’ operations, as identified on the committee background paper, the sunset review oversight hearing, and stakeholder input.

Background.

The Board of Psychology. The California Board of Psychology traces its origins back to the Certification Act of 1958, which provided an early regulatory framework by granting title protection for the practice of psychology. In 1967, the California legislature further defined the scope of practice of psychology, requiring licensure to practice and further protect the public from potential consumer harm. At the time, the practice of psychology was placed under the jurisdiction of the Psychology Examining Committee, which was part of the larger Division of Allied Health Professions of The Board of Medical Quality Assurance (BMQA). Throughout the 1970s, the Psychology Examining Committee gradually became more independent, and became responsible for its own operations – including the authority to adopt regulations and administrative disciplinary actions without the endorsement of BMQA. In 1990, the Psychology Examining Committee was officially renamed the Board of Psychology.

Today, the BOP regulates licensed psychologists, psychological assistants, and registered psychologists through the enforcement of the Psychology Licensing Law. The practice of psychology is defined as the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions and interpersonal relationships; and the methods and

procedures of interviewing, counseling, psychotherapy, behavior modification, and hypnosis; and of constructing, administering and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations.

Broadly, only licensed psychologists can practice psychology independently in California. Registered psychologists are registrants who work and train under supervision in non-profit agencies that receive government funding. Finally, Psychological assistants provide psychological services under the supervision of a qualified licensed psychologist or board-certified psychiatrist, generally to accrue the necessary supervised hours to obtain full licensure as a psychologist.

Provisions Related to the Board of Psychology. As currently amended, SB 801 contains several proposed statutory changes identified by the BOP, the Committees, and stakeholders involved with or impacted by the practice of psychology. In addition to technical and conforming changes, this bill proposes to enact several statutory changes to the BOP: (1) restructuring pathways to licensure as a psychologist; (2) providing an additional method to conduct foreign degree evaluation; (3) granting the BOP's licensure committee authority to consider matters related to supervised professional experience; (4) establishing a new file transfer fee; and (5) creating a process to reinstate a license after a non-disciplinary surrender.

BOP: Pathways to Licensure. The BOP has experienced a notable increase in the average time to process complete applications for licensure and a significant increase in the average time to process incomplete applications for licensure in the past three fiscal years. Additionally, the number of pending applications has outpaced completed applications. In response to this trend, BOP staff began in 2015 to review all statutory and regulatory sections related to pathways to licensure and compiled a list of proposed improvements. The BOP subsequently engaged with stakeholders, hosting review meetings that included professional associations, schools, training directors, and applicants, to get feedback on the BOP's proposed changes.

Of note, the BOP proposal would rename the "psychological assistant" registration category as "registered psychological associate" and would modify the list of degrees and specializations that can be used towards eligibility for a registration as a psychological associate. For example, in addition to psychology, eligible degrees would include education, with the field of specialization in educational psychology, counseling psychology, or school psychology. According to the BOP, such changes reduce confusion, and enhances consumer protection by ensuring qualifying degrees incorporate the application of psychological principles in coursework and training.

Existing law requires a psychological assistant to be under immediate supervision of either a licensed psychologist or a licensed physician and surgeon who is certified in psychiatry. SB 801 would eliminate psychiatrists as qualifying primary supervisor for the rebranded registered psychological associates. According to the BOP, this change is needed as the role of the primary supervisor is to socialize trainees into the profession of psychology – and as such requires knowledge and understanding of the practice of psychology and appropriate obligations for an independent practitioner of psychology.

The BOP also proposes to eliminate the "registered psychologist" registration category. This registration designation is intended to be a method by which an unlicensed person can perform limited psychological functions at a non-profit community agency that receives specified

governmental funding, in order for the registered psychologist to accrue hours of supervised professional experience towards full licensure. According to the BOP, eliminating this category would reduce confusion regarding the type of registration needed to accrue the experience, and would also eliminate confusion in the public's mind as the term "registered psychologist" could be perceived as an independent practitioner. Additionally, there is a very small number of registered psychologists: in FY 2018/2019, the BOP reported 129 active registered psychologists; compared to 18,719 active psychologists and 1,378 active psychological assistants.

