



**Board for Professional Engineers,
Land Surveyors, and Geologists**

Meeting of the Board for Professional Engineers, Land Surveyors, and Geologists

Wednesday, February 8, 2017 beginning at 9:00 a.m. and continuing on Thursday, February 9, 2017 beginning at 9:00 a.m., if necessary

California Department of Housing and Community Development
2020 W. El Camino Avenue, #402
Sacramento, CA 95833

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MEETING OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

BOARD MEETING

FEBRUARY 8-9, 2017

California Department of Housing and Community Development
2020 W. El Camino Avenue, #402
Sacramento, CA 95833

BOARD MEMBERS

Coby King, President; Mohammad Qureshi, Vice President; Natalie Alavi; Fel Amistad; Chelsea Esquibias; Kathy Jones Irish; Eric Johnson; Asha Lang; Betsy Mathieson; Karen Roberts; Jerry Silva; Robert Stockton; and Steve Wilson

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I. Roll Call to Establish a Quorum

II. **Public Comment**

NOTE: The Board cannot take action on items not on the agenda. The Board will also allow for Public Comment during the discussion of each item on the agenda.

III. Consideration of Rulemaking Proposals

- A. Requirements for Licensure - Geologists and Geophysicists, Title 16, California Code of Regulations sections 3031, et. seq. (Possible Action)

Goal 1.1 of the 2015-2018 BPELSG Strategic Plan states the Board's intent to "Identify the minimum curriculum required for a qualifying geological sciences degree." The minimum qualifications for licensure as a geologist in California are described in Business and Professions Code Section 7841.

In 2016, SB 1165 was enacted with an effective date of January 1, 2017. One major component of this bill consisted of changes to Section 7841 that allows an applicant for licensure as a geologist, instead of the graduation requirement, to have completed a combination of at least 30 semester hours, or the equivalent, in courses that, in the opinion of the Board, are relevant to geology. It would also require that at least 24 semester hours, or the equivalent, be in upper division or graduate courses. This change to Section 7841 was made at the request of the Board in order to allow the Board to specify a list of required courses for geology licensure in the regulations relating to the practices of Geology and Geophysics.

The proposed amendments to Section 3031 include:

- Identifying the minimum curriculum required for a qualifying geological sciences degree in accordance with Goal 1.1.
- Changing the name of Section 3031 to be consistent with the content.
- reorganizing the section to include subsections 3031.1, 3031.2, and 3031.3
- Addition of clarifying language regarding references used to document the experience requirements for a Professional Geologist license, for a Professional Geophysicist license, and for any specialty certification application.

Staff Recommendations

Staff recommends that the Board consider the following issues while reviewing the draft rulemaking language as it pertains to important policy decisions by the Board.

- Deletion of the old language in Section 3031 (a).
 - This section is being deleted due to an outdated reference to an eliminated section of the law (Section 7847—the former “great grandfather clause” which allowed for approval of a license application without an exam).
- Addition of the new Section 3031 (a) defining the minimum curriculum for Geology licensure.
 - Section (a) (1) defines an acceptable degree as being ABET accredited for consistency with the requirements imposed on engineers and land surveyors. The first geological sciences program in the nation is currently going through the ABET process with a decision scheduled for summer 2017. This language would also encourage additional geological sciences programs to consider ABET accreditation.
 - Section (a) (2) provides a list of required and elective courses required for licensure as an alternative to the ABET accredited degree specified above. This list was developed by staff based upon extensive research, and public outreach.
 - Addition of the new Section 3031 (b) (1) which clarifies the experience requirements by defining who is legally qualified. This language mimics language in Section 424 of the Board Rules and Regulations relating to the practices of Professional Engineering and Professional Land Surveying.
 - Addition of the new Sections 3031 (b) (2) and (3) which clarify the experience credit granted for geology education. The current language in Section 3031 requires that no professional work experience credit is allowed until the education requirements are fulfilled.

- Addition of the new Section 3031 (c) extending the legally qualified definition to the specialty title authority licenses (CHG and CEG).
- Addition of Section 3031.1 to separate the Professional Geophysicist education and experience requirements into a separate subsection.
 - The education requirements for geophysicists have not changed in either the law or the regulation with the exception of the language requiring that the college/university be accredited [Section 3031.1 (a) (1)]. This also provides a “placeholder” should the Board decide to clarify the education requirements for a Professional Geophysicist license by defining the minimum curriculum.
 - Added the same legally qualified concept for geophysicists as described in 3031.1 (b) (1) in reference to work experience also mimicking Section 424 of the Board Rules.
 - Added language in 3031.1 (b) (2) and (3) which clarify the experience credit granted for a geophysical education. These changes are consistent with the changes being requested for the geology license.
- Addition of Section 3031.2 to separate out the language for geology and geophysics references
 - This clarifies the number of references required to demonstrate professional work experience (required 3 references).
 - Adds language mimicking Board Rule 427.10 which specifies that references cannot be related by blood or marriage.
- Addition of Section 3031.3 to separate out the language for geology and geophysics examination credit.
 - Deletes repealed language related to the transition to the use of the National ASBOG examinations.

Board staff further recommends that the Board approve the above proposal and direct staff to begin the formal rulemaking process to amend Title 16, California Code of Regulations section 3031 et. seq.

3031. Examination Required. Professional Geologist Educational and Experience Requirements

~~(a) Every applicant for registration as a geologist shall be required to take and pass examinations as provided in Section 7841(d) of the code or every applicant for registration as a geophysicist, or every applicant for certification in any specialty, shall be required to take and pass an examination as prescribed by the board except as provided in Section 7847 of the code.~~

(b) (a) To be eligible for the ~~geological examination~~ Professional Geologist license, an applicant shall have completed the educational requirements as set forth in either Section 7841 (b) (1) or Section 7841 (b) (2) of the Code, and completed at least five 5 years of educational and work experience—professional geological experience in professional geological work, as set forth in subdivisions (b) and (c) of Section 7841 (c) of the Code.

(1) As described in Section 7841 (b) (1) of the Code, graduation from a college or university with a major in geological sciences or other discipline relevant to geology, refers to graduation with a baccalaureate degree or higher in geology or a related geological science, from a program accredited by the Applied Science Accreditation Commission of ABET Inc., the organization defined in 16 CCR Section 404.

(2) As described in Section 7841(b) (2) of the Code, the requirement for “successfully completing 30 semester hours or 45 quarter hours, in courses that, in the opinion of the Board are relevant to geology” of which at least 24 semester hours or 36 quarter hours, are upper division or graduate level shall be fulfilled as specified in (A) and (B) below. This requirement must be fulfilled at a college or university which, at the time the applicant was enrolled, was accredited by a recognized national or regional accrediting organization. “Life Experience Credit” is not acceptable.

(A) Basic Geologic Concepts: Of the 30 semester hours or 45 quarter hours required by this section, an applicant must successfully complete geological science courses in each of the following subject areas:

- (i) “Earth Materials” must include a minimum of 4 semester hours or 6 quarter hours of instruction in the identification, classification, and chemistry of minerals and rocks; their formation; the interpretation of their origins; as well as their uses and importance.

- (ii) “Structural Geology” must include a minimum of 4 semester hours or 6 quarter hours of instruction in the description and analysis of structural features of rocks to reconstruct the motions and processes involved in the build up and deformation of the Earth’s crust from small to large scales. It must also include the interpretation of brittle and ductile strain, the fundamentals of plate tectonics, and the analysis of local and regional geologic structure.
 - (iii) “Stratigraphy and Sedimentation” must include a minimum of 4 semester hours or 6 quarter hours of instruction in the identification and interpretation of sedimentary rocks, sedimentary processes and structures, application of stratigraphic and dating methods, identifying the impact of climate and geologic processes on depositional patterns, and facies analysis.
 - (iv) “Upper-Division Field” must include a minimum of 5 semester hours or 7.5 quarter hours of field training designed to demonstrate a progression of field investigation skills culminating in a final project or integrative field experience that is based on the knowledge and skills acquired in earlier geological science courses. This must include instruction in the geological techniques or methods needed to measure, map, evaluate and communicate geologic data; and the ability to plan and conduct geological investigations based upon existing sources of geologic information. This shall include preparing and interpreting geologic maps, cross-sections, stratigraphic columns, and written reports. The field training may be obtained in one or more separate upper division field courses, but must not be introductory in nature or be part of laboratory exercises for other geological science courses. At the discretion of the Board, academic instruction in field methods such as geophysical techniques, logging trenches or borings, designing wells, and other common professional geologic tasks may serve as a component of the Upper Division Field requirement described in this section so long as it is part of an established field techniques course taught within a college or university geology or related geological sciences program.
- (B) Applied Upper-Division Coursework: Of the 30 semester hours or 45 quarter hours required by this section, an applicant must successfully complete 3 semester units or 4.5 quarter units from at least 2 of the following subject areas.

- (i) “Geomorphology” must include instruction in the classification, origin, and analysis of landforms and watershed elements as well as the surface and tectonic processes that relate landforms to the underlying geologic materials. This must include methods of geomorphic analysis and interpretation of different types of mapped data, including topographic, geologic, and remotely sensed data.
- (ii) “Engineering Geology” must include instruction in that branch of geology as defined in Section 3003 (b) of Title 16, California Code of Regulations. This should include instruction in those skills necessary to demonstrate knowledge and abilities as described in Section 3041 (a) (2).
- (iii) “Hydrogeology” must include instruction in that branch of geology as defined in Section 3003 (h) of Title 16, California Code of Regulations. This should include instruction in those skills necessary to demonstrate knowledge and abilities as described in Section 3042 (b) (2).
- (iv) “California Geology” must include instruction in knowledge required to pass the California Specific Examination required for professional licensure in this state as described in Section 7841 (d) of the Code.
- (v) “Paleontology” must include instruction necessary to recognize common fossils and fossil types, the geologic settings that would indicate the potential for paleontological resources, and the evolutionary history of fossil groups of traditional importance to geologists. Other topics may include basic modes of preservation, skeletal anatomy, systematics and taxonomy, biostratigraphy, paleoecology, and paleobiogeography.
- (vi) “Resources Geology” must include the instruction needed to identify the origin, occurrence, and distribution of non-renewable resources, including metallic, nonmetallic, and energy-producing materials; problems related to resource extraction; estimations and limitations of reserves; and reclaiming sites after extraction of resources.
- (vii) “Environmental Geology” must include an introduction to concepts involved in environmental site assessment and remediation, environmental geochemistry, and the mitigation of potentially negative effects of human activities such as

exploration for mineral and energy resources, or solid and hazardous waste disposal on geologic systems, as well as the protection of water resources, land and watershed restoration.

- (viii) “Geophysics” must include instruction in that branch of geology defined in Section 7802.1 of the Code and Section 3003 (e) of Title 16, California Code of Regulations.
- (ix) Technology Applications in Geology” encompasses a wide range of technology related instruction that includes an emphasis on applications to geologic investigations. These subjects may include, but are not limited to, instruction in the use of Geographic Information Systems (GIS), computer modeling of groundwater or other processes, signal processing or numerical methods of data analysis. Instruction without a specific and demonstrable geologic application will not qualify. A maximum of 3 semester hours or 4.5 quarter hours would be accepted at the discretion of the Board.
- (x) “Applied geoscience topics taught by a college or university department other than a geology or related geological sciences department” refers to instruction in subject areas with a reasonable and rational application to the professional practice of geology. These courses are limited to the topics of geological engineering, geotechnical engineering, mining engineering, petroleum engineering, soil science, engineering soil mechanics, or hydrology. A maximum of 3 semester hours or 4.5 quarter hours taught in a college or university department other than a geology or related geological sciences department would be accepted at the discretion of the Board.

Independent study, research projects, theses or dissertations may, at the Board’s discretion, be used to satisfy the upper-division coursework requirements defined in (A) or (B) if it can be documented, to the Board’s satisfaction, to meet the requirements of one or more of the courses specified in (A) or (B) above. Courses that combine subjects or skill sets, that can be documented to the Board’s satisfaction to meet the requirements described in (A) or (B) above, may be accepted at the Board’s discretion.

(3) Workshops, professional development seminars, conferences, short courses, student internships, or reading courses may not be used to satisfy the requirements described in Section 3031 (a) (2).

(4) It shall be the applicant's responsibility to demonstrate that his/her academic instruction meets the requirements of the Board. The applicant must provide official sealed transcripts, and any other reasonable and necessary supporting evidence, when requested by the Board, to document successful completion of all educational requirements.

~~——(1) Graduate study or research in geological sciences at a school or university whose geological curricula meet criteria established by rules of the Board, shall be counted on a year-for-year basis in computing the experience requirements specified in Section 7841 of the Code. A year of graduate study or research is defined as a 12 calendar month period during which the candidate is enrolled in a full time program of graduate study or research. Shorter periods will be prorated.~~

~~——(2) An applicant shall not be eligible to earn credit for professional geological work performed under the supervision of a professional geologist or registered civil or petroleum engineer until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841 of the Code.~~

~~——(3) In no case will credit be given for professional geological work experience performed during the same time period when full-time graduate study or research is being done for which educational experience credit is being allowed. Part-time graduate study or research and part-time professional geological work experience will be prorated and combined on a 12 calendar month basis.~~

(b) Professional geological experience for licensure as a geologist is that experience satisfactory to the Board that has been gained while performing professional geologic tasks under the responsible charge of a person legally qualified to practice geology.

(1) For the purposes of this section, "legally qualified" means having an appropriate license as:

(A) a Professional Geologist;

(B) a Professional Geophysicist;

(C) a licensed Civil Engineer practicing geology within the exemption described in Section 7838 of the Code and with documented expertise in the area of geology in which the

applicant's experience is earned sufficient to qualify them as being in responsible charge of geologic work;

(D) or a reference legally practicing geology in a situation or locale where the reference is not required to be licensed who, in the opinion of the Board, has the training and experience to have responsible charge of geological work.

(2) Professional geological experience shall be computed on an actual time worked basis not to exceed 40 hours per week.

(3) An applicant for licensure as a Professional Geologist shall be granted credit for professional geological experience, up to a combined maximum of 3 years, for the following education:

(A) Two (2) years professional geological experience credit for graduation with a baccalaureate degree in geology or a related geological science, from a program accredited by the Applied Science Accreditation Commission of ABET Inc. as described in Section 3031 (a) (1), or for the completion of the 30 semester units or 45 quarter units of geological sciences courses as described in Section 3031 (a) (2).

(B) One year of professional geological experience credit for one year of graduate study or research in the geologic sciences. A year of graduate study or research is defined as a 12 calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Full-time graduate study is defined as 2 semesters per year of 8 semester units each (12 quarter units), or as defined by the college or university whichever is less.

(C) Part-time graduate study or research, and part-time professional geological work experience will be prorated and combined on a 12 calendar month basis. No credit will be given for professional geological work experience performed during the same time period when full-time graduate study or research is being done for which educational credit is being allowed. Part time graduate study or research and part-time professional geological work experience will be prorated and combined on a 12 calendar month basis.

(3) An applicant shall not be eligible to earn credit for professional geological experience performed under the supervision of a professional geologist or registered civil or petroleum engineer of a legally qualified professional as defined in this section until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841 of the Code.

(c) Professional geologic experience for certification in a specialty of geology is defined in Sections 3041 and 3042. References for an application for certification in a specialty of geology must either be certified in that specialty; or be “legally qualified” as defined in 3031 (b) (1) above, and have a minimum of 5 years experience in responsible charge of work in that geologic specialty.

3031.1 Professional Geophysicist Educational and Experience Requirements

~~(e)~~ (a) To be eligible for the ~~geophysical examination~~ the ~~p~~Professional ~~g~~Geophysicist license, an applicant shall have completed the educational requirements set forth in Section 7841.1 (b) of the Code, and at least seven 7 years of educational and work experience in professional geophysical work, as set forth in subdivisions (b) and (e) of Section 7841.1 (c) of the Code.

(1) An applicant for licensure as a Professional Geophysicist will be granted credit towards the educational requirements, as specified in Section 7841.1 (b) of the Code, fulfilled at a college or university which, at the time the applicant was enrolled, was accredited by a recognized national or regional accrediting commission. “Life Experience Degrees” are not acceptable.

~~(1) Graduate study or research in geophysical related sciences at a school or university whose geophysical curricula meet criteria established by rules of the board, shall be counted on a year for year basis in computing the professional geophysical work experience requirements specified in Section 7841.1 of the Code. A year of graduate study or research is defined as a 12 calendar month period during which the candidate is enrolled in a full time program of graduate study or research. Shorter periods will be prorated.~~

~~(2) An applicant shall not be eligible to earn credit for professional geophysical work performed under the supervision of a professional geophysicist until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841.1 of the Code.~~

~~(3) In no case will credit be given for professional geophysical work experience performed during the same time period when full-time graduate study or research is being done for which educational experience credit is being allowed. Part-time graduate study or research and part-time professional geophysical work experience will be prorated and combined on a 12 calendar month basis.~~

(b) Professional geophysical work for geophysics licensure is that experience satisfactory to the Board that has been gained while performing professional geophysical work under the responsible charge of a person legally qualified to practice geophysics.

(1) For the purposes of this section, “legally qualified” means having an appropriate license as:

(A) a Professional Geologist;

(B) a Professional Geophysicist;

(C) a licensed Civil Engineer practicing geophysics within the exemption described in Section 7838 of the Code and with documented expertise in the area of geophysics in which the applicant’s experience is earned sufficient to qualify them as being in responsible charge of geophysical work;

(D) or a reference legally practicing geophysics in a situation or locale where the reference is not required to be licensed who, in the opinion of the Board, has the training and experience to have responsible charge of geophysical work.

(2) Professional geophysical work shall be computed on an actual time worked basis not to exceed 40 hours per week.

~~(3) An applicant shall not be eligible to earn credit for professional geophysical work performed under the supervision of a professional geophysicist until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841.1 of the Code.~~

(3) An applicant for licensure as a Professional Geophysicist shall be granted credit for professional geophysical work, up to a combined maximum of four years, for the following education:

(A) One-half year of work credit for each year of full time undergraduate study in the geophysical sciences up to a maximum of two years. A year of undergraduate study or research is defined as a 12 calendar month period during which the candidate is enrolled in a full-time undergraduate program as defined by the college or university.

(B) One year of work credit for one year of graduate study or research in the geophysical sciences. A year of graduate study or research is defined as a 12 calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Full-time graduate study is defined as 2 semesters per year of 8 semester units each (12 quarter units), or as defined by the college or university whichever is less.

(C) Part-time graduate study or research, and part-time professional geophysical work experience will be prorated and combined on a 12 calendar month basis. No credit will be given for professional geophysical work experience performed during the same time period when full-

time graduate study or research is being done for which educational credit is being allowed. Part time graduate study or research and part-time professional geophysical work experience will be prorated and combined on a 12 calendar month basis.

(D) An applicant shall not be eligible to earn credit for professional geophysical work performed under the supervision of a professional geologist or registered civil or petroleum engineer of a legally qualified professional as defined in this section until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841.1 of the Code.

3031.2 Reference Requirements: Professional Geologist, Professional Geophysicist, and Specialty Certification

(a) To assist the Board in evaluating an applicant's qualifications, each applicant for licensure as a Professional Geologist, a Professional Geophysicist, or any specialty certification, shall submit a minimum of 3 completed reference forms from legally qualified references. The references must be sufficient to document professional geological experience or professional geophysical work consistent with the length and scope of the professional work or experience being claimed by the applicant.

(1) None of the references can be related to the applicant by birth or marriage.

(2) Reference forms must either be stamped by the licensee giving the reference, or notarized, and must clearly indicate areas of personal knowledge of the applicant's qualifying experience or work.

(3) Nothing contained in this section shall limit the authority of the Board to require that an applicant submit additional references, employment verifications, or any other information pertinent to the applicant's education and/or experience to verify that the applicant meets the minimum qualifications for a Professional Geologist license as defined in Section 7841 of the Code, the minimum qualifications for a Professional Geophysicist license as defined in Section 7841.1 of the Code, or for a specialty certification in either geology or geophysics as defined in Sections 7842 and 7842.1 of the Code.

3031.3 Examination Credit: Professional Geologist, Professional Geophysicist and Specialty Certification

(d) Every applicant for registration as a geologist who obtains a passing score determined by a recognized criterion-referenced method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may

~~vary moderately with changes in test composition. This subsection shall become effective on December 1, 1998, and shall be repealed on December 31, 1999.~~

~~(e) (a) Each applicant for registration licensure as a geologist who obtains a passing score on the Fundamentals of Geology and Practice of Geology examinations created by the National Association of State Boards of Geology on or after November 1, 1996 and obtains a passing score as determined by a recognized criterion-referenced method of establishing the pass point in the California specific examination pursuant to Section 7841(d) shall be deemed to have passed the required examinations for licensure as a professional geologist in California. This subsection shall become effective on January 1, 2000.~~

(+) (b) Candidates shall receive credit for obtaining a passing score on the Fundamentals of Geology examination, the Practice of Geology examination and the California specific examination and shall be required to submit an application to retake and pass only those examinations previously failed.

