
UNFINISHED BUSINESS

Bill No: SB 801
Author: Archuleta (D) and Roth (D)
Amended: 9/1/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 4/19/21
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva,
Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 6/1/21
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero,
Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg,
Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min,
Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern,
Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 79-0, 9/8/21 - See last page for vote

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

SOURCE: Author

DIGEST: This bill makes various changes to the regulation of a number of licensed professionals by the Board of Behavioral Sciences (BBS) and to the Board of Psychology (BOP) intended to improve oversight of licensees stemming from the joint sunset review oversight of the BBS and BOP.

Assembly Amendments revise and recast the pathway for licensure as a psychologist, replace “psychological assistant” with “registered psychological

associate”, add an additional foreign degree evaluator permitted by the BOP, permit closed session for a BOP-designated committee, clarify licensure surrender and reinstatement provisions, extend the sunset date of both the BOP and the BBS by four years, until January 1, 2026, make other technical and clarifying changes, and add language to address chaptering issues with AB 1534 (Committee on Business and Professions), AB 690 (Arambula), and AB 107 (Salas).

ANALYSIS:

Existing law:

- 1) Establishes, until January 1, 2022, the BBS to administer the Licensed Marriage and Family Therapist (LMFT) practice act, the Licensed Educational Psychologist (LEP) practice act, the Licensed Clinical Social Worker (LCSW) practice act, and the Licensed Professional Clinical Counselor (LPCC) practice act. (Business and Professions Code (BPC) § 4990)
- 2) Establishes the BOP, under the jurisdiction of the DCA, for the licensure and regulation of the psychology license law, and prohibits a person from engaging in the practice of psychology or represent oneself as a psychologist without a license issued by the BOP, unless specifically exempted. (BPC § 2900 *et seq.*)

This bill:

- 1) Clarifies that an ASW and an APCC are providers of services via telehealth, as specified.
- 2) Updates the requirement for a notice to be provided to consumers prior to initiating psychotherapy services, to include or as soon as practicably possible thereafter.
- 3) Requires exempt individuals to include in a notice to patients, information about the BBS, and where to submit complaints, as specified, and requires the delivery of this notice to be documented.
- 4) Deletes the requirement that the BBS determine, by regulation, CE provider fees, as specified.
- 5) Clarifies that the renewal fee for an associate registration for an associate MFT registration is an annual fee and that the renewal fee for a LMFT and LEP is

two years.

- 6) Clarifies that a denial issued pursuant to the conviction of a specified crime, must comply with the conditions of denial as specified in BPC § 480.
- 7) 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.
- 8) 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.
- 9) States that the electronic mail address is considered confidential and not subject to public disclosure.
- 10) Requires the BBS, with each renewal application, to remind licensees and registrants of their obligation to report and keep current their electronic mail address with the BBS.
- 11) Adds a school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education or a school, college, or university that is approved by the Bureau for Private Postsecondary Education to the list of approved CE providers for LCSWs.
- 12) Deletes obsolete language pertaining to a fund for the initial licensure program for LPCCs.
- 13) Deletes a duplicative definition of supervision, under the LPCC practice act.
- 14) Updates and clarifies the scope of practice for LMFTs, as specified.
- 15) Clarifies exemptions to licensure requirements for psychologists or registered psychological associates practicing in academic institutions, public schools or

government, as specified.

- 16) Replaces “psychological assistant” with “registered psychological associate” (RPA) and permits an RPA to perform psychological functions, only under supervision, as specified.
- 17) Revises and recasts degree requirements for applicants for licensure as a psychologist, as specified.
- 18) Adds the National Register of Health Services Psychologists as a foreign credential evaluation service that an applicant for licensure trained outside of the United States or Canada may use to preform degree equivalency evaluation, and requires members of authorized foreign credentialing providers to submit an evaluation to the BOP directly and include the following in the evaluation: A transcript in English or translated into English by the credential evaluation service, of the degree used to qualify for licensure; an indication that the degree used to qualify for licensure is verified using primary sources; and, a determination that the degree is equivalent to a degree that qualifies for licensure, as specified.
- 19) Reduces the hours of required coursework in aging and long-term care from 10 to six, and allows an applicant without the appropriate training in aging and long-term care to take CE course that meets the requirements, as specified.
- 20) Reduces from five years to two years the time a person must be licensed in another state in order to be eligible for licensure in California.
- 21) Permits a committee delegated by the BOP to address issues related to licensure, as specified, to meet in closed session, as specified.
- 22) Establishes a fee of \$10 for a file transfer.
- 23) Authorizes the BOP to accept the offer of a surrender of a license in writing, as specified.
- 24) Extends the sunset date of both the BBS and BOP and the authority to appoint an executive officer by four years, until January 1, 2026.
- 25) Adds language to address chaptering issues, and makes numerous other technical, updating, and clarifying changes.

Background

The Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) conducted several oversight hearings in November 2020 and March/April 2021. This bill and the accompanying sunset bills implement legislative changes as recommended by staff of the Committees, and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

Background on BBS. The BBS is responsible for the regulatory oversight of over 120,000 licensees and registrants. Each profession has its own scope of practice, entry-level requirements, and professional settings with some overlap in areas.

Under current law, BPC § 4999.46.1 and BPC § 4999.12 both define the term of “supervision” under the LPCC practice act. However, BPC § 4999.12 additionally defines other terms commonly referenced throughout the LPCC practice act. Because BPC § 4999.12 defines multiple terms, the more appropriate place for a definition of “supervision” is under the section pertaining to supervision.