SB 801 also proposes reducing the number of hours of coursework in aging and long-term care from 10 hours to 6 hours, and adding applied experience and continuing education as alternative pathways to meet this requirement for licensure. According to the BOP, this change is to be consistent with other pre-licensure coursework requirements.

BOP: Foreign Degree Evaluation. BPC Section 2914 requires an applicant for licensure trained in an educational institution outside the United States or Canada to demonstrate to the satisfaction of the board that the applicant possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. To do so, applicants must provide the BOP with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation the BOP deems necessary.

The Association of State and Provincial Psychology Boards conducted a discussion on foreign-trained applicants and received information about the National Register of Health Services Psychologists (NRHSP). Established in 1974, the NRHSP describes itself as an independent nonprofit organization and the largest credentialing organization for psychologists and psychology doctoral students.

After reviewing the NRHSP credentials review process, the BOP is requesting legislative changes to add the NRHSP as an additional credential evaluation service. To that end, SB 801 would allow the NRHSP to perform foreign credential evaluation services for the purpose of determining the qualifications of applicants trained in an educational institution outside the United States or Canada. According to the BOP, this proposed change will offer foreign-trained applicants an additional avenue to obtain the credentials evaluation required for licensure.

BOP: Authority of the Licensure Committee. All state boards and commissions are subject to the Open Meeting Act which specifies, among other items, that meetings must be noticed in advance and open to the public. As an exception, the Open Meeting Act does permit a licensing board to conduct, under specified circumstances, a closed session meeting to discuss matters that may constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting. The BOP's Licensure Committee uses this statutory discretion when discussing licensing-related requests from applicants. For example, the BOP's Licensure Committee reviews requests for additional time to accrue supervised professional experience due to health-related reasons. According to the BOP, the Licensure Committee is often presented with personal medical information that accompanies these requests. The Licensure Committee then brings its recommendations to the full BOP for final decision in an open session at a board meeting, where the requests must be substantially redacted to protect sensitive personal

information. The BOP suggests that this process creates unnecessary delays for those seeking licensure, as these individuals may be unable to practice while awaiting a final decision from the BOP.

SB 801 permits the BOP's Licensure Committee to meet in closed session and independently consider and decide whether an applicant or licensee should be granted an extension of time to gain supervised professional experience to meet the experience requirements for licensure, or an extension of time to hold a psychological associate registration beyond the maximum period otherwise allowed. This bill would only allow the Licensure Committee to convene in closed session to the extent necessary to protect the privacy of the applicant or licensee.

BOP: File Transfer Fee. The BOP is a special-funded entity, and as such does not receive funding from California's General Fund. The BOP generates revenue primarily from license, application, and examination fees levied on psychologists, psychological assistants, and registered psychologists. The BOP is currently facing a budget structural deficit, with expenditures outpacing revenue streams.

Existing law establishes statutory limits on the various fees levied on licensees. The BOP may adjust such fees via regulations, as long as the dollar amount remain within the statutory limits. The BOP has not yet reached the cap on several fee types: for example, both the initial licensing fee and the biennial renewal fee for psychologists are currently set by the Board at \$400, but are statutorily limited to \$500.

Based on current projections, the Board expects that it will need to increase its fees in some manner by FY 2023-24. In order to alleviate budget pressures, the BOP has conducted an analysis of its existing operations to determine if small administrative fees can be levied to recoup actual costs for completing certain service. To that end, SB 801 permits the BOP to charge a file transfer fee of \$10 to recoup the cost of retrieving and returning the appropriate documents from the State Records Center for the BOP's licensees and applicants.

BOP: License Reinstatement. Based on the Board's analysis of its aging licensee demographic and input from its stakeholders about discipline related to a licensee's cognitive impairment, the Board has reevaluated its approach to investigation and discipline of complaints where there is no consumer harm involved. The Board reports instances where licensees have diminished cognitive capacity due to diseases such as Alzheimer's and the licensee's family or a fellow licensee reported that the licensee is starting to experience cognitive issues due to their impairment but have no consumer complaints filed against them.