(+) (c) Every applicant for registration licensure as a geophysicist or for certification in any specialty, who obtains a passing score determined by a recognized criterion-reference method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition.

IV. Legislation

A. Legislative Calendar

B. Discussion of Legislation for 2017: Budget Act of 2017

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 4** Legislature **reconvenes** (J.R. 51(a)(1)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 16** Martin Luther King, Jr. Day
- Jan. 20** Last day to submit **bill requests** to the Office of Legislative Counsel

FEBRUARY						
S	M	T	W	TH	F	S
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

- Feb. 17** Last day for bills to **be introduced** (J.R. 61(a),(1)(J.R. 54(a)).
- Feb. 20** Presidents' Day

MARCH						
S	M	T	W	TH	F	S
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- Mar. 31** Cesar Chavez Day.

APRIL						
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30						

- Apr. 6** **Spring recess** begins upon adjournment of this day's session (J.R. 51(a)(2)).
- Apr. 17** Legislature **reconvenes** from Spring recess (J.R. 51(a)(2)).
- Apr. 28** Last day for **policy committees** to hear and report to **fiscal** Committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).

MAY						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

- May 12** Last day for **policy committees** to hear and report **non-fiscal bills** introduced in their house to Floor (J.R. 61(a)(3))
- May 19** Last day for **policy committees** to meet prior to June 5 (J.R. 61(a)(4)).
- May 26** Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)).
Last day for **fiscal committees** to meet prior to June 5 (J.R. 61(a)(6)).
- May 29** Memorial Day.
- May 30-June 2 Floor Session Only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(7)).

*Holiday schedule subject to Senate Rules committee approval

JUNE						
S	M	T	W	TH	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

- June 2** Last day for bills to be **passed out of the house of origin** (J.R. 61(a)(8)).
- June 5** Committee meetings may resume (J.R. 61(a)(9)).
- June 15** Budget must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).

JULY						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	7	8
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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

- July 4** Independence Day observed.
- July 14** Last day for **policy committees** to hear and report fiscal bills to **fiscal** Committees (J.R. 61(a)(10)).
- July 21** Last day for **policy committees** to meet and report bills (J.R. 61(a)(11)). **Summer Recess** begins upon adjournment of session provided Budget Bill has been enacted (J.R. 51(a)(3)).

AUGUST						
S	M	T	W	TH	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

- Aug. 21** **Legislature Reconvenes** (J.R. 51(a)(3)).

SEPTEMBER						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

- Sep. 1** Last day for **fiscal committees** to meet and report bills to Floor (J.R. 61(a)(12)).
- Sept. 4** Labor Day.
- Sept. 8** Last day to **amend** on the floor (J.R. 61(a)(14)).
- Sept. 5-15** **Floor session only**. No committees, other than conference or Rules Committees, may meet for any purpose (J.R. 61(a)(13)).
- Sept. 15** Last day for **each house to pass bills** (J.R. 61(a)(15)). **Interim Study Recess** begins at end of this day's session (J.R. 51(a)(4)).

*Holiday schedule subject to Senate Rules committee approval

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2017

Oct. 15 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 15 and in his possession after Sept. 15 (Art. IV, Sec.10(b)(1)).

2018

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).
 Jan. 3 Legislature reconvenes (J.R. 51(a)(4)).

Introduced Legislation

Budget Act of 2017

Status: Referred to Assembly Com. on Budget & Senate Com. on Budget and Fiscal Review

Introduced: 1/10/2017 (Asm.), 1/11/2017 (Sen.)

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Updated 1/26/2017

Staff Analysis: Budget Act of 2017

Bill Summary/Budget Process: The Budget Act of 2017 is an act making appropriations for the support of state government for the 2017–18 Fiscal Year. On January 10, the Governor delivers a state-of-the-state speech and proposes the budget. The Governor’s Budget proposal is introduced in both the Assembly and the Senate as identical budget bills. This year Assemblyman Ting is the author of the Assembly version of the budget bill, AB 96, and Senator Mitchell is the author of the Senate version of the budget bill, SB 72. In each house, the budget committee reviews the budget bill through May. The budget bill is sent to the Governor for signature. The Legislature has until June 15 to pass the budget.

Please note: A modified version of AB 96, with only the section relevant to the Board, follows this page. SB 72 is identical to AB 96.

Introduced by Assembly Member Ting

January 10, 2017

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, relating to the state budget, to take effect immediately, budget bill.

LEGISLATIVE COUNSEL’S DIGEST

AB 96, as introduced, Ting. Budget Act of 2017.

This bill would make appropriations for the support of state government for the 2017–18 fiscal year.

This bill would declare that it is to take effect immediately as a Budget Bill.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1.00. This act shall be known and may be cited as the
2 “Budget Act of 2017.”

3 SEC. 1.50. (a) In accordance with Section 13338 of the Government
4 Code, it is the intent of the Legislature that this act and other financial
5 transactions authorized outside of this act utilize a coding scheme or
6 structure compatible with the Governor’s Budget and the records of the
7 Controller, and provide for the appropriation of federal funds received
8 by the state and deposited in the State Treasury.

9 (b) Essentially, the format and style are as follows:

10 (1) Appropriation item numbers have a structure which is common to
11 all the state’s fiscal systems. The meaning of this structure is as follows:

12 2720—Business Unit (known as organization code in legacy systems,
13 indicates the department or entity) (e.g., 2720 represents the Department
14 of the California Highway Patrol)

15 001—Reference Code (indicates whether the item is from the Budget
16 Act or some other source and its character (e.g., state operations))

Item	Amount
1 1111-001-0763—For support of State Board of Optome-	
2 try, payable from the Optometry Fund, Professions	
3 and Vocations Fund.....	2,107,000
4 Schedule:	
5 (1) 1196010-State Board of Optome-	
6 try—Support.....	2,199,000
7 (2) Reimbursements to 1196010-State	
8 Board of Optometry—Support.....	-92,000
9 Provisions:	
10 1. The amount appropriated in this item may in-	
11 clude revenues derived from the assessment of	
12 fines and penalties imposed as specified in Sec-	
13 tion 13332.18 of the Government Code.	
14 1111-001-0767—For support of California State Board	
15 of Pharmacy, payable from the Pharmacy Board	
16 Contingent Fund, Professions and Vocations Fund....	21,674,000
17 Schedule:	
18 (1) 1210-California State Board of	
19 Pharmacy.....	21,925,000
20 (2) Reimbursements to 1210-California	
21 State Board of Pharmacy.....	-251,000
22 Provisions:	
23 1. The amount appropriated in this item may in-	
24 clude revenues derived from the assessment of	
25 fines and penalties imposed as specified in Sec-	
26 tion 13332.18 of the Government Code.	
27 1111-001-0770—For support of Board for Professional	
28 Engineers, Land Surveyors, and Geologists, payable	
29 from the Professional Engineer’s, Land Surveyor’s,	
30 and Geologist’s Fund.....	11,753,000
31 Schedule:	
32 (1) 1215014-Board for Professional	
33 Engineers, Land Surveyors, and	
34 Geologists.....	11,770,000
35 (2) Reimbursements to 1215014-Board	
36 for Professional Engineers, Land	
37 Surveyors, and Geologists.....	-17,000
38 Provisions:	
39 1. The amount appropriated in this item may in-	
40 clude revenues derived from the assessment of	
41 fines and penalties imposed as specified in Sec-	
42 tion 13332.18 of the Government Code.	
43 1111-001-0771—For support of Court Reporters Board	
44 of California, payable from the Court Reporters’	
45 Fund.....	1,140,000

V. Administration

A. Fiscal Year 2016/17 Budget Summary

Board of Prof. Engineers, Land Surveyors, Geologist and Geophysicists

Analysis of Fund Condition

(Dollars in Thousands)

2017-18 Governor's Budget

	Actual PY 2015-16	Budget Act CY 2016-17	BY 2017-18	BY+1 2018-19
BEGINNING BALANCE	\$ 8,113	\$ 9,395	\$ 11,769	\$ 10,133
Prior Year Adjustment	\$ 94	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 8,207	\$ 9,395	\$ 11,769	\$ 10,133
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 95	\$ 169	\$ 169	\$ 169
125700 Other regulatory licenses and permits	\$ 2,985	\$ 2,582	\$ 2,266	\$ 2,289
125800 Renewal fees	\$ 6,852	\$ 6,406	\$ 6,955	\$ 6,406
125800 Delinquent fees	\$ 93	\$ 98	\$ 85	\$ 98
141200 Sales of documents	\$ 1	\$ 1	\$ -	\$ -
150300 Income from surplus money investments	\$ 38	\$ 19	\$ -	\$ -
150500 Interest Income from interfund loans	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 11	\$ 10	\$ 10	\$ 10
161400 Miscellaneous revenues	\$ 2	\$ 1	\$ 2	\$ 2
Totals, Revenues	\$ 10,077	\$ 9,286	\$ 9,487	\$ 8,974
Transfers from Other Funds				
Revenue Transfer from Geology Fund	\$ -	\$ 672	\$ -	\$ -
FO0001 Proposed GF Loan Repayment per item 1110-011-0770, Budget Act of 2011	\$ -	\$ 3,200	\$ -	\$ 800
Totals, Revenues and Transfers	\$ 10,077	\$ 13,158	\$ 9,487	\$ 9,774
Totals, Resources	\$ 18,284	\$ 22,553	\$ 21,256	\$ 19,907
EXPENDITURES				
Disbursements:				
1110 Engineers Program Expenditures (State Operations)	\$ 7,732	\$ -	\$ -	\$ -
1110 Geo Program Expenditures (State Operations)	\$ 1,136	\$ -	\$ -	\$ -
1111 Engineers, Land Surveyors & Geologists (State Operations)	\$ -	\$ 10,220	\$ 10,424	\$ 10,633
8880 Financial Information System for CA (State Operations)	\$ 21	\$ 13	\$ 15	\$ -
9900 Statewide Admin. (State Operations)	\$ -	\$ 551	\$ 684	\$ 684
Total Disbursements	\$ 8,889	\$ 10,784	\$ 11,123	\$ 11,317
FUND BALANCE				
Reserve for economic uncertainties	\$ 9,395	\$ 11,769	\$ 10,133	\$ 8,590
Months in Reserve	10.5	12.7	10.7	9.1

**0770- Professional Engineers, Land Surveyors and Geologist
Financial Statement**

	FY 2015-16 Month 6 (7/15-12/15)	FY 2016-17 Month 6 (7/16-12/16)	% Change	FY 2016-17 FM 1 Projections	FY 2016-17 Updated Projections	% Change
Revenue						
¹ Applications/Licensing Fees (125700)	\$ 1,234,188	\$ 1,241,175	1%	\$ 2,957,893	\$ 2,581,533	-13%
Renewal fees (125800)	\$ 5,191,601	\$ 4,648,550	-10%	\$ 6,221,146	\$ 6,406,001	3%
Delinquent fees (125900)	\$ 42,540	\$ 49,109	15%	\$ 76,000	\$ 98,218	29%
Interest	\$ 7,157	\$ 16,290	128%	\$ 28,056	\$ 19,000	-32%
Other	\$ 163,453	\$ 181,845	11%	\$ 127,922	\$ 181,637	42%
Total Revenue:	\$ 6,638,939	\$ 6,136,969	-8%	\$ 9,411,017	\$ 9,286,389	-1%
Expense						
Personnel Services:						
Civil Service-Perm	\$ 1,344,259	\$ 1,342,703	0%	\$ 2,894,399	\$ 2,753,565	-5%
Temp Help	\$ 31,106	\$ 58,209	87%	\$ 142,214	\$ 111,567	-22%
Exam Proctor			N/A			N/A
Allocated Proctor Cost	\$ 2,592	\$ 2,732	5%	\$ 4,948	\$ 4,948	0%
Board/Commission	\$ 2,000	\$ 3,100	55%	\$ 5,300	\$ 5,300	0%
Comm Member	\$ 2,300	\$ 800	-65%	\$ 3,700	\$ 3,700	0%
Overtime	\$ 255	\$ 862	238%	\$ 2,186	\$ 2,186	0%
Total Salaries and Wages	\$ 1,382,512	\$ 1,408,406	2%	\$ 3,052,748	\$ 2,881,266	-6%
Total Benefits	\$ 677,594	\$ 748,075	10%	\$ 1,516,518	\$ 1,795,380	18%
Total Personnel Services	\$ 2,060,106	\$ 2,156,481	5%	\$ 4,569,266	\$ 4,676,646	2%
Operating Expense and Equipment:						
Fingerprints	\$ 23,737	\$ 24,732	4%	\$ 67,984	\$ 59,357	-13%
² General Expense	\$ 22,683	\$ 142,565	529%	\$ 57,248	\$ 342,156	498%
³ Printing	\$ 97,992	\$ 13,109	-87%	\$ 31,447	\$ 31,462	0%
Communication	\$ 10,977	\$ 12,035	10%	\$ 23,114	\$ 28,884	25%
Postage	\$ 55,764	\$ 26,298	-53%	\$ 46,328	\$ 46,328	0%
Travel Out-of-State	\$ 705	\$ 1,689	140%	\$ 6,000	\$ 4,054	-32%
Travel In State	\$ 51,468	\$ 43,065	-16%	\$ 116,892	\$ 103,356	-12%
Training			N/A			N/A
Facilities Operations	\$ 340,705	\$ 352,359	3%	\$ 352,333	\$ 352,359	0%
⁴ C & P Services - Interdept.	\$ 200,000	\$ 300,000	50%	\$ 100,000	\$ 95,000	-5%
C & P Services - External	\$ 124,938	\$ 431,382	245%	\$ 850,062	\$ 657,062	-23%
Minor Equipment	\$ 2,573	\$ 16,810	553%	\$ 10,247	\$ 22,600	121%
Prorata	\$ 1,093,300	\$ 891,164	-18%	\$ 2,372,601	\$ 2,372,601	0%
Total General Expenses:	\$ 2,024,842	\$ 2,255,208	11%	\$ 4,034,257	\$ 4,115,218	2%
Examinations:						
Exam Rent - Non State	\$ 1,400		N/A	\$ 6,500	\$ 6,500	0%
Administrative External Svcs	\$ 729,520	\$ 963,830	32%	\$ 958,831	\$ 963,830	1%
C/P Svcs - Ext Expert Examiners	\$ 50,188	\$ 76,592	53%	\$ 113,442	\$ 183,821	62%
Other Expense			N/A			N/A
Total Examinations:	\$ 781,108	\$ 1,040,422	33%	\$ 1,078,773	\$ 1,154,151	7%
Enforcement:						
Attorney General	\$ 172,483	\$ 159,275	-8%	\$ 405,938	\$ 405,938	0%
⁵ Office Admin. Hearing	\$ 34,280		N/A	\$ 73,259		N/A
Evidence / Witness Fees	\$ 66,172	\$ 68,097	3%	\$ 252,472	\$ 163,433	-35%
Court Reporters	\$ 83	\$ 2,475	2882%	\$ 1,747	\$ 5,940	240%
DOI - Investigation	\$ 109,500	\$ 147,498	35%	\$ 263,000	\$ 263,000	0%
Total Enforcement:	\$ 382,518	\$ 377,345	-1%	\$ 996,416	\$ 838,311	-16%
Total OE&E	\$ 3,188,468	\$ 3,672,975	15%	\$ 6,109,446	\$ 6,107,680	0%
Total Expense:	\$ 5,248,574	\$ 5,829,456	11%	\$ 10,678,711	\$ 10,784,326	1%
Total Revenue:	\$ 6,638,939	\$ 6,136,969	-8%	9,411,017	9,286,389	-1%
Total Expense:	\$ 5,248,574	\$ 5,829,456	11%	10,678,711	10,784,326	1%
Difference:	\$1,390,365	\$307,513		-\$1,267,694	-\$1,497,936	

Notes for Financial Statement

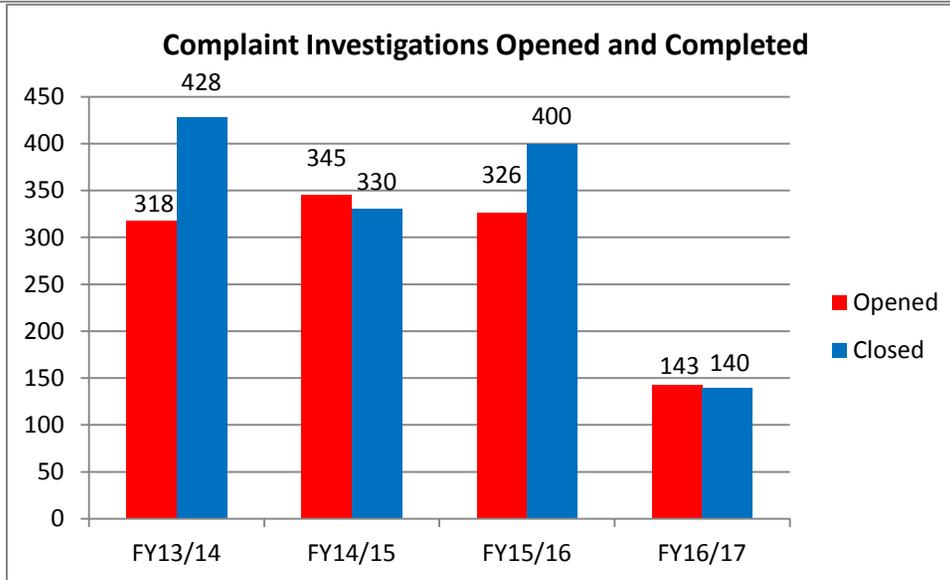
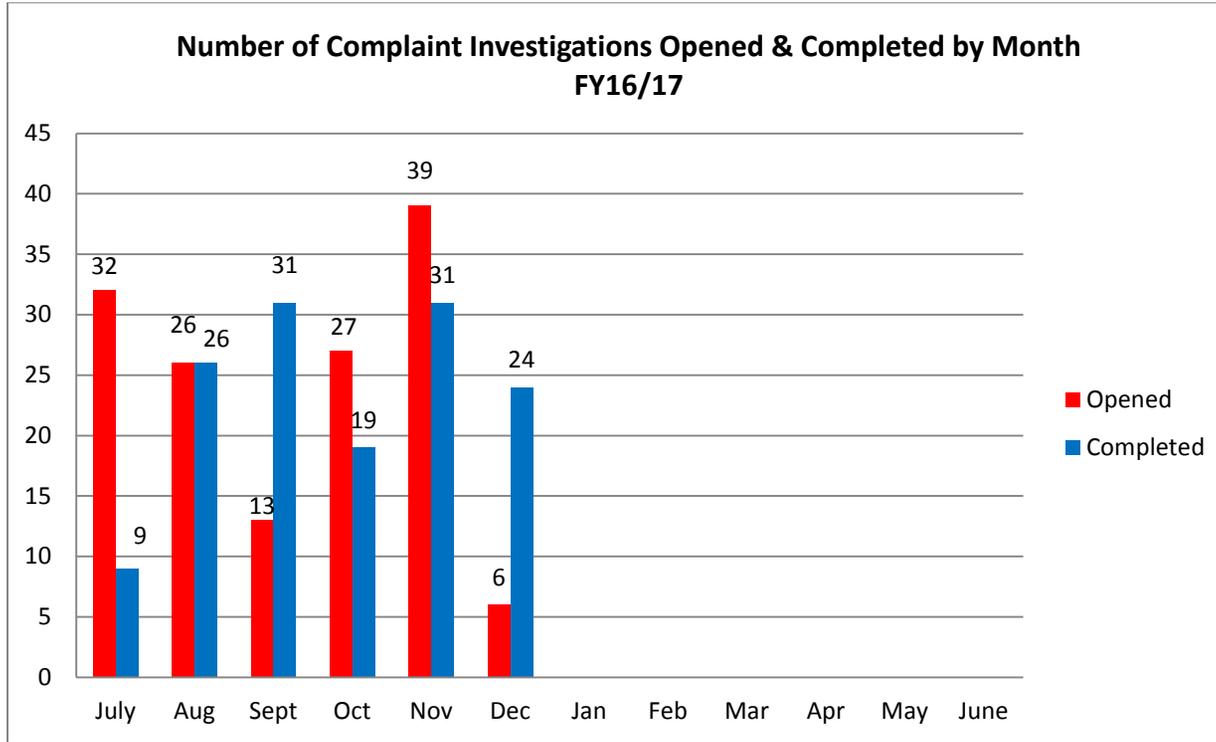
- (1) On January 1st, 2017, the Board stopped collecting an application fee for refile applicants. This change in operations will decrease the revenue collected from application fees.
- (2) Due to Department of General Service's (DGS) conversion to Fi\$cal, DGS has been unable to charge the Board in the standard method. DGS has posted a "bulk" charge for all service rendered by means of general expense. This "bulk" charge is for a number of different services, which would normally be allocated to separate line items.
- (3) In FY 15/16 the Board printed informational post cards for all licensees.
- (4) The bulk of C & P Services – Interdepartmental line item expenditures are allocated to licensed State Employee Subject Matter Expert's (SME'S) for exam development. These SME's are contracted experts from other State Agencies. All internal State contracts must be encumbered at time of implementation. However, staff does not project the full amount of each contract will be expended during the fiscal year.
- (5) Services utilized for Office of Administrative Hearings are allocated to the general expense line item.