BPC § 2290.5 specifies who is eligible to provide telehealth services and includes all healing arts licensees and specifies that MFT associates and trainees are authorized providers. However, the same code section does not specifically list PCC and ASW registrants. The Board notes that although PCC and ASW registrants are authorized to provide telehealth, adding them into the telehealth statute will help provide clarity to the public in who can provide telehealth services. This bill adds PCC and ASW registrants to the list of telehealth providers defined in BPC § 2290.5.

BPC §§ 4987.5, 4998, and 4999.123 define professional corporations for purposes of the Acts and include lists of other professions who are also required to abide by similar requirements in the Corporations Code (CC). Because the CC can change with respect to other professions that fall under the corporations law, the BBS proposes to strike the list of professions under the Acts as they are already specified in the CC.

In 2019, AB 630, (Arambula and Low, Chapter 229, Statutes of 2019) clarified exemptions from the Acts, for unlicensed or unregistered employees or volunteers working in specified locations; required employees or volunteers to provide a

notice to clients about complaint procedures; and required LMFTs, LCSWs, LEPs, LPCCs, and their respective trainees to provide BBS contact information to their clients. This bill would add to the current disclosure requirement by adding additional information about where an individual could file a complaint, including the BBS's phone number and internet website. In addition, this bill would revise current law to allow the practitioner to provide the disclosure information noted above as soon practicably possible after initiating services in addition to prior to initiating services in order to allow for emergency situations when there may not be the appropriate time to provide the notice before. This bill revises the timeframe for providing the disclosure document and further requires that information about the BBS be provided, and that providing the information be documented.

Under current law, BPC 4996.22(d), LPCCs are required, prior to renewing their license, to complete 36 hours of CE from an accredited school of social work, as defined, or a school or department of social work that is a candidate for accreditation, as specified, and other CE providers approved by BBS regulations. However, current law does not specifically authorize CE to be obtained from schools accredited by the US Department of Education or the Bureau of Private Postsecondary Education. This bill would allow LCSWs to obtain CE from schools approved by those entities.

Current law for LMFTs, LPCCs, LEPs and LCSWs specifies that renewal cycles are every two years and in order to renew, the licensee must pay a two-year renewal fee. However, the two-year renewal fee requirement specified in the Act for LEPs does not specify that it is a two-year renewal fee. This bill add the two-year fee renewal language for consistency in statute. In addition, this bill clarifies that the renewal fee for registrants is one year.

Neither licensees nor applicants, regulated under the BBS, are required to provide an email address as part of any application or renewal for licensure or registration. The BBS has requested that applicants, licensees and registrants be required to provide an email address to the BBS, if an email address is available. Email addresses provide the BBS with another communication tool to communicate with licensees, registrants and applicants, in addition to mail or the voluntary sign up for listservs. This bill would require that all applicants, licensees and registrants provide this information by January 1, 2022; and would prohibit the BBS from making this information public.

Background on BOP. The BOP, under the DCA, regulates licensed psychologists, psychological assistants, and registered psychologists through the enforcement of the psychology practice act.

The BOP noted that it has experienced an increase in the average time to process applications for licensure during the past three fiscal years. As a result, the BOP examined potential statutory and or regulatory issues that may have contributed to the delay. The BOP identified current sections of law in which may create undue barriers to licensure, or are inconsistent with the current training environments, education, and new technologies related to the practice of psychology. As a result, this bill revises current licensing requirements.

Current law requires an applicant for licensure as a psychologist trained in an educational institution outside the United States or Canada to demonstrate to the satisfaction of the BOP 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. Currently, the BOP accepts only one foreign credential evaluation service provider, this bill would add another.

Currently, the BOP has the statutory authority to accept a non-disciplinary surrender of a license. However, the BOP notes that it does not have a mechanism for reinstatement of such a surrendered license in certain circumstances. As such, the BOP requested as part of its sunset review, a clarification of the process for voluntary surrender and to establish a mechanism for such individuals to petition for reinstatement of a license. This bill provides that authority and specification for reinstatement.

This bill would permit the BOP's licensing 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 necessary for licensure, or an extension of time for a psychological associate registration. This bill would only permit the use of closed session meeting to the extent necessary to protect the privacy of an applicant or licensee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, BBS projects \$14,814 in costs and the annual costs to continue the operation of the BBS are estimated to be approximately \$1.3 million. The annual costs to continue the operation of the BOP are estimated to be approximately \$7 million.

SUPPORT: (Verified 9/8/21)

Board of Behavioral Sciences
California Association of Marriage and Family Therapists
California Board of Psychology
California Consortium of Addiction Programs and Professionals
California Psychological Association

OPPOSITION: (Verified 9/8/21)

None received

ARGUMENTS IN SUPPORT: Supporters, including the BBS and BOP, note support for the extension of their respective boards.

California Consortium of Addiction Programs and Professionals writes in support and notes, “We believe it is important to reflect the important role of MFTs in treatment teams working with dually diagnosed individuals and it is important to recognize the value of family and relationship psychotherapy for these clients.”

The California Association of Marriage and Family Therapists note support for both the sunset extension of the BBS, and the clarity to the scope of practice for Marriage and Family Therapists.

The California Psychological Association writes in support and notes it support for the sunset extension of the BOP.

ASSEMBLY FLOOR: 79-0, 9/8/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Petrie-Norris

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
9/8/21 21:24:19

**** **END** ****