Currently, the Board has implicit statutory authority to accept a non-disciplinary surrender of a license. However, the Board reports that it does not have a mechanism for reinstatement of such a surrendered license in circumstances where medication or surgery could restore cognitive function. As such, the Board is requesting clarification of the process for voluntary surrender and to establish a mechanism for such individuals to petition the Board for reinstatement of their license.

SB 801 proposes that the BOP may, at its discretion, accept the offer of a surrender of a license. Such surrender shall be public information. Additionally, SB 801 outlines that the individual who surrendered a license may petition the BOP for reinstatement after a period of not less than

one year after the effective date of the surrender's acceptance.

The Board of Behavioral Sciences. The history of the Board of Behavioral Sciences began in 1945, originally formed as the Board of Social Work Examiners whose purpose was to register social workers. In 1963, tasked with administering the Marriage, Family, and Child Counselor Act, the regulatory board was duly renamed the Social Worker and Marriage Counselor Qualification Board. The board then took under its jurisdiction licensed clinical social worker and educational psychologists in 1967 and 1970, respectively – changing its name once again to the Board of Behavioral Science Examiners. In 1997, the board adopted its current name, the Board of Behavioral Sciences. Today, the BBS licenses and regulates licensed clinical social workers, licensed marriage and family therapists, licensed educational psychologists, and licensed professional clinical counselors. The board also registers trainee level associate clinical social workers, associate marriage and family therapists, and associate professional clinical counselors. Each profession has its own scope of practice, entry-level requirements, and professional settings with some overlap in areas:

- LMFTs are employed in mental health agencies, counseling centers, and private practice. LMFTs utilize counseling or therapeutic techniques to assist individuals, couples, families, and groups with a focus on marriage, family, and relationship issues.
- LCSWs are employed in health facilities, private practice, and state and county mental health agencies. LCSWs utilize counseling and psychotherapeutic techniques to assist individuals, couples, families, and groups.
- LEPs work in schools or in private practice and provide educational counseling services such as aptitude and achievement testing or psychological testing. LEPs may not provide psychological testing or counseling services that are unrelated to academic learning processes in the education system.
- LPCCs apply 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. LPCCs work in a variety of settings including hospitals, private practice, and community-based mental health organizations.

Provisions related to the Board of Behavioral Sciences. In addition to technical and conforming changes, this bill enacts several changes related to the BBS' operations and its licensees and registrants, outlined below.

BBS: Telehealth services. BPC Section 2290.5 specifies that health care providers licensed under Division 2 of the code – which includes registrants under the BBS – are able to perform telehealth services. This section also specifically states that associate marriage and family therapists or marriage and family therapist trainees are permitted to perform services via telehealth.

However, according to the Board, the omission of associate professional clinical counselors and associate clinical social workers from the code section has led to questions from the public about

whether the omitted license types can perform services via telehealth. These associates are able to do per existing statutes, but the BBS proposes to affirmatively include them on the list of health care providers who may provide services via telehealth. This change would provide clarity and minimize confusion. SB 801 codifies this proposal in BPC Section 2290.5 by including associate clinical workers and associate professional clinical counselors on the list of health care providers who may provide services via telehealth.

BBS: Notice to Clients. Licensees and registrants under the BBS provide mental health services in a variety of different settings. These locations can include hospitals, community clinics, schools, non-profits, private companies, government agencies, and many others. Generally, individuals providing psychotherapeutic services in California within the scope of practice of a LMFT, LCSW, or LPCC are required to have a license or registration with the Board. However, state law provides certain exemptions to these licensure requirements. These “exempt settings” are statutory defined to include governmental entities, schools, colleges, universities, or nonprofit and charitable institutions, and allow unlicensed or unregistered employees or volunteers in such settings to provide psychotherapy services under specified conditions. Exempt settings have been excluded from the Board’s practice acts since the 1980s, and have been described as an important tool for non-profit entities to provide mental health services.