VI. Enforcement

A. Enforcement Statistical Reports

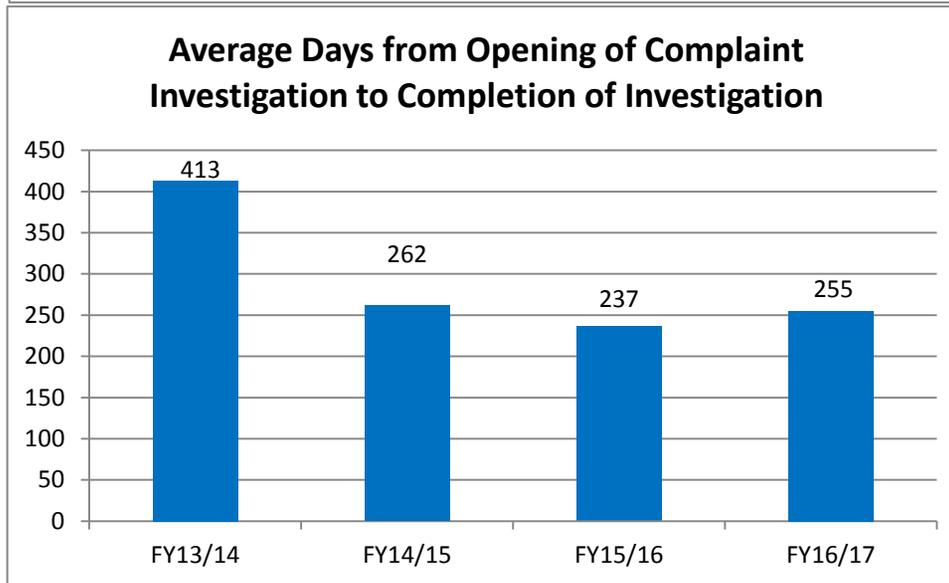
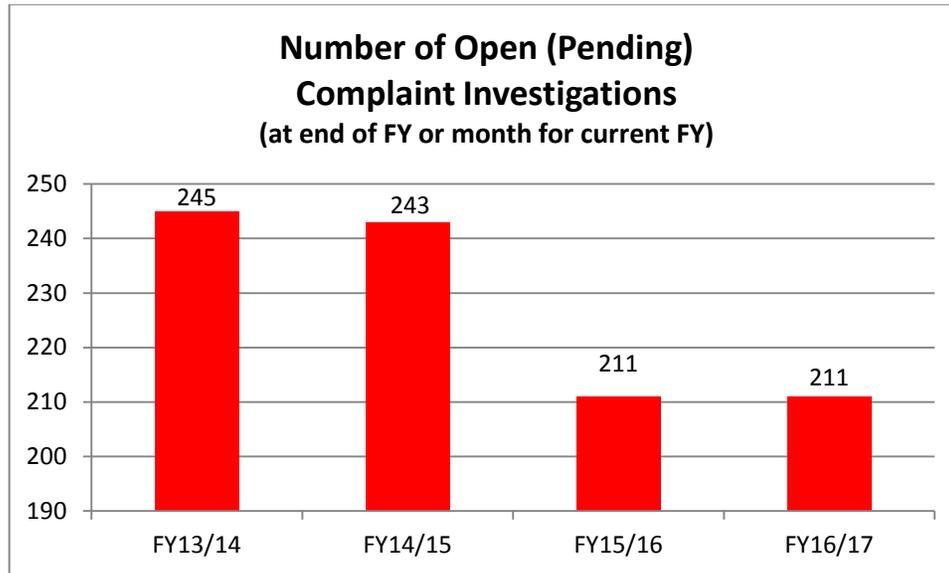
1. Fiscal Year 2016/17 Update

Complaint Investigation Phase



NOTE: FY16/17 statistics are through December 31, 2016

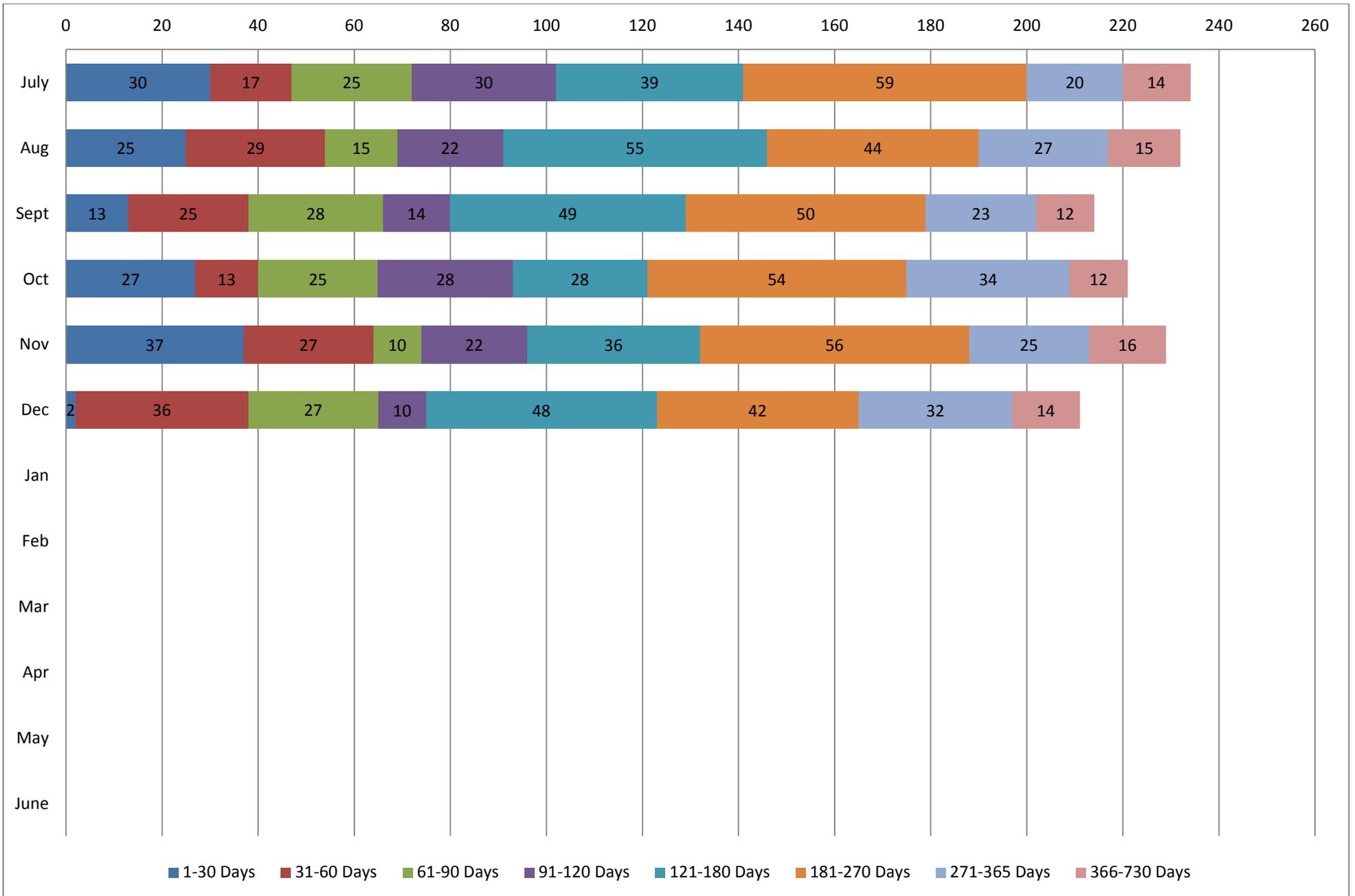
Complaint Investigation Phase



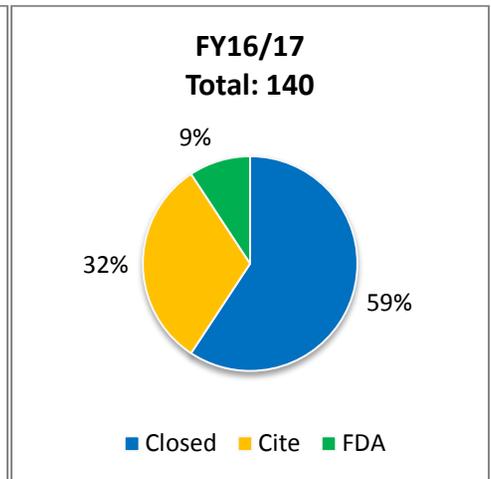
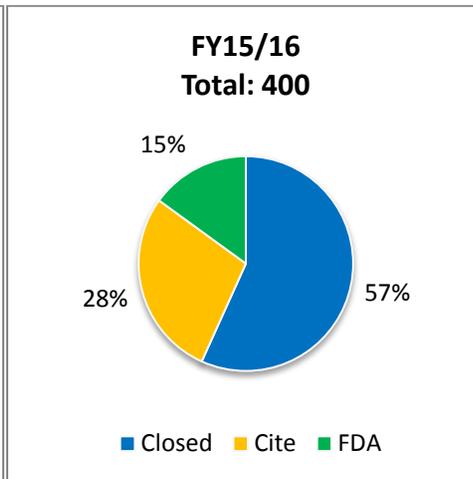
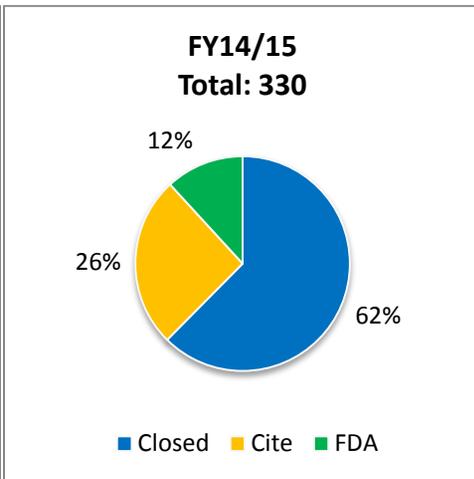
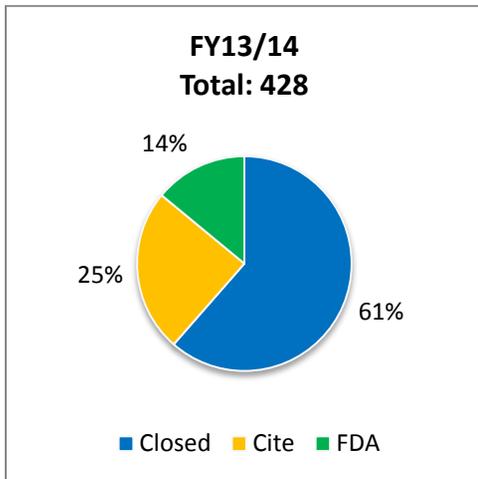
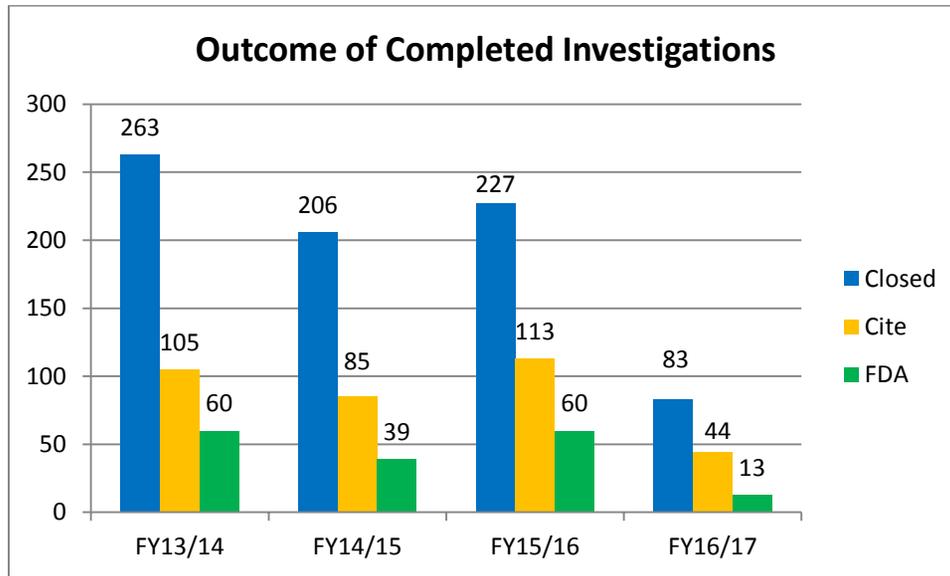
NOTE: FY16/17 statistics are through December 31, 2016

Complaint Investigation Phase

Aging of Open (Pending) Complaint Investigation Cases – FY16/17



Complaint Investigation Phase Outcome of Completed Investigations



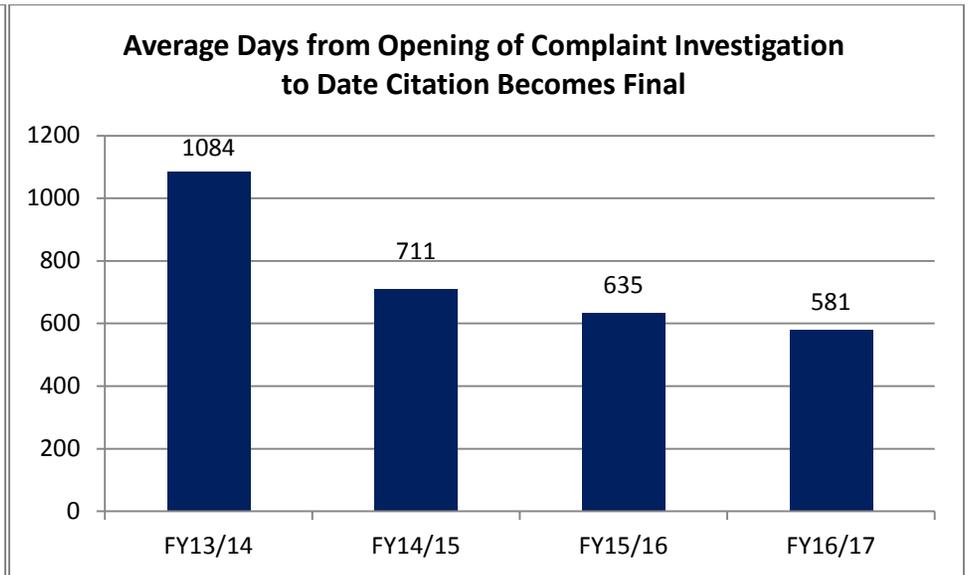
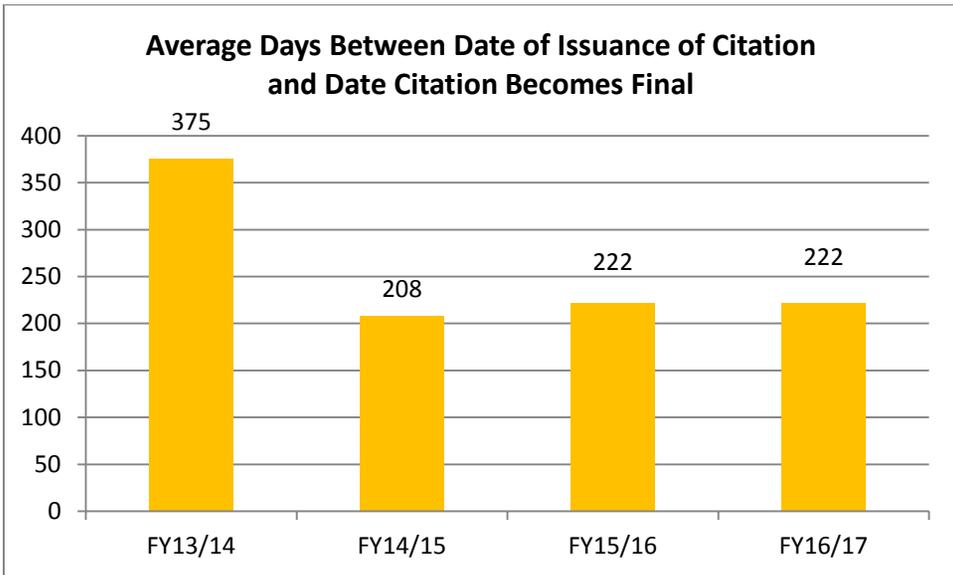
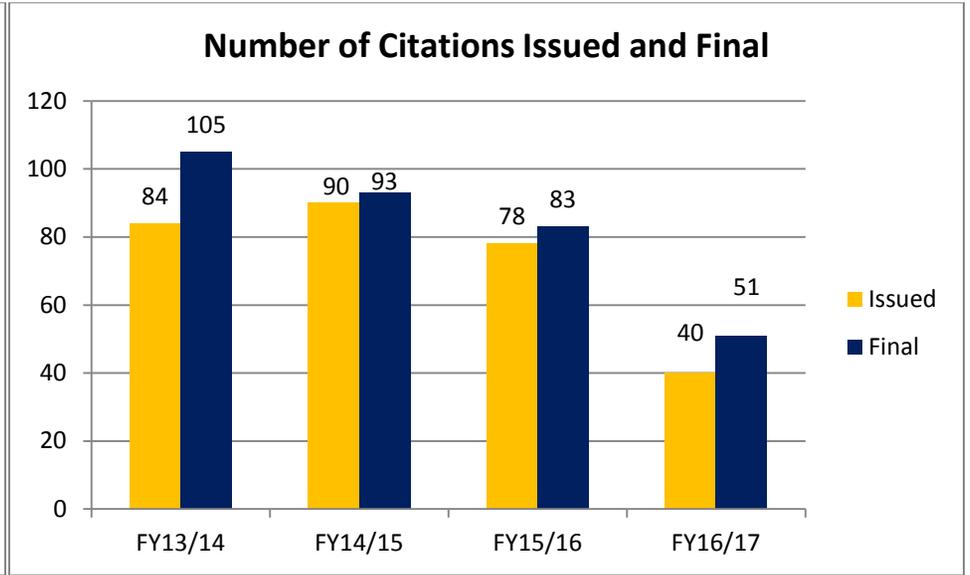
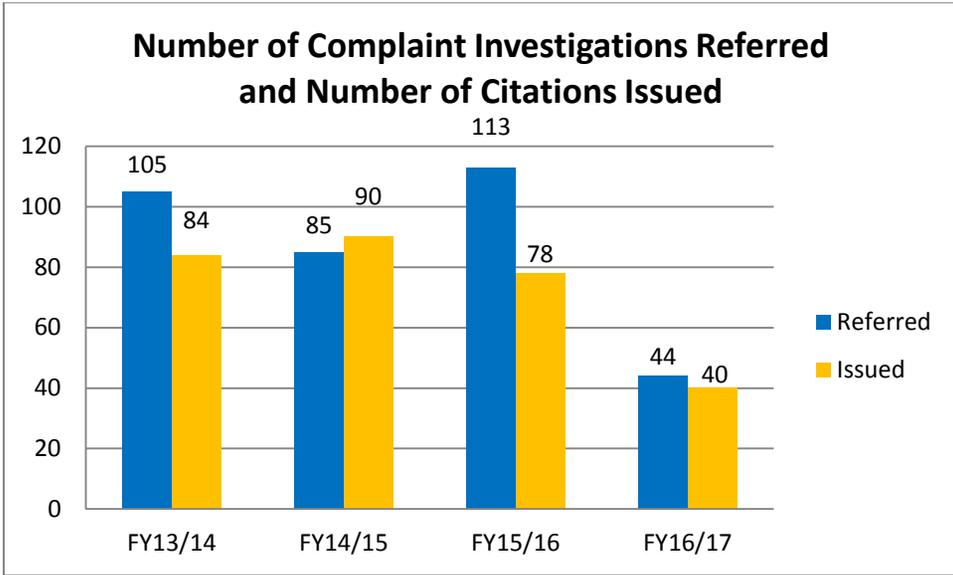
NOTE: FY16/17 statistics are through December 31, 2016

Closed = Closed with No Action Taken, includes the categories listed on the next page.

Cite = Referred for Issuance of Citation

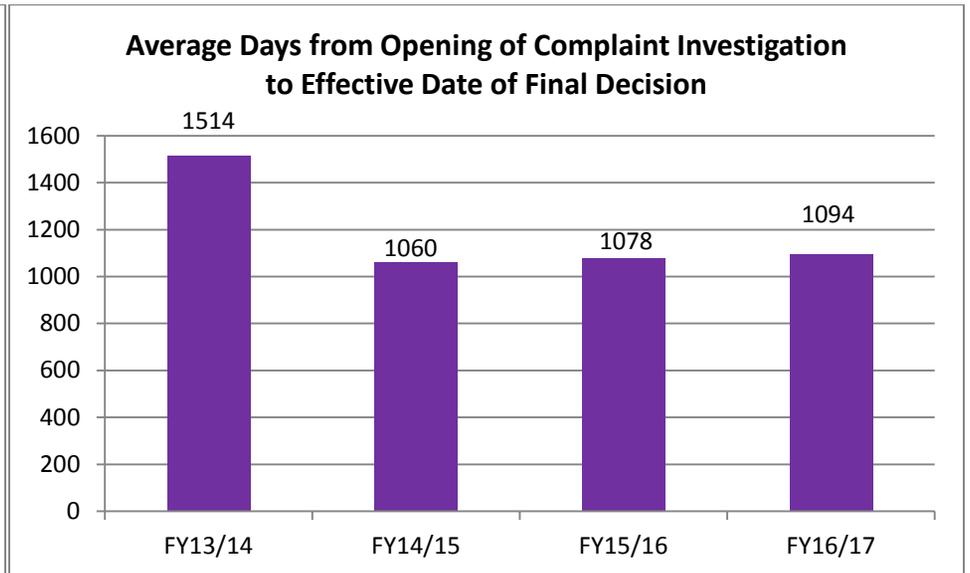
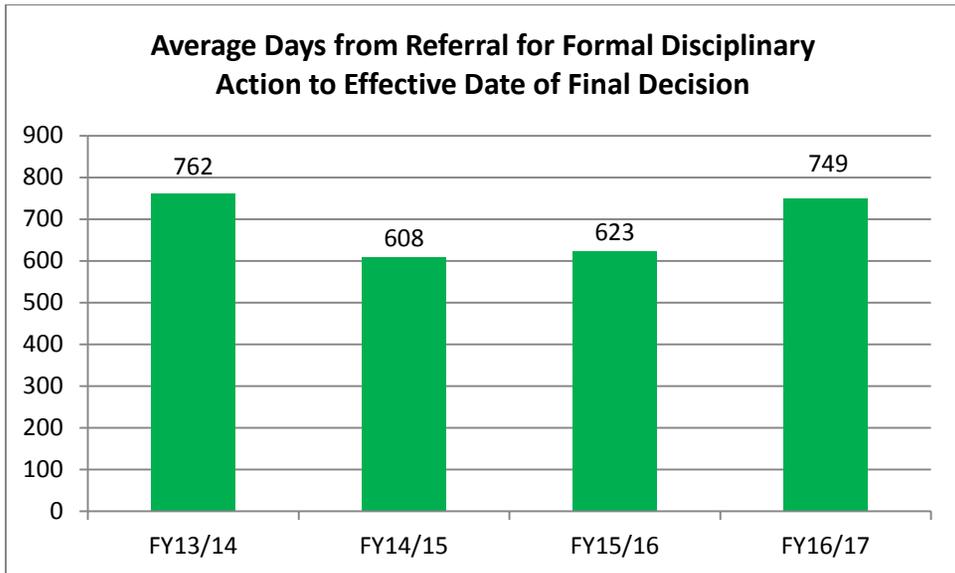
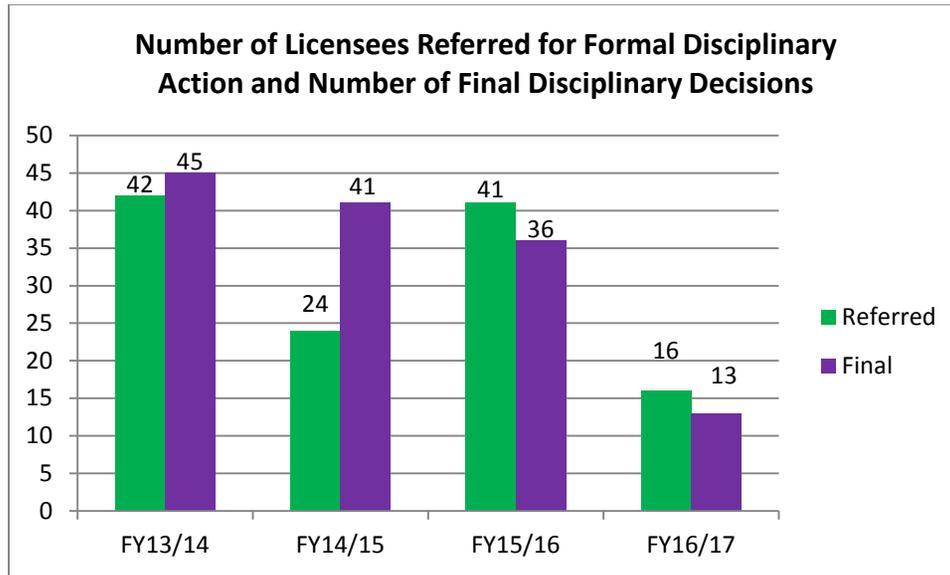
FDA = Referred for Formal Disciplinary Action

Citations (Informal Enforcement Actions)



NOTE: FY16/17 statistics are through December 31, 2016

Formal Disciplinary Actions Against Licensees



NOTE: FY16/17 statistics are through December 31, 2016

VII. Exams/Licensing

- A. Fall 2016 Examination Results
- B. Update on Spring 2017 Examinations

Fall 2016 Professional Engineer, Land Surveyors, and Geology Examination Statistics

Civil Engineering Examinations

	Pass	Fail	Total	Pass Rate
Principles & Practices (National)	753	902	1655	45%
Seismic Principles	738	957	1695	44%
Engineering Surveying	1013	887	1900	53%

Land Surveying Examinations

Principles & Practices (National)	36	26	62	58%
Surveying (State Specific)	47	120	167	28%

Other Engineering Discipline Exams

Chemical	25	16	41	61%
Control Systems	3	12	15	20%
Electrical	121	154	275	44%
Fire Protection	23	13	36	64%
Mechanical	212	118	330	64%
Metallurgical	3	3	6	50%
Nuclear	0	0	0	N/A
Petroleum	0	3	3	0%
Traffic	31	50	81	38%

2016 Geotechnical Continuous Testing

Geotechnical	23	69	92	25%
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Structural

Lateral Forces	43	70	113	38%
Vertical Forces	41	87	128	32%

2016 Fundamentals Examinations

Engineering	3506	2372	5879	60%
Land Surveyors	58	138	196	30%

N/A = Not Applicable

Fall 2016

Professional Engineer, Land Surveyors, and Geology Examination Statistics Cont.

Geology				
	Pass	Fail	Total	Pass Rate
ASBOG® Fundamentals of Geology**	87	49	136	64%
ASBOG® Practice of Geology	57	21	78	73%
California Specific Examination	57	43	100	57%
Specialty Certifications and Professional Geophysicist				
Certified Engineering Geologist	21	16	37	57%
Certified Hydrogeologist	21	6	27	78%
Professional Geophysicist	5	4	9	56%

EXAM COMPARISON SPRING 2015 & SPRING 2016

CIVIL ENGINEERING EXAMINATIONS									
	2015					2016			
	Pass	Fail	Total	Pass Rate		Pass	Fail	Total	Pass Rate
Principles & Practices (National)	744	878	1622	46%		756	811	1567	48%
Seismic Principles	919	859	1778	52%		1035	894	1929	54%
Engineering Surveying	764	1006	1770	43%		760	1113	1873	41%
LAND SURVEYING EXAMINATIONS									
Principles & Practices (National)	32	23	55	58%		37	22	59	63%
Surveying (State Specific)	42	151	193	22%		43	154	197	22%
OTHER ENGINEERING DISCIPLINE EXAMS									
Agricultural	1	1	2	50%		0	2	2	0%
Chemical	24	17	41	59%		15	9	24	62.5%
Electrical	112	185	297	38%		96	149	245	39%
Industrial	4	2	6	67%		2	4	6	33%
Mechanical	189	125	314	60%		168	105	273	62%
STRUCTURAL									
Lateral Forces	45	56	101	44.6%		63	63	126	50%
Vertical Forces	56	57	113	49.5%		48	73	121	40%

GEOLOGY									
	2015					2016			
	Pass	Fail	Total	Pass Rate		Pass	Fail	Total	Pass Rate
ASBOG® Fundamentals of Geology**	58	25	83	69%		86	40	126	68%
ASBOG® Practice of Geology	36	13	49	73%		46	14	60	77%
California Specific Examination	25	62	87	29%		66	32	98	67%

**EXAM COMPARISON
FALL 2015 & FALL 2016**

CIVIL ENGINEERING EXAMINATIONS									
	2015					2016			
	Pass	Fail	Total	Pass Rate		Pass	Fail	Total	Pass Rate
Principles & Practices (National)	675	854	1529	44%		753	902	1655	45%
Seismic Principles	671	963	1634	41%		738	957	1695	44%
Engineering Surveying	889	872	1761	50.5%		1013	887	1900	53%
LAND SURVEYING EXAMINATIONS									
Principles & Practices (National)	16	23	39	41%		36	26	62	58%
Surveying (State Specific)	29	129	158	18%		47	120	167	28%
OTHER ENGINEERING DISCIPLINE EXAMS									
Chemical	21	12	33	64%		25	16	41	61%
Control Systems	19	8	27	70%		3	12	15	20%
Electrical	95	161	256	37%		121	154	275	44%
Fire Protection	16	13	29	55%		23	13	36	64%
Mechanical	171	120	291	59%		212	118	330	64%
Metallurgical	8	3	11	73%		3	3	6	50%
Nuclear	0	0	0	0%		0	0	0	0%
Petroleum	3	2	5	60%		0	3	3	0%
Traffic	34	37	71	48%		31	50	81	38%
STRUCTURAL									
Lateral Forces	31	37	98	32%		43	70	113	38%
Vertical Forces	39	58	97	40%		41	87	128	32%

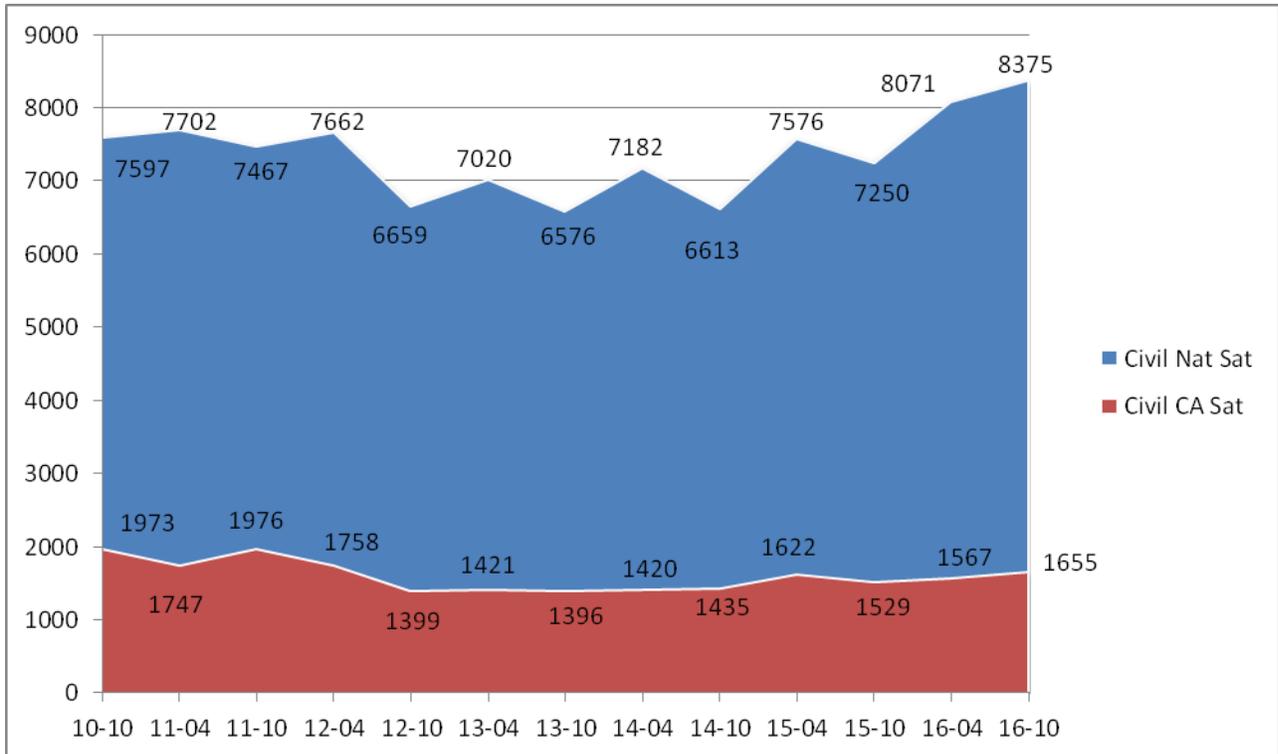
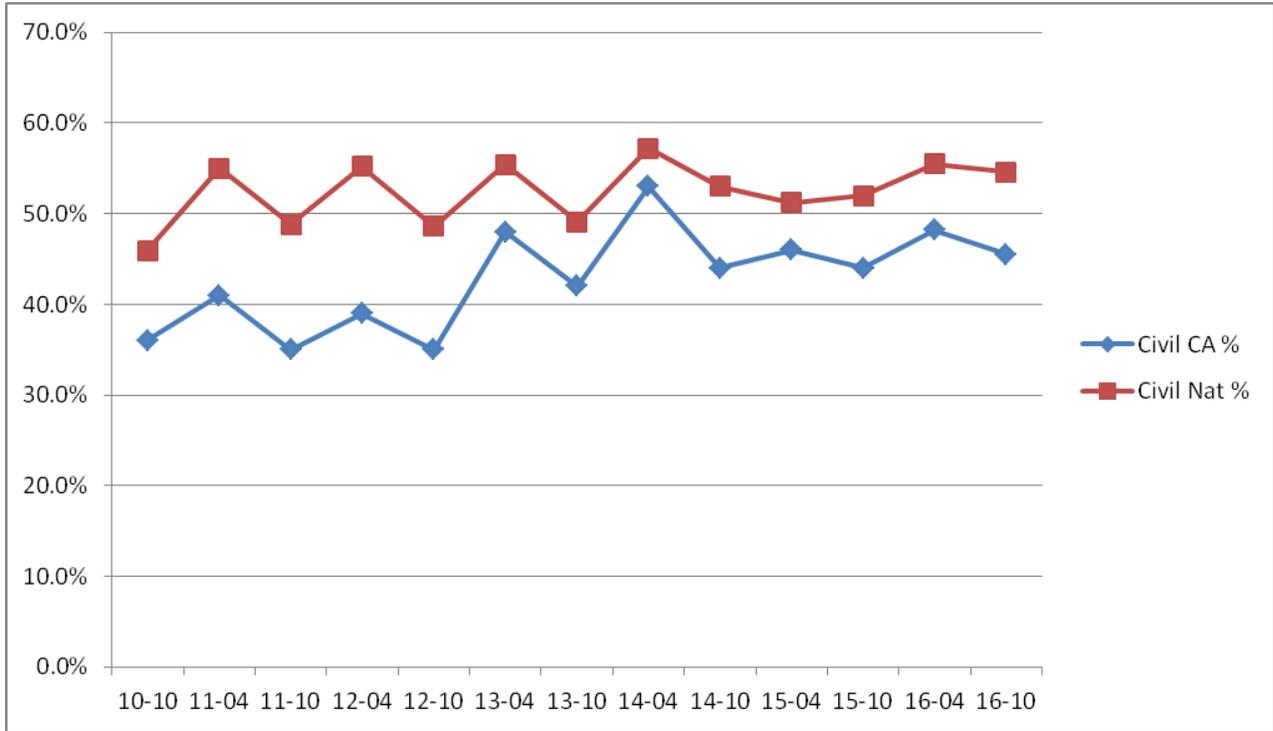
GEOLOGY									
	2015					2016			
	Pass	Fail	Total	Pass Rate		Pass	Fail	Total	Pass Rate
ASBOG® Fundamentals of Geology**	55	31	86	64%		87	49	136	64%
ASBOG® Practice of Geology	34	18	52	65%		57	21	78	73%
California Specific Examination	51	31	82	62%		57	43	100	57%
SPECIALTY CERTIFICATIONS AND PROFESSIONAL GEOPHYSICIST									
Certified Engineering Geologist	20	29	49	41%		21	16	37	57%
Certified Hydrogeologist	12	6	18	67%		21	6	27	78%
Professional Geophysicist	4	4	8	50%		5	4	9	56%

**GEOTECHNICAL AND FUNDAMENTALS
EXAM COMPARISON
2015 & 2016**

2015 & 2016 GEOTECHNICAL CONTINUOUS TESTING									
	2015					2016			
	PASS	FAIL	TOTAL	PASS RATE		PASS	FAIL	TOTAL	PASS RATE
Geotechnical	23	69	92	25%		22	36	58	38%
2015 & 2016 FUNDAMENTALS EXAMINATIONS									
Engineering	3081	1996	5077	61%		3506	2372	5879	60%
Land Surveyors	60	83	143	42%		58	138	196	30%

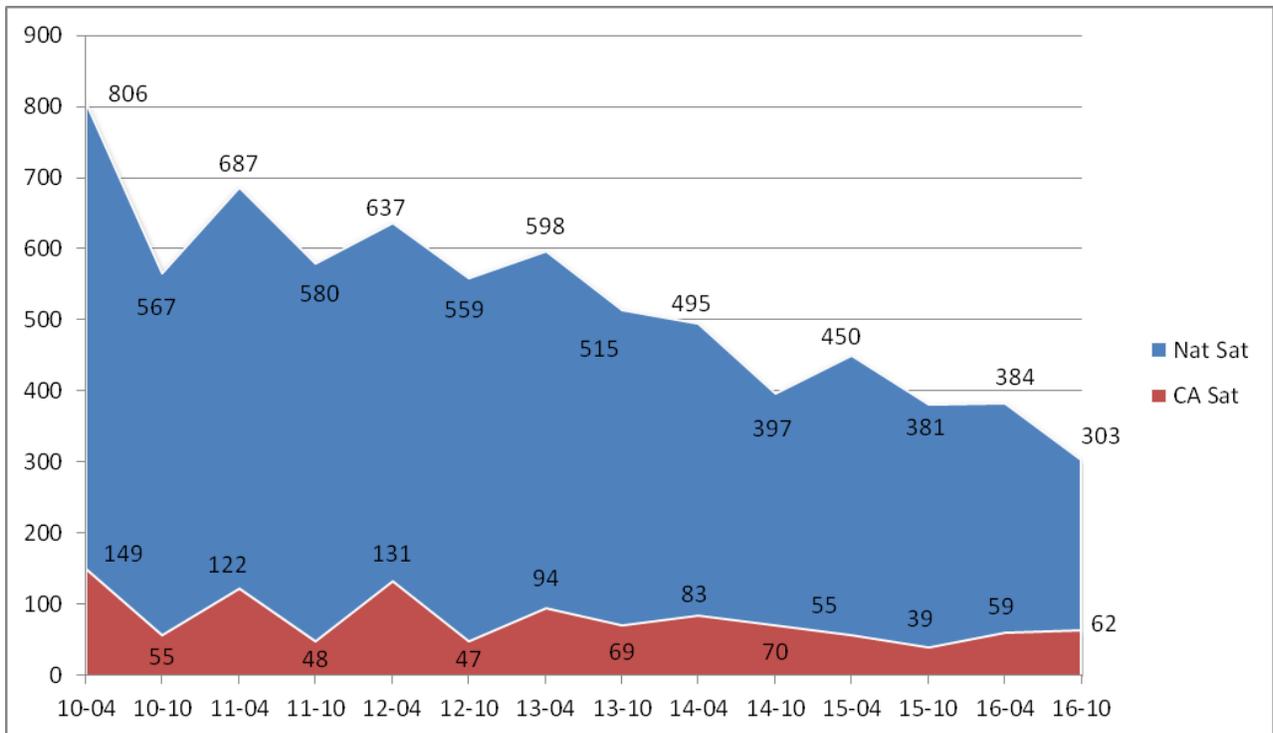
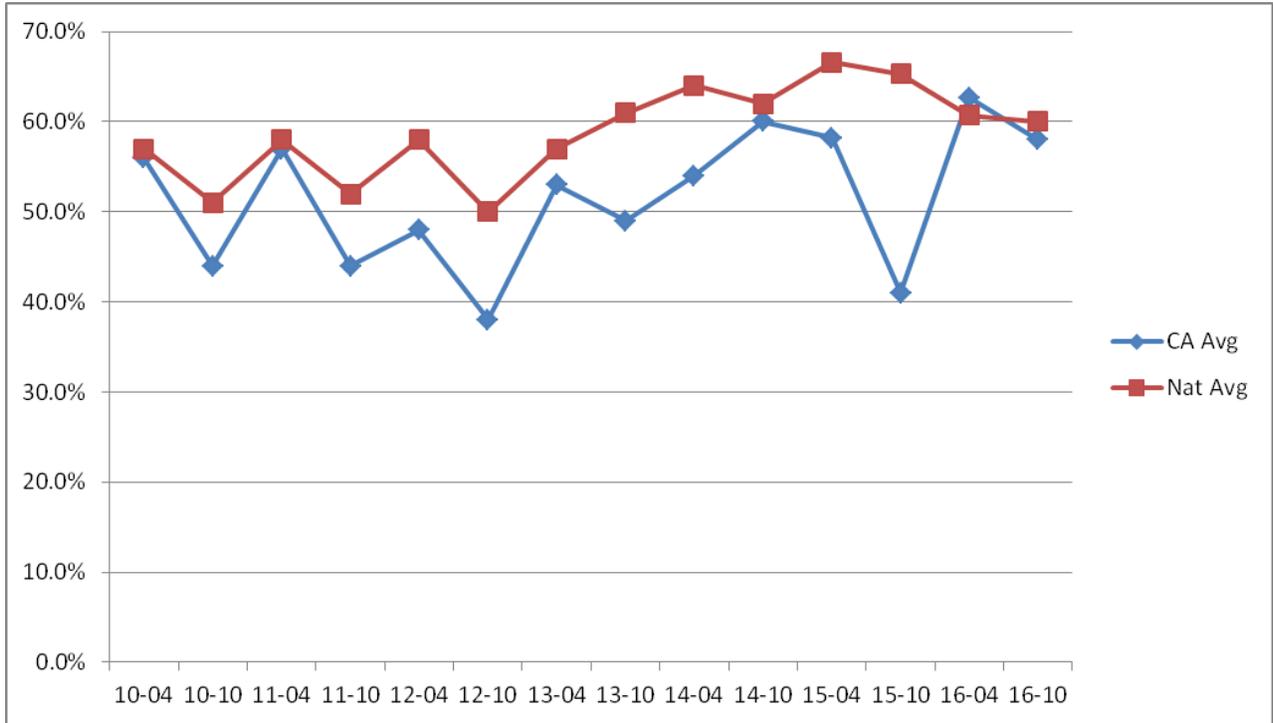
California Civil Engineer Results

National PE - Civil Results



California Land Surveyor Results

National Principles of Surveying (PS) Results



VIII. Executive Officer's Report

- A. Legislation and Regulation Workgroup Summary
- B. Personnel
- C. ABET
- D. ASBOG
- E. NCEES
 - 1. Report from Board President's Assembly
 - 2. Joint Central Zone/Western Zone Interim Meeting
- F. Outreach
- G. 2015-2018 Strategic Plan
- H. Discussion on Little Hoover Commission Report #234, October 2016 "Jobs for Californians: Strategies to Ease Occupational Licensing Barriers"
- I. Update on Business Process Improvement Study
- J. Surveyors' Coalition Letter Pertaining to Concerns of Unlicensed Practice

Legislation and Regulations Workgroup

Regulations:

1. Citations (472-473.4/3062-3063.4)

- Final Package at BPELSG, preparing to submit to the Office of Administrative Law (OAL).
 - Board approved initial rulemaking proposal on March 8, 2012.
 - Noticed to OAL on March 11, 2016, for 45-day Comment Period.
 - Noticed for 15-day Comment Period on June 22, 2016.
 - Comment Period ended on July 7, 2016.
 - Final package sent to the Department of Consumer Affairs (DCA) for final review on August 12, 2016.
 - Package received from DCA on January 26, 2017.