AB 630 (Arambula, Chapter 229, Statutes of 2019) required licensee, registrant, as well as unlicensed or unregistered therapists in an exempt settings to provide their clients with information about where to file a complaint about the therapist. In its review of the bill, the Senate Committee on Business, Professions, and Economic Development suggested that additional language also be included in the notice provided to clients of unlicensed or unregistered therapists. SB 801 includes specific language to be include in the notice provided to clients by an unlicensed or unregistered therapist, describing the role of the BBS and how an individual may check if a counselor is licensed or registered and how to file a complaint.

AB 630 also required all therapist practitioners to provide their notice to clients about where to file a complaint about their therapist prior to initiating psychotherapy services. According to the BBS, stakeholders raised the concern that in crisis situations, it may not be feasible or appropriate to stop the delivery of immediate services to provide and/or discuss the required notice. To address this concern, SB 801 states that the notice must be provided prior to initiating psychotherapy services, or as soon as practicably possible thereafter. This requirement applies for both licensed and registered individuals under the BBS, as well as unlicensed and unregistered individuals in an exempt setting. In addition, the bill requires the delivery of the notice to the client to be documented.

BBS: Re-inclusion of the Term Prognosis. Previously, California law listed the required education and practicum for LMFT and LPCC licensure, and included required training in assessment, diagnosis, and prognosis. In 2019, the BBS sponsored a legislative amendment via SB 796 (Committee on Business, Professions and Economic Development, Chapter 456, Statutes of 2019) replacing the term “prognosis” with the term “treatment planning,” because it believed that treatment planning was a more accurate representation of the course of psychotherapy. According to the BBS, stakeholders have expressed concerns that other mental health professions may be interpreting the BBS’ law change as meaning LMFTs and LPCCs are not permitted to perform prognosis. To address these concerns, SB 801 proposes to add back the

term “prognosis” where it was previously deleted, to be included along with the term “treatment planning.”

BBS: Continuing Education Provider Fees. Existing law authorizes the BBS to establish a procedure for identifying acceptable providers of continuing education courses. In addition, the BPC authorizes the BBS to charge continuing education provider fees in order to administer the BBS’ responsibilities related to continuing education. According to the BBS, its authority to approve continuing education providers was removed on January 1, 2015 when its new continuing education regulations became effective, and instead established the BBS’ authority to accept continuing education credits from providers who have been approved or registered by a BBS recognized “approval agency” or by an organization, institution, association or entity that has been recognized by the BBS as a continuing education provider. The BBS states that this change in regulation entrusted the review and approval of continuing providers, coursework and instructors to professional associations and other entities recognized by the BBS, because these entities have extensive experience and expertise administering and approving continuing education programs that the BBS does not have. As the BBS no longer has the authority to approve CE providers, SB 801 proposes to eliminate statutes authorizing the Board to charge continuing education provider fees.

BBS: Fee Schedule. Existing law authorizes the BBS to charge application and renewal fees to licensees and registrants. However, the BBS notes that how often a renewal is paid is not directly specified in the BBS’ statutory fee schedules. SB 801 clarifies that that associate registrations are renewed annually, and licenses are renewed every two years, as needed.

BBS: Delinquency Fee. Existing law authorizes the BBS to charge accrued renewal and delinquency fees to LPCC and LEP licensees wishing to renew a license that has expired. The BBS notes some inconsistencies in this practice, as statutes do not authorize charging accrued fees for LMFTs and LCSWs. To establish consistency, SB 801 amends LEP and LPCC statutes to clarify that the BBS does not charge accrued renewal or delinquency fees. The bill also clarifies that such renewal does not entitle the licensee, while its license remains suspended and until it is reinstated, to engage in activity otherwise allowed by the license.

BBS: Fee Maximum for LCSW. In 2020, the Legislature authorized the BBS to increase its licensing fees through AB 3330 (Calderon, Chapter 359, Statutes of 2020). Across all license types, the base application fee for licensure was set at \$250. Statutes also intended to authorize the BBS to increase those fees at a maximum amount of \$500 via the adoption of regulations. This maximum was set for LMFT, LEP, and LPCC license types – however, the LCSW license type was erroneously set at \$400.