2. Exam Appeals Repeal (443, 444, 3063.1, 3037.1)

- Final Package at DCA for review, sent on September 9, 2016.
 - Board approved initial rulemaking proposal on March 7, 2013.
 - Noticed to (OAL) May 17, 2016, for 45-day Comment Period.
 - OAL Comment Period ended on June 22, 2016.
 - Board approved final rulemaking package on August 18, 2016.

3. SE, GE qualifications/experience (426.10/426.14/426.50).

- Final Package at Business, Consumer Services and Housing Agency on September 29, 2016.
 - Board approved initial rulemaking proposal on February 13, 2014.
 - Noticed to (OAL) May 6, 2016, for 45-day Comment Period.
 - OAL Comment Period ended on June 20, 2016.
 - Board approved final rulemaking package on August 18, 2016.
 - Final package sent to DCA for final review on September 9, 2016.

4. Corner Record (464(g)).

- Final Package approved by OAL on December 21, 2016. Effective April 1, 2017.
 - Board approved initial rulemaking proposal on June 11, 2015.
 - Noticed to OAL on November 13, 2015, for 45-day Comment Period.
 - Comment Period ended on December 28, 2015.
 - Public Hearing held on January 5, 2016.
 - Noticed for 15-day Comment Period on March 17, 2016 to April 4, 2016.
 - Noticed for 15-day Comment Period on April 25, 2016 to May 13, 2016.
 - Board approved final rulemaking package on June 9, 2016.
 - Final package sent to DCA for final review on July 11, 2016.
 - Final Package sent to OAL on November 9, 2016.

5. Qualifying Experience Land Surveyor (425)

- Final package sent to DCA for final review on November 3, 2016.
 - Board approved initial rulemaking proposal on April 9, 2016.
 - Noticed to OAL on August 12, 2016, for 45-day Comment Period.
 - Comment Period ended September 27, 2016.
 - Board approved final rulemaking package on October 13, 2016.

Note: Documents related to any rulemaking file listed as “noticed” can be obtained from the Board’s website at http://www.bpelsg.ca.gov/about_us/rulemaking.shtml.

BPELSG 2015-18 Strategic Plan Progress Report

	IN PROGRESS	IN PROGRESS NOTES	COMPLETED	COMPLETION DATE
Goal 1: Licensing: The Board provides applicants and licensees a method for providing services in California in order to protect consumers.				
Objective 1.1 - Identify the minimum curriculum required for a qualifying geological sciences degree. [NOTE: Also part of Objective 2.6]				
<ul style="list-style-type: none"> <i>Begin rulemaking process for clarifying core curriculum through regulations</i> 	X	Proposed language to be presented to Board 2/17		
Objective 1.2 - Develop fact sheets that describe the legal authority, functions, and benefits for the public for each of the license types regulated by the Board.				
<ul style="list-style-type: none"> <i>Prepare fact sheets regarding each license discipline</i> 	X	Need to consult with Legal Counsel		
Objective 1.3 - Improve the existing credit card process with the implementation of BreEZe.				
Objective 1.4 - Expand credit card transactions to all license types with the implementation of BreEZe.				
<ul style="list-style-type: none"> <i>Credit card usage explained to include geologist and geophysicist licenses</i> 			X	July 2016
Objective 1.5 - Recommend potential methods for enacting continuing education requirements.				
<ul style="list-style-type: none"> <i>Legislation enacted to require assessment on laws and regulations at time of renewal</i> 			X	January 2017
Objective 1.6 - Educate university administrators and students about the importance of licensure.				
<ul style="list-style-type: none"> <i>Information packet sent to colleges/universities on an annual basis</i> 			X	2015
<ul style="list-style-type: none"> <i>Staff conduct outreach presentations for students and meet with deans and instructors</i> 			X	2015

BPELSG 2015-18 Strategic Plan Progress Report

	IN PROGRESS	IN PROGRESS NOTES	COMPLETED	COMPLETION DATE
Goal 2: Applications/Examinations: The Board promotes appropriate standards so that qualified individuals may obtain licensure in order to protect the public.				
Objective 2.1 - Work with DCA to increase Board involvement in all aspects of the national exams.				
<ul style="list-style-type: none"> Approval of out-of-state travel to NCEES and ASBOG meetings 	X		X	2015
Objective 2.2 - Increase exam opportunities for candidates.				
<ul style="list-style-type: none"> Allow licensure applicants to register for and pass required national exams prior to applying to BPELSG for licensure [NOTE: also applies to Objective 2.4] 			X	June 2016
Objective 2.3 - Advocate for national exams to include content that measures competency that meets California's needs.				
<ul style="list-style-type: none"> Board member and staff attendance at NCEES Western Zone and Annual Meetings and ASBOG meetings 			X	2015
Objective 2.4 - Evaluate and identify ways to reduce the application process timeframes.				
<ul style="list-style-type: none"> Evaluate staffing resources/needs and report on findings 			X	February 2015
<ul style="list-style-type: none"> Initiate a business process/needs assessment study (i.e. Legacy systems, BreEZe, etc.) 			X	May 2016
<ul style="list-style-type: none"> Evaluate current application processes, identify process improvements, and report on findings (i.e. 			X	May 2016
Objective 2.5 - Explore costs and benefits of considering, if appropriate, withdrawing from national exams and developing California exams.				
<ul style="list-style-type: none"> Estimation of costs prepared and presented to Board 			X	2015
Objective 2.6 - Examine the appropriateness of current education/experience requirements for licensure.				
<ul style="list-style-type: none"> Adopt and implement changes to regulations regarding land surveying experience requirements 	X	Staff preparing final rulemaking file to submit to DCA/OAL for approval		
<ul style="list-style-type: none"> Adopt and implement changes to regulations regarding geology education requirements 	X	Proposed language to be presented to Board 2/17		
Goal 3: Laws and Regulations: The Board ensures that statutes, regulations, policies, and procedures strengthen and support their mandate and mission.				
Objective 3.1 - Establish a legislative and regulatory work group of two Board members and staff and provide a written report at Board meetings.				
<ul style="list-style-type: none"> Appoint Board representation and staff to legislative and regulatory work group 			X	2015
<ul style="list-style-type: none"> Establish a meeting schedule, workgroup goals, and provide regular written reports to the Board 			X	2015
Objective 3.2 - Determine if changes to legislation or regulations are needed due to emerging technologies and industry practices.				
Objective 3.3 - Pro-actively clarify conflicting laws and regulations.				
<ul style="list-style-type: none"> Review of laws and regulations by staff with recommendations for changes to be presented to Board when needed 	X	Always ongoing		
Objective 3.4 - Seek legislation to merge the Geology fund with Engineers/Land Surveyors fund.				
<ul style="list-style-type: none"> Propose merger via sunset review process 			X	2015
<ul style="list-style-type: none"> Submit support letters, contact support groups, attend hearings, and track legislation thru completion 			X	2015
<ul style="list-style-type: none"> Merge funds 			X	July 2016

BPELSG 2015-18 Strategic Plan Progress Report

	IN PROGRESS	IN PROGRESS NOTES	COMPLETED	COMPLETION DATE
Goal 4: Enforcement: The Board protects the health and safety of consumers through the enforcement of the laws and regulations governing the practices of engineering, land surveying, geology, and geophysics.				
Objective 4.1 - Leverage collaborative relationships to encourage a reduction in cycle times at the Office of Administrative Hearings, Division of Investigation, and Attorney General's Office.				
<ul style="list-style-type: none"> Assist AG's Office with implementation of case age reporting required by Business and Professions Code 			X	2015
<ul style="list-style-type: none"> Conducted meetings with Division of Investigations to discuss strategies in efficiency and effectiveness of investigations, including training and collaboration between the Division of Investigation and clients 			X	2016
Objective 4.2 - Analyze and determine reasonable time frames and develop a benchmark/expectation for each step in the investigation.				
<ul style="list-style-type: none"> Evaluate current procedures 			X	May 2015
<ul style="list-style-type: none"> Identify where delays primarily occur and where improvements can be made 			X	May 2015
<ul style="list-style-type: none"> Standardize reasonable timeframes and procedures for the investigation process 			X	May 2015
Objective 4.3 - Reduce complaint investigation cycle times to under 180 calendar days.				
<ul style="list-style-type: none"> Average age of investigations reduced to 154 days 			X	October 2016
Objective 4.4 - Research the feasibility of adding a legal requirement that licensees respond to Board investigative inquiries within a specified period of time.				
<ul style="list-style-type: none"> Seek inclusion, via Sunset Bill, to implement authority that requires licensees to cooperate with 			X	January 2016
Objective 4.5 - Reduce formal disciplinary action process to a target of 540 calendar days.				
Objective 4.6 - Improve the technical expert consultant selection process, training, and compensation to enhance quality and quantity.				
<ul style="list-style-type: none"> Develop training for existing and potential experts appropriate to the services required by the Board. (i.e. exam development, enforcement review, DAGs) 	X	Training targeted for 2nd half of 2017; dependent on manual		
<ul style="list-style-type: none"> Implement procedures to improve internal communication to monitor the use and effectiveness of experts (i.e. universal database or spreadsheets) 	X	Part of business process/needs assessment to be completed in 2017		
<ul style="list-style-type: none"> Evaluate current compensation rates and recommend changes 			X	July 2016
<ul style="list-style-type: none"> Modernize Expert Reference Manual 	X	Targeted for publication in 1st half of 2017		
<ul style="list-style-type: none"> Identify and implement effective recruitment opportunities (i.e. research other boards) 			X	September 2016
<ul style="list-style-type: none"> Establish qualification guidelines for experts 	X	Survey sent to current experts in December 2016		

BPELSG 2015-18 Strategic Plan Progress Report

	IN PROGRESS	IN PROGRESS NOTES	COMPLETED	COMPLETION DATE
Goal 5: Outreach: The Board promotes the importance of licensing in an effort to regularly and consistently educate consumers, licensees, and stakeholders about the practice and regulation of the professions.				
Objective 5.1 - Develop a multi-phase stakeholder outreach plan.				
<ul style="list-style-type: none"> Identify and maintain comprehensive list of stakeholders (consumers, organizations, Board staff, Legislature, State agencies) 			X	September 2015
<ul style="list-style-type: none"> Foster relationships with stakeholders for continued education and communication 			X	September 2015
<ul style="list-style-type: none"> Measure current outreach effectiveness and infuse new goals (i.e. college outreach, social media, visit organizations) 			X	December 2015
<ul style="list-style-type: none"> Increase publications/posts for: military, fingerprinting, tax forms, retired status 			X	September 2015
<ul style="list-style-type: none"> Identify ways to improve communication with existing (refile) and potential (EIT/LSIT/GIT) applicants (i.e. database communication that alerts individuals about deadline and exam dates) 			X	September 2015
Objective 5.2 - Communicate enforcement actions on an ongoing basis on the website as soon as feasible.				
<ul style="list-style-type: none"> Identify implementation dates for posting final administrative citations and formal disciplinary decisions 	X	Part of website redesign in 2017		
Objective 5.3 - Produce a newsletter on a quarterly basis that includes enforcement actions.				
<ul style="list-style-type: none"> Identify quarterly deadline dates 			X	January 2015
<ul style="list-style-type: none"> Establish themes 			X	March 2015
<ul style="list-style-type: none"> Coordinate with enforcement staff to supply enforcement actions (NOTE: also applies to Objective 5.2) 			X	January 2015
<ul style="list-style-type: none"> Assign and obtain articles from staff and Board members 			X	January 2015
Objective 5.4 - Encourage DCA and Agency to approve speaking and/or participating in conferences and other public and/or licensee outreach events.				
<ul style="list-style-type: none"> Regularly submit requests and seek approval to travel 			X	July 2015
<ul style="list-style-type: none"> Attend approved events and report on participation (i.e. website, bulletin, FB, twitter) 			X	April 2015
Objective 5.5 - Increase the Board's social media presence.				
<ul style="list-style-type: none"> Work with DCA IT unit to make Board communications "mobile aware" (i.e. mobile app) 	X	Part of website redesign in 2017		
<ul style="list-style-type: none"> Establish procedures to consistently communicate important dates (i.e. application, registration, exam dates, fingerprinting, exam changes) 			X	February 2015
<ul style="list-style-type: none"> Research the feasibility to implement new technologies that reach our shareholders (i.e. YouTube instructional videos) 			X	October 2016
<ul style="list-style-type: none"> Perform Q&A sessions on FB or Twitter 			X	March 2015
Objective 5.6 - Proactively educate stakeholders to prevent violations.				
<ul style="list-style-type: none"> Participate in consumer fairs, events, and professional organization meetings 			X	January 2015
<ul style="list-style-type: none"> Post trivia to FB & Twitter to educate viewers 			X	March 2015
<ul style="list-style-type: none"> Create YouTube educational videos 			X	October 2016

BPELSG 2015-18 Strategic Plan Progress Report

	IN PROGRESS	IN PROGRESS NOTES	COMPLETED	COMPLETION DATE
Goal 6: Customer Service: The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.				
Objective 6.1 - Provide Board-specific training for new Board members in addition to DCA's Board Member Orientation Training.				
<ul style="list-style-type: none"> Update and revise Board and Technical Advisory Committees Operating Procedures 	X	Board members reviewing for discussion at 2/17 meeting		
<ul style="list-style-type: none"> Conduct annual BPELSG-specific training for all Board members 	X	Presentations on budgets, exam development, & enforcement done in 2016; others to be done in 2017		
Objective 6.2 - Enhance customer service by providing training for staff.				
<ul style="list-style-type: none"> Unit meetings bi-weekly to keep current on office procedures and updates 			X	January 2015
<ul style="list-style-type: none"> Ensure each position has at least one back up for their job 			X	September 2015
<ul style="list-style-type: none"> Email out training classes available to interested staff on a consistent basis 			X	January 2015
<ul style="list-style-type: none"> Contact SOLID for training solutions 			X	May 2016
<ul style="list-style-type: none"> Provide front desk with application status checks for callers 			X	April 2016
<ul style="list-style-type: none"> Schedule all-staff meetings on a regular basis 			X	February 2016
Objective 6.3 - Implement a plan to improve internal collaboration. (Dependent on objective 6.2)				
<ul style="list-style-type: none"> Create team building workshops and activities to increase morale and promote knowledge 			X	January 2015
<ul style="list-style-type: none"> Reach out to SOLID to provide specific Board staff training 			X	May 2016
Objective 6.4 - Issue licenses on environmentally friendly wallet-sized cards in addition to current paper license.				
<ul style="list-style-type: none"> Appoint staff person to research cost and effectiveness of machines and procedures 			X	July 2015
<ul style="list-style-type: none"> Allocate funds in the budget to tackle the project 			X	July 2015
<ul style="list-style-type: none"> Distribute cards to all current licensees 			X	September 2016
Objective 6.5 - Educate the public about the steps and timing in the enforcement process.				
<ul style="list-style-type: none"> Create and post YouTube video on how to file a complaint 			X	September 2016
<ul style="list-style-type: none"> Develop a speaker presentation on an overview of the enforcement complaint/disciplinary process 			X	March 2016

VIII. Executive Officer's Report

H. Discussion on Little Hoover Commission Report #234, October 2016 "Jobs for Californians: Strategies to Ease Occupational Licensing Barriers"

At the December 8-9, 2016 Board Meeting, the Board requested a discussion on the recent report from the California Little Hoover Commission (LHC) related to occupational licensing barriers. In that report, the LHC provided an analysis of the current licensing climate in California on a level that focused primarily on the general hurdles faced by the state's workforce rather than any specific occupation or profession and the impact that licensing had on consumers.

While the professions regulated by BPELSG (engineers, land surveyors, geologists, and geophysicists) garnered barely a mention in the 50 page report, attention should be paid to the overall strategy voiced by the LHC as illustrated specifically in their eight (8) recommendations found on pages 6-10.

Several of these recommendations appear to be best suited for attention by others (i.e., DCA, Agency, legislative committees, etc.) due to the holistic approach to solutions which could affect many boards as a whole rather than limiting the efforts to one or two boards. However, I do advise that the Board specifically consider evaluation of Recommendation 3 (Reciprocity), Recommendation 5 (Former Offenders), and Recommendation 6 (Implementation of Veteran and Military Spouse Legislation) as BPELSG may be able to proactively proceed directly with efforts to address these concerns.

Recommendation 3 (Reciprocity):

While laws mandating BPELSG's responsibilities does not recognize pure "reciprocity" as it is commonly defined throughout the nation, BPELSG does historically make proactive efforts towards streamlining the "Comity" application process. About ten (10) years ago, the Board recognized the delay in approving Comity applications (applications from individuals already licensed in other states and seeking additional licensure in California), especially in the case of non-civil engineers that had already met exam and experience requirements elsewhere, and delegated the approval authority to the Executive Officer rather than delaying approval by board meetings. This Board action resulted in BPELSG being able to process Comity applications continuously with licenses being issued on a monthly basis. More recently, with the changes allowing applicants to sit for the national NCEES exams without first applying to BPELSG (structural engineer and EIT/LSIT waivers excepted) further illustrates BPELSG's desire to eliminate unnecessary hurdles to achieving licensure while maintaining the necessary minimum requirements. I recommend that BPELSG continue to proactively pursue process improvements where appropriate.

Recommendation 5 (Former Offenders):

It appears that this recommendation has captured DCA’s attention more so than some of the others at this stage which is completely understandable. There are general Business and Professions Code sections (§§ 480-493) which provide authority to the various DCA boards related to “...crimes or acts that are substantially related to the qualifications, functions, or duties of the profession...” and more specific statutes within the three Acts that BPELSG is tasked with mandating (§6770 or §6779 – PE Act; §7860 or §7863 - G&G Act; §8776 or §8783 – PLS Act), all of which come before the Board on occasion during deliberations of disciplinary actions.

Several years ago, the Board attempted to revise CCR (Board Rule) 416 (Substantial Relationship Criteria) through the rulemaking process to clarify what the Board considers as “substantially related” which met with opposition from the licensing professions and which ultimately resulted in the Board withdrawing this proposal. Given that BPELSG had previously recognized that clarification of this topic is important prior to the LHC embarking on this study and that DCA is evaluating how best to address this, I would recommend that BPELSG closely monitor DCA’s efforts while considering the possibility to move forward with a rulemaking proposal again in the future.

Recommendation 6 (Implementation of Veteran and Military Spouse Legislation):

While over the last several years, the California Legislature has introduced multiple bills aimed at facilitating licensure approval for military families, some of which resulted in new laws requiring licensing boards to capture military status and streamline application processes, BPELSG has received mixed results as a result of implementing these requirements. For example, licensing renewal notices include a question on whether the licensee is currently or formally served in the military and BPELSG received quite a few phone calls and emails from licensees that were offended by these questions and refused to answer. Other boards at DCA experienced similar correspondence and DCA has increased efforts to make it very clear that responses to this question were entirely voluntary on the part of the licensee. Needless to say, it is unclear as to how reliable statistics will be as a result of this effort.

BPELSG currently asks all applicants questions related to military status and provides information on the web site towards assisting with these issues. However, our current databases do not provide an ability to track this information, other than manually, adding to the inherent unreliability in providing any usable statistics at this time. At this time and given the unknown number of applicants/licensees affected by these legislative efforts, I recommend that BPELSG evaluate and implement a focused outreach strategy on how best to reach out with assistance while continuing to monitor DCA’s progress on a department-wide level.



JOBS FOR CALIFORNIANS: STRATEGIES TO EASE OCCUPATIONAL LICENSING BARRIERS

REPORT #234, October 2016



LITTLE HOOVER COMMISSION

DEDICATED TO PROMOTING ECONOMY AND EFFICIENCY IN CALIFORNIA STATE GOVERNMENT

Little Hoover Commission

Pedro Nava
Chairman

Jack Flanigan
Vice Chairman

Scott Barnett

David Beier†

Anthony Cannella
Senator

Chad Mayes
Assemblymember

Don Perata

Sebastian Ridley-Thomas*
Assemblymember

Richard Roth
Senator

Jonathan Shapiro

Janna Sidley

Helen Torres

Sean Varner

Former Commissioners Who Served During The Study

Loren Kaye*

David Schwartz*

Sumi Sousa

† Served as subcommittee chair

* Served on study subcommittee

Commission Staff

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Matthew Gagnon
Research Analyst

Sherry McAlister
Administrative Analyst

Sierra Grandbois
Intern

Aleksander Klimek
Intern

To Promote Economy and Efficiency

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency.

By statute, the Commission is a bipartisan board composed of five public members appointed by the governor, four public members appointed by the Legislature, two senators and two assemblymembers.

In creating the Commission in 1962, the Legislature declared its purpose:

...to secure assistance for the Governor and itself in promoting economy, efficiency and improved services in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...

The Commission fulfills this charge by listening to the public, consulting with the experts and conferring with the wise. In the course of its investigations, the Commission typically empanels advisory committees, conducts public hearings and visits government operations in action.

Its conclusions are submitted to the Governor and the Legislature for their consideration. Recommendations often take the form of legislation, which the Commission supports through the legislative process.

Contacting the Commission

All correspondence should be addressed to the Commission Office:

Little Hoover Commission
925 L Street, Suite 805,
Sacramento, CA 95814
(916) 445-2125
littlehoover@lhc.ca.gov

This report is available from the Commission's website at www.lhc.ca.gov.

LETTER FROM THE CHAIR

October 4, 2016

The Honorable Edmund G. Brown, Jr.
Governor, State of California

The Honorable Kevin de León
President pro Tempore of the Senate
and members of the Senate

The Honorable Anthony Rendon
Speaker of the Assembly
and members of the Assembly



The Honorable Jean Fuller
Senate Minority Leader

The Honorable Chad Mayes
Assembly Minority Leader

Dear Governor and Members of the Legislature:

One out of every five Californians must receive permission from the government to work. For millions of Californians, that means contending with the hurdles of becoming licensed. Sixty years ago the number needing licenses nationally was one in 20. What has changed? What once was a tool for consumer protection, particularly in the healing arts professions, is now a vehicle to promote a multitude of other goals. These include professionalism of occupations, standardization of services, a guarantee of quality and a means of limiting competition among practitioners, among others. Many of these goals, though usually well intentioned, have had a larger impact of preventing Californians from working, particularly harder-to-employ groups such as former offenders and those trained or educated outside of California, including veterans, military spouses and foreign-trained workers.

In its study on occupational licensing, the Commission sought to learn whether the state properly balances consumer protection with ensuring that Californians have adequate access to jobs and services. It learned the state is not always maintaining this balance, as evidenced by discrepancies in requirements for jobs that pose similar risks to the consumer. Manicurists, for example, must complete at least 400 hours of education, which can cost thousands of dollars, and take a written and practical exam before becoming licensed. In contrast, tattoo artists simply register with their county's public health department and take an annual bloodborne pathogens class, which can be completed online for \$25.

The effects of occupational licensing extend well beyond people encountering hurdles to entering an occupation, the Commission learned. When government limits the supply of providers, the cost of services goes up. Those with limited means have a harder time accessing those services. Consequently, occupational licensing hurts those at the bottom of the economic ladder twice: first by imposing significant costs on them should they try to enter a licensed occupation and second by pricing the services provided by licensed professionals out of reach. The Commission found that over time, California has enacted a thicket of occupational regulation that desperately needs untangling in order to ease barriers to entering occupations and ensure services are available to consumers of all income levels.

Fortunately, there is an effort underway to review licensing laws and adopt evidence-based approaches to consumer protection: The White House is providing \$7.5 million in grant funding for a consortium of states to assess whether their current levels of occupational regulation are appropriate.

California should be part of this effort. Additionally, the state should consider the impact of licensing on groups disproportionately harmed by these regulations, including:

- Former offenders. Witnesses testified there is no evidence demonstrating that having a criminal record is related to providing low quality services. Unnecessary restrictions on criminal convictions simply punish again people who have already served their time.
- Military spouses. When military spouses cannot transfer their licenses across state lines due to state restrictions, they spend precious time and resources re-completing requirements they already have, or taking, in all likelihood, a lower-paying, lower-skilled job. Married service members overwhelmingly report their spouse’s ability to maintain a career affects their decision to remain in the military.
- Veterans. Veterans often face difficulty transferring their military education and experience into civilian licensing requirements. Sometimes they must repeat these requirements for a job they have been performing for years. Taxpayers then pay twice for them to learn the same set of skills: once while in the military and again through the G.I. Bill.
- Foreign-trained workers. Like veterans, foreign-trained workers often have difficulty translating their education and experience into state licensing requirements and often take lower-skilled jobs instead. With worker shortages looming in mid- and high-skilled professions, the state should embrace these workers instead of erecting barriers to keep them out of jobs.

Examining and assessing California’s occupational regulations does not mean stripping consumer protection. Rather, experts should consider whether the current level of regulation strikes the appropriate balance between protecting consumers and limiting access to occupations and services.

California once tried an ambitious restructuring of its boards and commissions, including many licensing boards, as part of the 2004 California Performance Review. Governor Arnold Schwarzenegger, informed by the work of the California Performance Review, sent a Governor’s Reorganization Plan to the Little Hoover Commission in January 2005 that went far beyond a review of occupational regulation: It was a complete overhaul of the state’s boards and commissions. Facing insurmountable hurdles, Governor Schwarzenegger withdrew the plan from consideration a month later. No comprehensive attempts at reform have occurred since.

By participating in a more focused review of occupational regulation, potentially subsidized and supported by the federal government, by beginning reforms where the barriers are egregious and worker shortages loom, and by taking action based on the recommendations of independent experts, the state can avoid repeating the errors of the past and position itself to make a long-term difference for Californians.

The Commission respectfully submits these findings and recommendations and stands prepared to help you take on this challenge.

Sincerely,



Pedro Nava
Chair, Little Hoover Commission

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EXECUTIVE SUMMARY

Californians rely on occupational regulation to protect them. Doctors must prove proficiency in medical knowledge before they treat patients. Electricians must demonstrate they know their trade before they wire a house. Yet for all these important protections, there is a flip side of occupational licensing: The requirements to prove proficiency often serve as a gate, keeping people out of occupations.

Licensing is more stringent than other types of occupational regulation because not being able to obtain a license means someone cannot practice the profession. Certification or registration allows practitioners to demonstrate they meet certain standards of quality or allows the state to know certain types of businesses are operating without barring people from the occupation.

Since Statehood: A Jumble of Licensing Politics

When the Commission began its study on occupational licensing in California, it aimed to learn whether the State of California is striking the appropriate balance between protecting consumers and erecting barriers to entry into occupations. It found more than 165 years of accumulated regulations creating a nearly impenetrable thicket of bureaucracy for Californians. No one could give the Commission a list of all the licensed occupations in California. Licensing is heavily concentrated within the Department of Consumer Affairs, but it also is scattered throughout other government departments and agencies. Want to become a registered nurse? Go to the Board of Registered Nursing. Want to become a licensed vocational nurse? Go to the Board of Vocational Nursing and Psychiatric Technicians. Want to become a certified nursing assistant? Go to the Department of Public Health.

The Commission found that the licensing boards within the Department of Consumer Affairs are semi-autonomous, governed by a rulemaking process. But their considerable autonomy results in no holistic vision on how occupations should be regulated in California. Licensing authorities under the Department of Consumer Affairs undergo a sunset review process every four years to determine whether the authority is best serving Californians. If not, legislative fixes are made or the licensing authority is dissolved. But even when a licensing authority is disbanded it may not be gone for good. When the Legislature eliminated the Board of Barbering and Cosmetology in 1997, Senator Richard Polanco resurrected it with legislation in 2002.

This is the heart of problems the Commission found with occupational licensing: The process often is a political activity instead of a thoughtful examination of how best to protect consumers. Multiple witnesses told the Commission that consumers are not key players in creating and governing licensing regulations, even though the regulations are ostensibly made in their interest. Occupational licensing is not about consumers going to the Legislature and asking for protection, said one witness. It is about practitioners telling legislators that consumers need to be protected from them. Substantial benefits accrue to practitioners of licensed occupations. Working in occupations licensed in some, but not all, states raises wages by 5 percent to 8 percent. Working in occupations licensed in all states drives up wages by 10 percent to 15 percent, witnesses told the Commission.

Effects of Licensing on Consumer Prices

It stands to reason that if wages within licensed professions increase, so will costs to consumers. Witnesses shared research showing that, depending on occupation, instituting licenses raised consumer

prices by 5 percent to 33 percent. One Commission witness estimated that licensing costs consumers more than \$200 billion a year nationally. Meanwhile, there is not necessarily a corresponding increase in consumer safety due to licensing. Researchers reported to the Commission that for many occupations, bad outcomes did not increase when licensing restrictions were relaxed to make it easier to enter those occupations.

Some Groups are More Vulnerable to Licensing Regulations

The Commission learned that certain groups are especially vulnerable to licensing regulations:

- **Former offenders** must withstand scrutiny that is not always straightforward and typically have no advance guidance on whether a conviction will disqualify them from an occupation.
- **Military spouses** can spend a year or two recompleting requirements to meet California-specific regulations for a job they have practiced for years in other states. By the time they become licensed in California, their spouse is soon transferred to a new state.
- **Veterans**, too, often have to redo education and training that taxpayers already paid for while they were in the military. The state has enacted many bills to make it easier for veterans to become licensed. But that legislation has gaps: it is predominately directed at the Department of Consumer Affairs and not other licensing authorities, and no one tracks implementation.
- **Foreign-trained workers**, particularly bilingual professionals, are well suited to ease California's impending worker shortages. But they face many of the same obstacles as veterans: their education and experience abroad is difficult to apply to state licensing requirements.

Legitimate Arguments for Licensing

It would be unfair to characterize all attempts to license an occupation as a means to artificially inflate wages for licensed practitioners. Witnesses made compelling arguments to the Commission about why their

occupations should be licensed. Commercial interior designers, for example often do building code-impacted design work – moving walls that entail electrical, lighting, HVAC and other changes. They design the layout of prisons, where the safety of correctional officers and inmates is on the line. Even though the people performing this commercial work typically have extensive educational and work experience, city and county inspectors do not recognize their unlicensed voluntary credentials. Architects or engineers must sign off on their plans, resulting in time and cost delays.

Other advocates see licensing as a vehicle to professionalize an occupation. This is particularly true of low-wage caretaker occupations, often practiced by minorities. Licensing presents opportunities for practitioners to offer government-guaranteed quality of care in return for being treated like professionals.

Finally, many pleas for the health and safety benefits of licensing are, indeed, genuine. Different people are willing to accept different degrees of risk. As long as humans are allowed to practice an occupation, there will be human errors and bad outcomes. Stricter levels of regulation often will reduce, but never completely eliminate, those errors and outcomes. Where is the line for acceptable risk? One person might be comfortable with *caveat emptor*, while another might see a consumer threat that must be regulated.

California Needs a Holistic Regulatory Strategy

California needs a holistic well-reasoned strategy for regulating occupations. The specific details of who can and cannot practice will vary by occupation. But the underlying principles of what level of consumer protection the state hopes to achieve – and how difficult or easy it should be to enter occupations – should be set by state policymakers and implemented across all occupations. The Commission offers eight recommendations as guiding principles and a way forward. The first four recommendations address systemic issues in how California licenses occupations and governs its regulatory process. The last four recommendations offer ways to make it easier to enter licensed occupations without overhauling California's licensing structure or lowering standards.

Recommendations

Data Collection

It is difficult to assess the impact of licensing regulations on various demographic groups because no one collects demographic data for people who work in many licensed occupations or apply for licenses. Anecdotal reports say minorities are often negatively and disproportionately affected by licensing regulations. But without demographic information it is impossible to know for sure.

The Commission recommends collecting demographic information on licensed workers and applicants so policymakers better understand the impact of regulations on different groups of Californians. Yet safeguards must accompany the collection and analysis of demographic data. Race or gender should not be part of information officials consider when deciding to issue a license or when making disciplinary decisions. Demographic data will have to be tied to specific applicants in order to understand outcomes, such as whether they are issued a license or what reason they were denied. Modifying multiple IT systems used by licensing authorities to ensure this information is not visible to licensing and enforcement personnel will come with costs. The Legislature should ensure the department receives the funds necessary for this enterprise. Finally, supplying this demographic information should be voluntary, and not a requirement for licensure.

Recommendation 1: The Legislature should authorize the mandatory collection of demographic information for license applications across all licensed occupations in California, including those outside of the Department of Consumer Affairs. This demographic information should not be made available to staff members issuing licenses or conducting enforcement actions, but should be studied in the aggregate to determine the impact of licensing requirements on various demographic groups.

Comprehensive Licensing Review

California has created occupational licensing regulations for more than 165 years. It is long past time for a comprehensive review of these accumulated rules to determine whether gains for consumer health and safety justify the barriers they present to entering occupations.

This review should specifically analyze barriers to former offenders, military spouses, veterans and people with education, training or experience outside California. Federal funding exists to perform this analysis and California is invited to participate in a consortium applying for this funding. California should not pass up the opportunity.

Recommendation 2: The State of California should join a consortium of states organizing to attain federal funding to review their licensing requirements and determine whether those requirements are overly broad or burdensome to labor market entry or labor mobility. As part of this process, the state should consider whether there are alternative regulatory approaches that might be adequate to protect public health and safety, including, but not limited to, professional certification.

Reciprocity

License transferability across state lines is important to people who need immediately to begin working following a move to California. It is particularly important to military spouses, who move frequently. Licensing authorities should grant reciprocity to applicants licensed in other states. In occupations with dramatically differing requirements across the country, California should grant partial reciprocity to states with similar requirements as its own. California should start by assessing reciprocity in the occupations facing significant worker shortages, such as teachers and nurses. There may be some licenses for which California's standards are so unique that reciprocity is not an option, and in those cases, the licensing authority should justify why reciprocity or partial reciprocity is not feasible.

Recommendation 3: The Legislature should require reciprocity for all professionals licensed in other states as the default, and through the existing sunset review process, require boards to justify why certain licenses should be excluded. Specifically, licensing boards should be required to:

- Identify whether licensing requirements are the same or substantially different in other states.
- Grant partial reciprocity for professionals licensed in states with appropriately comparable testing and education requirements.

Sunrise and Sunset Review

In the sunrise review process, a group trying to become licensed supplies the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development with evidence demonstrating that consumers are best protected by licensing the occupation in question. In the sunset review process, the two committees evaluate information submitted by the licensing authority to determine its performance and whether it still continues to present the best method of consumer protection. The committees will introduce legislative bills to fix problems found during the review.

Though the Commission was impressed with the professionalism and dedication of the business and professions committee staff, the two committees are inundated with information that they must verify and analyze in a relatively short period of time. Some have suggested that the state might benefit from the automatic sunset of licensing authorities periodically, perhaps every four or eight years. Licensing authorities and their performance would then be scrutinized by the entire Legislature when bills to reauthorize them were introduced – a more robust process than tasking the two committees with reviewing licensing authorities. Short of that, the Legislature should provide additional resources to enhance the committees' capacity to verify and analyze the information used in the sunrise and sunset reviews. It also should authorize audits when the business and professions committees deem necessary.

Recommendation 4: The Legislature should provide additional resources, in the form of additional staff or outside support, to assist the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development in verifying and evaluating information for sunrise and sunset reviews. The Legislature should request the California State Auditor conduct an audit when warranted.

Former Offenders

Californians with convictions on their record face several challenges when trying to become licensed. Most licensing authorities do not list specific convictions that

automatically disqualify people. Those decisions are made on a case-by-case basis. This provides flexibility to allow people into occupations from which they might otherwise be excluded. Yet it also results in people investing time and money for education and training for occupations they might never be allowed to practice. The Commission recommends making publicly available the list of criteria by which applicants are evaluated. While it might not provide a firm answer to potential applicants on whether they will qualify, it will provide more information with which they can assess their educational decisions.

Applicants also sometimes face difficulty when asked to list their convictions. If significant time has passed since the conviction, if they had substance use disorders or mental health problems at the time or if they pled to a different charge than they remembered being arrested for, the convictions they list on their application might not match what returns on a background check. Even when this mistake is unintentional they can be disqualified for lying on their application. When criminal conviction history is required, the Commission recommends asking only for official records and not relying on applicants' memories. The Commission also urges expediting the background check fee waiver process so lower-income applicants can begin working sooner.

Applicants who are denied a license may engage in an appeals process, but many find it intimidating. Further, some licensing authorities rely on an administrative law hearing to process denials. The Commission learned that some applicants – particularly those who are legally unsophisticated or have lower levels of education – believe that the appeals process involves simply explaining the red flags on their application. Most are unprepared for an encounter with a judge and state attorney. The Commission recommends creating an intermediate appeals process where applicants can explain the problems with their application before encountering an administrative law hearing.

Recommendation 5: With the Department of Consumer Affairs serving as a clearinghouse of best practices and providing guidance to other departments as needed, all licensing authorities should take the following steps to make it easier for former offenders to gain employment:

- Post on their website the list of criteria used to evaluate applicants with criminal convictions so that potential applicants can be better informed about their possibilities of gaining licensure before investing time and resources into education, training and application fees.
- When background checks are necessary, follow the Department of Insurance model and require applicants with convictions to provide certified court documents instead of manually listing convictions. This will prevent license denials due to unintentional reporting errors. The State of California also should expedite the fee-waiver process for all low-income applicants requesting background checks.
- Follow the Bureau of Security and Investigative Services model and create an informal appeals process between an initial license denial and an administrative law hearing.

Implementation of Veteran and Military Spouse Legislation

California has passed many laws to make it easier for veterans and military spouses to become licensed quickly and easily. These laws are summarized in the box to the right. Some of these laws have only just begun to take effect, and others, the Commission heard anecdotally, are not having the intended effects. Veterans and military spouses still face delays in receiving licenses. Helping veterans transition to civilian jobs has long been a goal of state policymakers. Military spouses' ability to get and hold jobs is important in retaining experienced military personnel: A U.S. Department of Defense witness testified that the military loses good people because of spouses having difficulty finding work, making it a national security issue. The Commission recommends that the Legislature authorize a research institute to study the implementation of laws designed to ease transitions of veterans and their spouses. The study should determine if they are being implemented effectively, identify how to bridge gaps between the intent of the legislation and current outcomes, and show how to better educate veterans and military spouses about these licensing benefits.

RECENT VETERAN AND MILITARY SPOUSE LICENSING BILLS

These bills were designed to make it faster and easier for veterans and military spouses to become licensed. Some have only recently taken effect, while others, anecdotally, have not been as effective as lawmakers hoped. The Commission recommends a study on the implementation of these bills:

SB 1226 (2014, Correa): Requires Department of Consumer Affairs (DCA) boards to expedite licensure of honorably-discharged veterans. Took effect July 1, 2016.

AB 186 (2014, Maienschein): Requires DCA boards to issue 12-month temporary licenses to military spouses with out-of-state licenses for the following occupations: registered nurse, vocational nurse, psychiatric technician, speech-language pathologist, audiologist, veterinarian, all licenses issued by the Board for Professional Engineers, Land Surveyors and Geologists and all licenses issued by the Medical Board.

AB 1057 (2013, Medina): Requires DCA boards to renew licenses that expire while an individual is on active duty without penalties or examination.

AB 1588 (2012, Atkins): Requires DCA boards to waive renewal fees for licenses that expire while the practitioner is on active duty.

AB 1904 (2012, Block): Requires DCA boards to expedite licensure for military spouses.