SB 801 corrects this error and sets the LCSW maximum application fee at \$500. According to the BBS, this change does not increase the current LCSW application for licensure fee, which is set at \$250. This change is intended to align the correct maximum fees to \$500 across all license types.

BBS: E-mail Address Requirements. SB 801 requires an applicant, registrant, or licensee who has an electronic mail address to provide the BBS with that electronic mail address no later than July 1, 2022. Additionally, the bill requires such individuals to provide to the board any and all changes to their electronic mail address no later than 30 calendar days after the changes have

occurred. The electronic mail address shall be considered confidential and not subject to public disclosure. According to the BBS, this change would allow the Board to communicate information about law changes or examination processes to most of its licensee and registrant population more quickly and effectively.

BBS: Petition for License Reinstatement. Existing law provides that a person under the jurisdiction of the BBS whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. The BPC provides timeframes by which the licensee or registrant may file the petition: for example, a person may petition on or after three years for reinstatement of a license or registration that was revoked for unprofessional conduct.

The BBS recommends clarifying certain provisions regarding the procedure for petitioning to terminate probation early or modify a penalty. To that end, SB 801 clarifies that periods of probation tolling are excluded from the statutory timeframes before a petition can be filed. In addition, the bill clarifies that if the petition is to be heard by the BBS, the petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.

BBS: Denial of Licensure. AB 2138 (Chiu, Chapter 995, Statutes of 2018) was enacted into law and amended BPC 480 in order to lower barriers to licensure for individuals with prior criminal convictions. Broadly, AB 2138 limits a regulatory board's discretion to deny a new license application to cases where the applicant was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board, with offenses older than seven years no longer eligible for license denial, with several enumerated exemptions.

The BBS conducted a review of its licensing statutes and is proposing statute changes to provide consistency with AB 2138's provisions – such as updating statutory language clarifying that individuals applying for licensure must not be subject to denial of licensure pursuant to BPC 480.

MFT Scope of Practice Update. The BPC currently defines the practice of marriage and family therapy as service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. The BPC further states that the application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training, as specified in California law and described above.

SB 801, at the request of the California Association of Marriage and Family Therapists, updates this scope of practice language and integrates MFT educational and training references outlined in existing statutes into the definition of the practice of marriage and family therapy. With these changes, marriage and family therapy would be defined 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. In addition, this bill updates examples of the of marriage and family

therapy applications to include assessment, evaluation, and prognosis; treatment, planning, and evaluation; individual, relationship, family, or group therapeutic interventions; relational therapy; psychotherapy; client education; clinical case management; consultation; supervision; and the use, application, and integration of the coursework and training, as specified in California law.

ARGUMENTS IN SUPPORT:

The California Psychological Association writes in support: “The bill contains the sunset review for the Board of Psychology (BOP), as well as other mental and behavioral health boards, and makes minor changes pursuant to these reviews. [...] We believe the BOP should continue its operations and regulation of our membership.”

The California Association of Marriage and Family Therapists writes in support: “[SB 801] extends the sunset date for the Board of Behavioral Sciences, makes various technical changes to the Business and Professions Code, and provides necessary clarity to the scope of practice for Marriage and Family Therapists (MFT) by more accurately capturing the types of care and services that MFTs currently provide. California has made significant strides to recognize the impact of behavioral conditions and substance use disorders on society. SB 801 helps to further this achievement by updating the MFT scope of practice to reflect the clinical skill set possessed by MFTs, as referenced in their education and training requirements.”

ARGUMENTS IN OPPOSITION:

None on file.

AMENDMENTS:

At the request of the author, the committee proposes a technical amendment to align the language on the notices provided to clients receiving psychotherapy:

Page 82, line 18, strike the word “counselor” and insert the word “practitioner” to read:

“NOTICE TO CLIENTS

The (Name of office or unit) of the (Name of agency) receives and responds to complaints regarding the practice of psychotherapy by any unlicensed or unregistered ~~counselor~~ *practitioner* providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, or mailing address of agency).”

REGISTERED SUPPORT:

California Psychological Association
California Association of Marriage and Family Therapists

REGISTERED OPPOSITION:

None on file.

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