AB 2462 (2012, Block et al.): Requires the Chancellor of the California Community College to determine which courses should receive credit for prior military experience, using the descriptors and recommendations provided by the American Council on Education.

AB 2783 (2010, Salas et al.): Requires DCA boards to promulgate regulations to evaluate and credit military education, training, and experience if applicable to the profession.

Recommendation 6: The Legislature should authorize a research institute, in conjunction with federal partners as needed, to study the implementation of recent legislation that requires the Department of Consumer Affairs to ease or waive licensing requirements for veterans and military spouses. The review should identify gaps between the intent of the laws and outcomes, and issue recommendations for executive or legislative action to bridge those gaps. The review also should assess the effectiveness of licensing authorities' outreach campaigns to inform veterans of their eligibility for expedited licensing.

Bridge Education

Many people who move to California meet most of the state's licensing requirements, but fall short on a few components. Few options exist for them to quickly make up those missing requirements. The state has created a promising model with its veteran field technician-to-nurse program, in which nursing programs lose authorization to teach nursing if they do not fast track veterans. The state should replicate this model for all veterans and those qualified outside California in other occupations. This should begin in occupations facing worker shortages.

Recommendation 7: The Legislature should require California colleges and training academies to create bridge education programs for veterans and workers trained outside of California to help them quickly meet missing educational requirements. Specifically:

- California licensing boards and other departments providing licenses and credentials should identify common educational gaps between the qualifications of returning service members and state licensing requirements.
- California colleges should create and offer programs to fill these gaps and expedite enrollment – or risk losing authorization for these programs.

Interim Work and Apprenticeship Models

There are models to help people work while they are meeting California requirements for licensing or improving their skills to progress up a career path. In the California Teacher Credentialing Commission model, teachers licensed outside of California are allowed to work immediately, but must complete their missing requirements during the five years before their license needs to be renewed.

Additionally, the Department of Industrial Relations' Division of Apprenticeship Standards has a promising apprenticeship model. Individuals complete supervised hands-on training during apprenticeships and receive pay for the work they do. This model, applied as a bridge training program, would allow people to work and earn a living while completing missing requirements. It also would provide an income while training individuals wishing to improve their skills and education for upward mobility. The Legislature would have to adjust occupational practice acts to allow apprenticeships in some occupations. But since many of these occupations already allow or require student practicums, this represents a language change and not a shift in consumer protection.

Recommendation 8: The State of California should develop interim work and apprenticeship models to provide opportunities for people missing certain qualifications to work while meeting their requirements, and to promote upward mobility within career paths.

INTRODUCTION

The Little Hoover Commission began its study on occupational licensing in October 2015, following a review of the July 2015 White House report, *Occupational Licensing: A Framework for Policymakers*. Commissioners expressed interest in understanding how the barriers to entering occupations highlighted in the report applied to California. Licensed occupations in California often are good jobs that open a path for upward mobility for lower- and middle-income residents. Commissioners initiated the study to determine if the financial, time and opportunity costs imposed on a person trying to become licensed are justified by gains in consumer protection. The Commission decided not to study the requirements of specific occupations. Instead, Commissioners opted to examine and make recommendations on California's licensing system as a whole to serve as a guide for policymakers confronting licensing decisions across the entire spectrum of occupations.

The Commission's Study Process

The Commission held its first occupational licensing hearing in February 2016. The hearing broadly introduced the Commission to the economics and politics of occupational licensing. Commissioners heard from a leading economist about the linkages between occupational licensing and effects on wages and employment and the price, quality and availability of services. Researchers from national think tanks explained the impact of occupational licensing on upward mobility and entrepreneurship. The director of a state-focused public law institute discussed what it means to protect the public interest and offered his assessment of the state's licensing entities in protecting that interest. The Commission also heard from consultants from the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development on how licensing statutes are created and reviewed, through the sunrise and sunset process.

The Commission held a second hearing in March 2016, in which it heard from people representing those personally affected by occupational licensing laws. This included people who experienced difficulty becoming licensed due to past convictions or received training or education out of state, including the military. It heard from people who wanted their occupations to become licensed because they faced difficulties competing without state-recognized credentials. It also heard from people in licensed industries who discussed the consumer protection and accountability benefits of licensing.

In June 2016, the Commission held a roundtable with policymakers from several licensing authorities, business and professions committee consultants and Assemblymember Rudy Salas, Chair of the Assembly Committee on Business and Professions. Commissioners and participants discussed different ideas shared by witnesses in the preceding two hearings to assess whether it would be possible to implement those ideas, and if implemented, whether there might be unintended consequences.

PROFESSION VERSUS OCCUPATION

For the purpose of this report, the Commission uses the terms occupation and profession interchangeably. California courts, however, have drawn a distinction between the two. Licenses that require character, responsibility, good faith and sound financial status are considered to be for nonprofessional occupational services. Licenses that require education, training and a rigorous exam are considered to be for professional services.

Source: Julia Bishop, Legislative Manager - Division of Legislative & Regulatory Review, Department of Consumer Affairs. September 21, 2015. Written communication with Commission staff.

North Carolina State Board of Dental Examiners v. Federal Trade Commission

The Commission's report does not address a topic related to occupational licensing recently in the headlines: the February 2015 Supreme Court decision on *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. The Court ruled that the practicing dentist-dominated North Carolina Board of Dental Examiners wrongly sent cease-and-desist letters to non-dentist teeth whiteners and had no antitrust immunity from a federal challenge to its order. While many states, in response, have begun to review the composition of their licensing boards and California continues discussions about the ruling, the Commission did not assess whether California complies with the ruling.

The California Attorney General's Office, Legislature and Department of Consumer Affairs have paid close attention to the case and are reassessing the structure of California's licensing boards.¹ The Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions held a hearing on the topic in October 2015. Legislation subsequently was introduced that would give the director of the Department of Consumer Affairs more authority to review board decisions, but that bill failed to pass committee. Though discussions continue, representatives from the Attorney General's Office maintain the structure of California's licensing boards under the umbrella of the Department of Consumer Affairs, coupled with a robust rulemaking process, prevents a *North Carolina* scenario from occurring in California.

Report Format

The report largely follows the Commission's hearing format. The first chapter provides a high-level overview of occupational licensing, its effects and the justification for it, and a discussion of Commission findings on the barriers to entering occupations. It concludes with high-level recommendations to help the state better understand the effects of occupational licensing and guide future decision-making. The second chapter examines how the vulnerable groups outlined in the White House report – former offenders, military spouses, veterans, and people trained in other countries – fare in California. The chapter offers recommendations to better incorporate these groups into licensed occupations without loosening licensing standards.

OCCUPATIONAL LICENSING IN CALIFORNIA

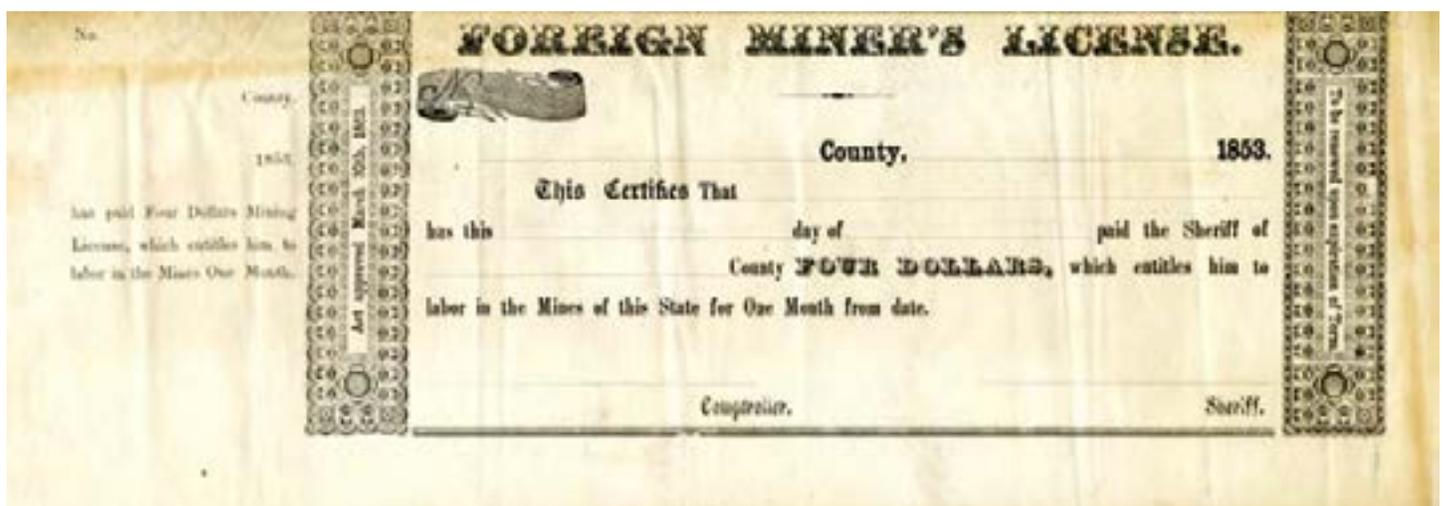
California's history of licensing began in its very infancy as a state. With hundreds of thousands of people pouring into California looking for gold, easily accessible claims were exhausted seemingly overnight. To ease competition, in April 1850 – five months before California was admitted to the union – the first session of California's Legislature required foreigners to become licensed before they could mine for gold. Specifically, non-Americans were required to pay \$20 per month for the license,² or an estimated \$569 per month in 2015 dollars.³ Over the next 20 years, the licensing requirements were repealed, reinstated and reinvented as part of anti-Chinese sentiment until nullified in 1870 through federal civil rights legislation.⁴

Again, on the heels of the 49ers flooding into California came disease and doctors to fight it.⁵ Alongside dedicated doctors serving their community were fraudsters who preyed on the uneducated, unsophisticated and desperate. Some borrowed liberally from religious texts to describe the miracles they could perform.⁶ In response, California's Legislature opted to regulate who could practice as a doctor. The 1876 Medical Practice Act resulted in practitioners having to prove they had completed medical school or pass

an exam to demonstrate proficiency in the field, plus pay a \$5 fee to cover the expenses of verifying their competency.⁷

These examples highlight the challenge that occupational licensing presents to policymakers. It can serve as a gatekeeper to keep people out of occupations or protect the public from harm. In many cases, it simultaneously does both. There is no one-size-fits-all policy for occupational licensing. Nuance matters – no easy task when it comes to creating and administering laws to regulate a workforce of 19 million to protect California's 40 million inhabitants. "The devil is in the implementation," the director of California's top licensing department told the Commission.⁸ The regulatory regime that makes sense for one occupation does not make sense for another, and new technologies and evolving consumer demand render even the most thoroughly-vetted rules and regulations obsolete. Racism, sexism and xenophobia are no longer explicitly written into licensing regulations, but lurk quietly in the outcomes.

Impeding entry into occupations matters in California. As one reporter noted, approximately 100 miles separates those with the highest quality of life in the in the United



An 1853 iteration of the Foreign Miner's License. Source: State Legislature Records, California State Archives

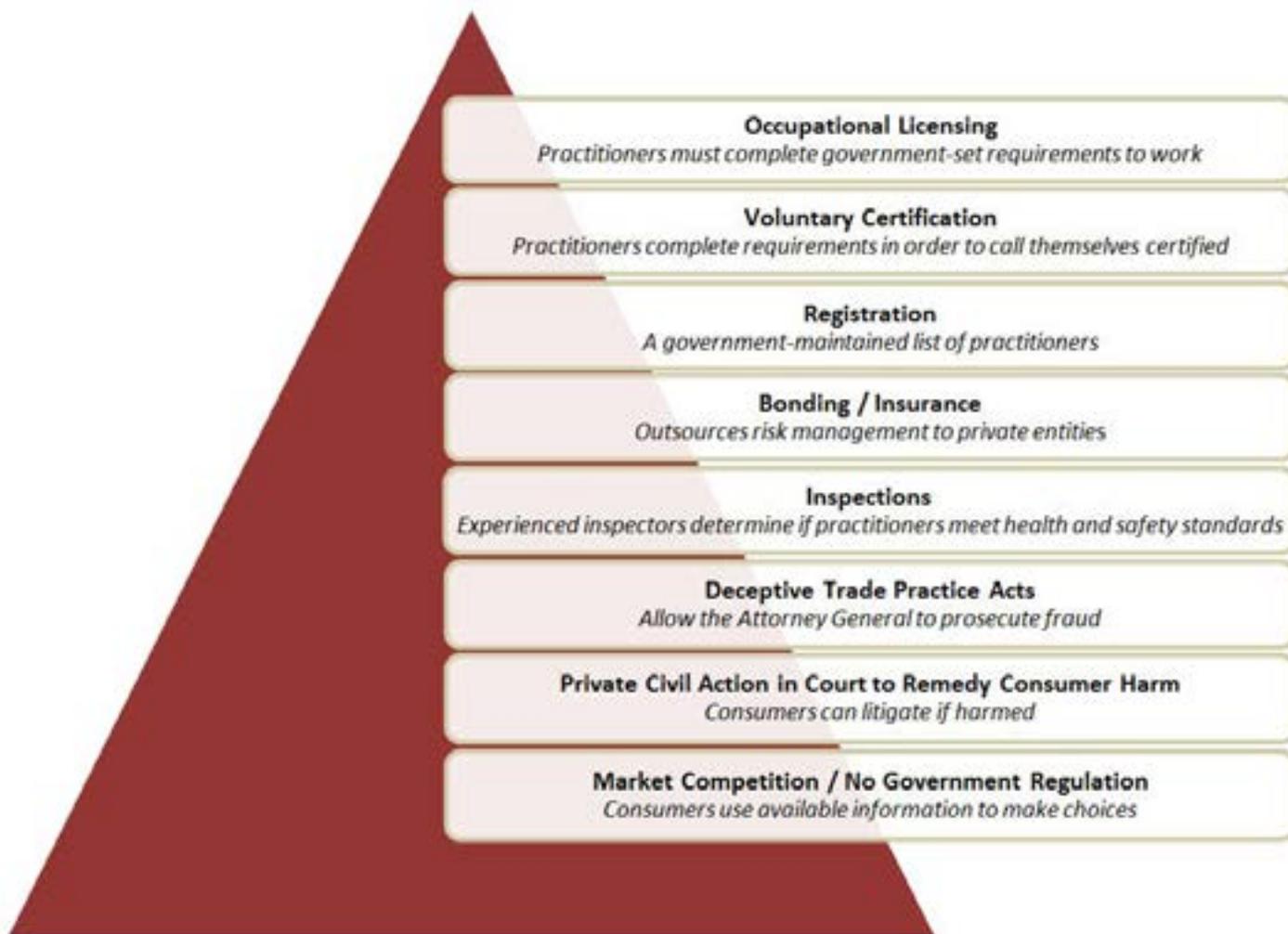
States from those with the lowest.⁹ Removing licensing barriers will not fix all the ills that contribute to this economic inequality. But it is an important step because the impacts of licensing fall hardest on some of the most difficult groups to employ: former offenders, military spouses, veterans, and people who were educated and trained outside of the state.¹⁰ Evaluating occupational regulation is bigger than simply modernizing the State of California’s regulatory regime: It allows the state to step out of people’s way as they seek a good job. Because every occupational regulation creates a barrier to entry into the occupation, there is one question that must be asked every time a new regulation is considered: Does that particular barrier provide the most appropriate level of consumer protection? Over the course of its study, the Commission consulted astute, dedicated and

conscientious state officials working diligently to answer that question, often in the face of powerful political forces. The Commission found silos and structural barriers that prevent people from answering those questions as effectively as they otherwise could.

This chapter provides a high level overview of occupational licensing, the justification for it, its effects and some of the obstacles the Commission found. It concludes with high-level recommendations to help the state better understand the effects of occupational licensing and to guide future decision-making. The next chapter will discuss the groups of people who face the most difficulties becoming licensed. It provides recommendations on how the state can help them move into licensed occupations – without relaxing licensing standards.

Spectrum of Occupational Regulation, from Most to Least Restrictive

Governments should select the least restrictive form of regulation necessary to protect consumer safety



Sources: Dick M. Carpenter II. February 4, 2016. Written testimony to the Commission. Also, Dick M. Carpenter II and Lee McGrath. July 2014. “The Balance Between Public Protection and the Right to Earn a Living.” Institute for Justice Research Brief.

What is Occupational Licensing?

Economist Morris Kleiner defines occupational licensing as the process by which a government establishes the qualifications required to practice a trade or profession.¹¹ The government may set its own standards or adopt those of a national body, but regardless of which qualifications it requires, practitioners may not legally practice without meeting them. This differs from certification in that individuals who do not meet the requirements for certification may continue to practice, but cannot present themselves as certified. The act of credentialing individuals is called different things by different authorities. The Commission refers to any occupation in which an individual cannot practice without meeting qualifications set by the government as licensed, regardless of what the credentialing agency calls it. For example, the Commission considers teachers to be licensed, even though the credential they receive is called a certification.

Occupational Licensing in California

Approximately 21 percent of California’s 19 million workers are licensed, a dramatic increase from the 1950s, when approximately one in 20 workers nationwide were required to apply for permission from the government to practice their profession.¹² California licenses a lower percentage of its workforce than many other states: According to data by economists Morris Kleiner and Evgeny Vorotnikov published in the White House report, 29 states license a higher percentage of their population than California.¹³

California compares poorly, however, to the rest of the nation in the amount of licensing it requires for occupations traditionally entered into by people of modest means. Researchers from the Institute for Justice selected 102 lower-income occupations – defined by the Bureau of Labor Statistics as making less than the national average income – and examined what, if any, licensing requirements were required to enter these professions in the 50 states and District of Columbia.¹⁴ These occupations ranged from manicurist to pest control applicator. Of the 102 occupations selected, California required licensure for 62 – or 61 percent – of them. Here it ranked third most restrictive among 50 states and the District of Columbia, following only Louisiana and

MOST STATES LICENSE MORE PEOPLE THAN CALIFORNIA

Rank	State	% of Workforce Licensed
1	Iowa	33.3
2	Nevada	30.7
3	Washington	30.5
4	Florida	28.7
5	Kentucky	27.8
6	Hawaii	26.6
6	North Dakota	26.6
8	Oregon	26.1
9	New Mexico	25.9
10	West Virginia	25.8
11	Alaska	25.5
12	Oklahoma	25
13	Connecticut	24.7
13	Illinois	24.7
15	Nebraska	24.6
16	Texas	24.1
17	Utah	23.8
18	Mississippi	23.1
18	Tennessee	23.1
20	Idaho	22.8
21	Arizona	22.3
21	Louisiana	22.3
23	North Carolina	22
24	South Dakota	21.8
25	Massachusetts	21.3
25	Missouri	21.3
25	Montana	21.3
28	Wyoming	21.2
29	Alabama	20.9
30	California	20.7
30	Maine	20.7
30	New Jersey	20.7
30	New York	20.7
34	Michigan	20.6
35	Arkansas	20.2
35	Pennsylvania	20.2
37	District of Columbia	19.7
38	Wisconsin	18.4
39	Ohio	18.1
40	Colorado	17.2
40	Maryland	17.2
40	Virginia	17.2
43	Vermont	16.8
44	Georgia	15.7
45	Delaware	15.3
46	Minnesota	15
47	Indiana	14.9
47	Kansas	14.9
49	New Hampshire	14.7
50	Rhode Island	14.5
51	South Carolina	12.4

Source: White House. July 2015. “Occupational Licensing: A Framework for Policy-makers.” Quoting Kleiner and Vorotnikov (2015), Harris data.

Arizona. California ranked seventh of 51 when measuring the burden imposed on entrants into these lower- and moderate-income occupations: On average, California applicants must pay \$300 in licensing fees, spend 549 days in education and/or training and pass one exam.¹⁵

How Does Licensing Work in California?

California’s licensing boards, bureaus, commissions and programs are created by the Legislature. The creation of a new regulatory entity requires a “sunrise” review before a bill is introduced. In this review, the requestor of the new regulation completes a questionnaire that is disseminated to the Assembly Committee on Business and Professions, the Senate Committee on Business, Professions and Economic Development and other relevant committees to review when considering the necessity of the legislation. There are three concepts that guide the sunrise review process:

- The public is best served by minimal governmental intervention.
- The decision to regulate an occupation involves weighing the right of individuals to do work of their choosing against the government’s responsibility to protect the public when protection is needed.
- Small or poorly-funded groups should not be deterred from making legitimate requests for regulation. (Most requests for regulation come from professional associations that can provide extensive statistics and documentation in support of their proposal. Here, the Legislature is concerned that private citizens, even if they are not able to afford a formal data-collection process, have the ability to propose new statutes).¹⁶

The nine-part questionnaire seeks to establish:

- If the proposed regulation benefits public health, safety or welfare;
- If the proposed regulation is the most effective way to correct existing problems;
- And, if the level of proposed regulation is appropriate.

CALIFORNIA LICENSES MORE LOWER-INCOME JOBS THAN OTHER STATES

Rank	State	% of Low-Income Occupations Licensed
1	Louisiana	70
2	Arizona	63
3	California	61
4	Oregon	58
5	Mississippi	54
5	Nevada	54
7	Connecticut	53
7	Iowa	53
7	Washington	53
10	Tennessee	52
11	Arkansas	51
11	New Mexico	51
13	South Carolina	50
14	Delaware	48
14	Rhode Island	48
14	West Virginia	48
17	New Jersey	47
17	North Carolina	47
19	Alabama	46
19	Idaho	46
19	Wisconsin	46
22	Utah	45
22	Virginia	45
24	Florida	44
24	Nebraska	44
26	Alaska	43
26	Montana	43
26	Pennsylvania	43
29	Hawaii	42
30	Maryland	41
30	Michigan	41
32	District of Columbia	40
33	Illinois	39
33	North Dakota	39
35	Maine	38
36	Massachusetts	36
37	Minnesota	35
38	Kansas	33
38	New Hampshire	33
38	Texas	33
41	Georgia	32
41	New York	32
43	Missouri	30
43	Ohio	30
45	Oklahoma	28
46	Colorado	27
46	Indiana	27
46	South Dakota	27
49	Kentucky	26
49	Vermont	26
51	Wyoming	24

Source: Dick M. Carpenter II, Ph.D., Lisa Knepper, Angela C. Erickson and John K. Ross, Institute for Justice. May 2012. “License to Work.”

After creation, a licensing entity is reviewed every four years by a joint session of the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development. This process is called sunset review. The box on page 18 outlines the goals and objectives of the sunset review process. If problems are found with the licensing entity, legislators will introduce bills to provide fixes and it will be asked to reappear before the Legislature sooner than its regularly-scheduled four-year review. On rare occasions, the Legislature has used the sunset review to dissolve a licensing body. Notably, in 1997, the Legislature eliminated the Board of Barbering and Cosmetology and transferred its functions to the Department of Consumer Affairs. In 2002, Senator Richard Polanco successfully authored legislation to reconstitute the board. In 2016, the Legislature enacted Senate Bill 1039 (Hill), which sunsets the Telephone Medical Advice Services Bureau. In 1986, the Legislature dissolved the Board of Dry Cleaning and Fabric Care. But such dissolutions of licensing authorities are few and far between.

The 40 boards, bureaus, commissions and programs within the Department of Consumer Affairs (DCA) oversee most licensing in California. In addition to licensed individuals, the department also oversees many licensed facilities in California, such as smog check stations and funeral homes. In 2015, approximately 3.5 million individuals and facilities were licensed by DCA.¹⁷ Significant numbers of Californians, however, are licensed by other authorities: The Department of Insurance, State Bar Association, Department of Public Health and California Commission on Teacher Credentialing collectively license more than a million Californians.¹⁸

Why License?

Proponents of occupational licensing argue that it protects health and safety, prevents the privatization of health and safety standards, is sometimes necessary for upward mobility and provides an accessible means of accountability.

Health and Safety Concerns

California has a legal obligation to protect its residents' health and safety: This is the primary purpose of

TOP 10 LICENSED OCCUPATIONS IN CALIFORNIA

Occupation	Number Licensed
Registered Nurse	400,134
Insurance Agent/Broker	390,000
Teacher*	295,025
Investment Agent/Rep	287,197
Security Guard	282,189
Cosmetologist	254,271
Real Estate Salesperson	264,816
Contractor	230,204
Lawyer*	187,190
Real Estate Broker	138,121

*Indicates teachers in public schools.

*Active members.

Sources: Please see endnote 18 in Notes.

occupational licensing. Given that the health and safety components of licensing healthcare professions seem obvious to many, the Commission invited witnesses from seemingly less-intuitive industries to speak about their health and safety considerations. Myra Irizarry Reddy of the Professional Beauty Association told the Commission that many people think of the cosmetology industry as simply a haircut. “They think that if someone doesn’t like their haircut, their hair will grow back and they can leave a bad review on Yelp – no harm done,” she said.

The problem, she said, is that many of the procedures cosmetologists do can result in irreparable damage. The chemicals used by hair stylists to color hair are stronger than those available in drug stores. If used improperly, they can burn the scalp to the extent that hair will not grow back. Light chemical peels – the process of applying acid to the skin to cause it to blister and peel off for a more youthful appearance – are performed by estheticians, who must perform the procedure without going too deep and must assess if the patient is a good candidate for a peel, as the acid can change a poor candidate’s skin color. Even simple manicures leave customers at risk for blood-borne diseases, viruses, and bacterial and fungal infections if the manicurist does not follow proper safety procedures.¹⁹

LEGISLATIVE GOALS AND OBJECTIVES IN SUNSET REVIEW

Goals of Sunset Review:

- Eliminate unneeded, nonfunctional or redundant boards or programs, or any unnecessary rules and regulations.
- Improve the quality of services provided to the consumer by examining the board's requirements for education, experience and testing of professionals and other actions to assure competency.
- Eliminate overly restrictive eligibility standards, or standards of practice that unduly limit competition between professionals or place undue burdens on those who want to enter the occupation.
- Ensure people know where to go if injured or harmed by a licensed or unlicensed person, what actions they can take and what the outcomes may be.
- Ensure the public's complaints are handled in a courteous and expeditious manner.
- Ensure boards are providing the appropriate remedy for the consumer: mediation, arbitration, restitution, disciplinary action and/or criminal action against the licensee or person posing as a licensee.
- Ensure the public is informed about any complaints, disciplinary actions, judgments and criminal actions against a licensed professional.
- Use information technology advancements to provide better and more uniform information on licensed professionals for the consumer to make informed decisions about using the services of particular professionals.

Objectives of the Sunset Review Process:

- Determine if the membership of the board adequately represents both consumer interests and the licensing population, and whether the board encourages public participation in its decision-making.
- Examine the board's organization and management and recommend elimination, consolidation and reorganization of programs where appropriate.
- Identify opportunities for improvements in the management of the board's daily operations and for providing more efficient and effective consumer services.
- Identify consumer concerns and those of the regulated profession regarding the way the board operates.
- Establish appropriate performance measures for each board reviewed.
- Evaluate the board's programs and policies to identify overlapping functions and outmoded methodologies.
- Determine whether the board's licensing, examination and enforcement programs are administered so as to protect the public, or if they are instead self-serving to the profession, industry, or individuals being regulated by the board.
- Review the law and regulations pertaining to the board and determine whether they restrict competition in the marketplace, the extent to which they are still necessary to regulate the profession and whether the board is carrying out its legal mandate or has exceeded its authority.
- Examine the board's fiscal management practices and financial relationships with other agencies.

Sources: Joint Committee on Boards, Commissions & Consumer Protection. Also, Le Ondra Clarke Harvey, Consultant, Assembly Committee on Business and Professions. October 6, 2015. Communication with Commission staff.

Deborah Davis, a commercial interior designer, said that the health and safety impacts of her work cannot be regulated by the free market. Many people think of interior designers as people who pick out pillows, carpets and curtains, she told the Commission. While those are components of her job, she continued, a lot of her job involves code-impacted work. Interior designers, who currently are not licensed in California, she said, can design all interior elements of a building outside of seismic components and load-bearing walls.²⁰ When she is hired to move a wall four feet, she adjusts the HVAC system, fire sprinklers, electrical wiring, lighting and other elements. “This is the interior designer’s purview,” she told Commission staff. “Architects don’t want this job. No one becomes an architect to move a wall four feet.”²¹

Licensing opponents say that there is a spectrum of activities to manage health and safety risks and that licensing should be considered the nuclear option. It can make sense to license many of the healing arts professions, for example, because of the potential adverse effects on public health. But for many occupations, they say, there are ways that the state and the private sector can work together to ensure standards are met. Lee McGrath, an attorney from the Institute for Justice, gave an example to Commission staff: Outside of driving, he said, eating out is one of the most harmful activities the average consumer will do on a regular basis. But the state doesn’t license food handlers, he continued. Consumers may spend time researching a restaurant, but outside of a few establishments with celebrity chefs, they don’t research who works for the restaurant and assess their qualifications. Yet, millions of people eat out every day without dying, thanks to inspections and shutting down unsafe establishments, quick action by public health officials on suspected food poisoning and restaurateurs’ concern for their reputations, he contended. The costs of regulations and standards to protect public safety do not fall on the backs of the cooks, servers and bussers.²²

Prevents Privatization of Health and Safety Standards

Some licensing opponents argue that certification offers a viable alternative to licensing. Dr. Morris Kleiner, the national expert on occupational licensing, advocates for certification because it allows more flexibility for workers:

They can still practice their occupation without a license. He also told the Commission that certification benefits consumers. This is because it signals that someone has met the government’s requirements to work in the occupation, yet uncertified individuals are still able to work so long as they do not call themselves certified. Consequently, certification identifies standards without lowering the supply of practitioners.²³

Licensing advocates argue that, in practice, governments often turn their authority over to a private certification authority, and the private certification authority then sets the standards instead of the state – essentially privatizing the protection of the public interest.²⁴ Assembly Bill 1279 (Holden, 2015) would have done just that, for example, had it not been vetoed by Governor Brown. The bill was a “right to title” act for music therapists, meaning that music therapists would have had to meet the standards set by the Certification Board for Music Therapists in order to use that title.²⁵

A representative for the California Nurses Association told the Commission that the rationale for occupational licensing is the protection of public health and safety. If the state identifies a threat to public health and safety that justifies intervening in the economy, she said, then the state – not a private entity – should set the standards.²⁶

Real World Conditions Disadvantage Some Unlicensed Occupations

Some people in unlicensed occupations face immediate disadvantages that cannot be discounted when considering upward mobility. Commercial interior designers, for example, push for occupational regulation because they are disadvantaged by other industries’ occupational regulations, according to industry advocates. Because commercial interior designers work in code-impacted environments, their plans must be approved by a licensed architect. A small percentage of interior designers work for architectural firms, where obtaining a colleague’s approval can be quick and inexpensive. However, if the interior designer is self-employed, this requirement results in a delay and increased costs to the interior designer. As 90 percent of the industry is women-owned small businesses,

this disproportionately impacts female small business owners.²⁷ By asking to be licensed, commercial interior designers are asking to drop the requirement that architects sign off on their plans, and establish qualifications so the public can trust their work without architectural oversight.²⁸

Practical Means of Accountability

Ms. Irizarry Reddy disputed the commonly-held idea that the court system should ensure accountability and be the first recourse in disputes between practitioners and consumers. It's just not practical, she told the Commission. The delays from an already-overwhelmed and backlogged court system would be extensive and expensive for the consumer, practitioner and the state. The mediation and complaint systems created through the licensing boards provide a practical resolution for most problems consumers have, she said, and the state should not switch to a system that disadvantages consumers and practitioners.²⁹

Effects of Occupational Licensing

Critics of occupational licensing contend that it raises prices, slows growth and costs jobs. They add that it does not provide the same benefits to lower-earning occupations as higher-earning occupations, inhibits entrepreneurship and is subject to political forces that favor practitioners over consumers and the unlicensed without justifiable protections to health and safety. In other words, licensing causes unwarranted barriers to entry to many occupations.

Raises Prices Without Always Increasing the Quality of Service

Witnesses told the Commission that occupational licensing essentially is the government granting a monopoly to a subsection of service providers within a given occupation. The results are what economists expect from a monopoly: higher prices and fewer providers. Dr. Kleiner's research found that licensing raises prices by 5 percent to 33 percent, depending on occupation. Restrictive licensing for dentistry, for example, raises prices between 8.5 percent and 18 percent. Restrictions on nurse practitioners raise the

price of well-child exams by 10 percent. Dr. Kleiner, citing his and colleagues' work with economic models on the topic, estimates that occupational licensing restrictions cost consumers nationwide \$203 billion annually.³⁰

Consumer health and safety does not necessarily increase with the price of the service, according to witnesses. Researchers found that more lenient dentistry licensing policies did not result in more bad outcomes. Stricter licensing, however, resulted in higher prices and a reduced supply of dentists.³¹ In the preceding nurse practitioner example, the 10 percent increase in cost that accompanied the restrictions had no effect on child mortality or malpractice insurance rates. A study in Louisiana and Texas found that licensed florists in Louisiana did not generate any perceivable increase in consumer protection while increasing the price of floral arrangements.

In some cases, however, licensure does improve the quality of service. A study found that giving building contractor licenses to people who previously did not meet licensing requirements resulted in a modest decrease in quality.³² These studies suggest that occupational regulation is nuanced and there is no "one-size-fits-all" policy of regulating who can work.

Slows Growth in Licensed Professions

According to Dr. Kleiner's research, working in a universally licensed occupation appears to increase hourly earnings by 10 percent to 15 percent compared to unlicensed individuals with similar qualifications.³³ Working in an occupation that is licensed in some states, but not others, results in a 5 percent to 8 percent increase in wages.³⁴ Due to grandfather clauses often included in legislation, it typically takes 10 years to see the effects of licensing on employment. By the end of the initial 10 years following the legislation, entry into occupations is limited. Employment growth in an occupation that is licensed in one state will be slower than in a state that does not license it.³⁵ Dr. Kleiner estimates that occupational licensing restrictions have resulted in approximately 2.8 million fewer jobs nationwide.³⁶

Benefits are Concentrated in Higher-Income Professions

Increases in wages and limited competition are most concentrated in higher-paying licensed occupations, such as physicians, dentists and attorneys.³⁷ The effect of licensing on wages and limiting competition for lower-income occupations, including those that have expensive educational or training requirements such as teachers, nurses and cosmetologists, range from little to none.³⁸ This suggests that middle- and lower-class occupations are the least likely to enjoy the financial benefits from licensing.

Services are Standardized, Entrepreneurship Suffers

Occupational licensing requirements standardize service. Professional and occupational organizations argue that standardization improves service and reduces uncertainty in consumers' minds. Critics argue that standardization inhibits innovation and entrepreneurship. Jason Wiens of the Kauffman Foundation offered the example of barbershops. The foundation worked with someone who wanted to open a mobile barbershop, though the regulations of that state required a fixed location for a barbershop. State officials were unwilling to work with the entrepreneur to find a solution that would allow for the mobile barbershop. Eventually he gave up on his idea even though he had data indicating demand for that service.³⁹

The problem becomes magnified with low-income entrepreneurship. Decades of research have shown entrepreneurship in low-income populations is an important path out of poverty. The University of Michigan's Panel Survey of Entrepreneurial Dynamics found that nearly 40 percent of nascent entrepreneurs live in low- and moderate-income areas. Nearly 10 percent of emerging entrepreneurs come from households below the poverty line. Researchers from the Aspen Institute followed 1,500 low-income entrepreneurs for five years, and found that 72 percent of them increased their household income by an average of \$15,000 during the study period. Fifty-three percent moved out of poverty.⁴⁰

Working under the assumption that policies that promote

entrepreneurship are key to upward mobility, researchers from the Goldwater Institute combined data from the Institute for Justice and Kauffman Foundation and found that states that license more lower-income occupations have a lower entrepreneurship rate. They also found the converse: states that license fewer lower-income occupations have a higher entrepreneurship rate.⁴¹

Professional and occupational organizations argue that consumers are receiving better services in exchange for the higher prices: Better-trained dentists with more training, for example, provide a higher quality of care for the consumer with higher-quality equipment because of better standards. But economists worry that, particularly in high-income professions such as dentistry and law, wealthier consumers can steer the supply of services away from the reach of low- and middle-income consumers. If wealthier consumers demand the highest standards of cosmetic dentistry as the basis for licensing requirements, for example, lower-income consumers who might care more about access to fillings and root canals might find themselves with less access to services and at a higher price.

Inhibits Interstate Mobility

State licensing requirements make it difficult for many to work in states other than the one that licensed them due to different training or educational requirements. One expert gave the following example: Anyone who attended one of the approximately 40 non-American Bar Association (ABA)-accredited law schools in California is ineligible to sit for the bar exam in Minnesota, no matter whether his or her school was accredited by the California Committee of Bar Examiners, how well he or she performed on the California Bar Exam or how distinguished his or her career in California.⁴² The attorney would need to re-complete his or her law school education at an ABA-accredited school in order to sit for the Minnesota Bar Exam.

While these policies affect anyone who moves across state lines, they often fall hardest on those who can least afford them. In the example above, non-ABA law schools often educate people with families and are working full-time jobs while in school⁴³ – people who might move across state lines for reasons other than their job and who might not have the resources to take out more loans to repeat their law school education.

Military families also are disproportionately affected

by occupational licensing laws, which will be discussed further in the next chapter. Veterans may be trained for an occupation in the military only to discover upon discharge that they do not meet state licensing requirements. Service members' spouses and sometimes working-age children may discover that they are not eligible to work in their occupation when the service member is transferred to a new state.

Simply requiring that all state licenses be portable across state lines would not necessarily solve the problem, however. With licensing regulations varying wildly across the nation, it often would be difficult to tailor a set of licensing requirements to meet every other state's requirements. Some occupations have a national standard developed by a credentialing or professional association. The standards set by a private organization do not always put consumers first, and sometimes may create as many barriers as would be removed by adopting a national standard. For example, the national standard to become a physician assistant, set by the Accreditation Review Commission on Education for the Physician Assistant, was recently changed to require a master's degree to become a physician assistant. California previously had a pathway to becoming a physician assistant through its community colleges. Because community colleges are unable to award masters degrees, this pathway is now no longer an option.⁴⁴ By adopting the national standard California has solved the reciprocity problem, yet has enacted more barriers to upward mobility for lower-income Californians.

The state should consider license portability and strive to make its licenses reciprocal where possible. In some cases, it may not make sense for the state to have reciprocity with every state, but it could grant partial reciprocity with some states with similar licensing requirements. In situations where meeting a national or other states' standards would create more barriers to entry for Californians, the licensing boards should explain to the sunrise and sunset review committees why the state is not opting for reciprocity.

The Political Forces of Licensing

Occupational licensing regulations are made in the name of protecting the public interest. The reality, witnesses told the Commission, is that occupational regulation often amounts to rent-seeking. Briefly

defined, rent-seeking is an attempt to influence the political, social or other environment to achieve an economic gain for oneself without contributing to productivity.⁴⁵ In occupational licensing, the rules serve to keep competitors out of the industry. Most of the time, experts told Commission staff, the groups behind requirements for occupational licensing are industry

“Usually it’s not consumer groups going to the Legislature and saying that consumers need protections from certain practitioners. It’s the other way around. It is practitioners telling legislators, ‘you need to protect consumers from us.’”

Jason Wiens, Policy Director, Kauffman Foundation

associations trying to create regulations to keep out the competitors.⁴⁶

Robert Fellmeth of the Center for Public Interest Law explained that occupational regulation does not reflect the consumer's point of view due to the concept of concentrated benefits and diffuse (sometimes called dispersed) costs.⁴⁷ This is a key point in what political scientists call public choice theory. The higher costs caused by occupational licensing are dispersed among a large number of consumers, while the benefits are limited to a relatively small number of practitioners.

Therefore, the practitioners who receive the benefit have an incentive to lobby and take other action to protect their benefit. Consumers, on the other hand, might spend more to lobby against the regulation than the increase in cost they would pay for the service due to a functional monopoly. Quite simply, witnesses told the Commission, practitioners benefit from the system, not consumers, and certainly not the workers who are unable to become practitioners.

Gatekeeping and Inequality

The effects and political nature of occupational licensing combine to create formidable challenges for those with fewer means. Licensing requirements protect those who are already licensed at the expense of those who are not, and California licenses more occupations traditionally entered into by lower-income people than nearly every

other state. The financial and time costs to become licensed are not insignificant. Licensing results in higher prices and reduces the availability of services to lower-income people. The costs of organizing to be represented in occupational regulation often are insurmountable for the underrepresented. Though the testimony of economists, researchers and legal experts featured prominently in the Commission's hearings, it is important to remember that for most Californians, this conversation is not academic. It is many Californians' reality in a society with ever-increasing income inequality.

Licensing Silos and Missing Data

Policymakers focus much of their attention on the Department of Consumer Affairs because the boards, bureaus, commissions and programs under its umbrella license so many Californians. More than 3.5 million individuals and facilities are licensed by the department across more than 250 occupations.⁴⁸ Proposals to license new occupations under the department must undergo the sunrise review process discussed previously. New rules made by the boards and bureaus under the department are subjected to a public rulemaking process. Every four years the department's licensing authorities undergo legislative scrutiny to justify their

existence. Legislation to improve occupational licensing often targets the Department of Consumer Affairs. For example, if a recent bill, AB 1939 (Patterson, 2016), had passed, it would have required the Legislative Analyst's Office to review the occupations under the Department of Consumer Affairs and identify any unnecessary barriers to entry.⁴⁹

The focus on the Department of Consumers Affairs misses the enormous numbers of Californians who are licensed by other entities. More than 250,000 people are licensed by the State Bar.⁵⁰ The Department of Insurance licenses some 390,000 insurance agents and brokers.⁵¹ The California Teacher Credentialing Commission licenses more than 295,000 teachers.⁵² Other departments license smaller numbers of Californians. The California Department of Public Health licenses nursing home administrators and certified nursing assistants. The Division of Labor Standards Enforcement under the Department of Industrial Relations licenses farm labor contractors. No government official asked was able to provide the Commission with a comprehensive list of every licensed occupation in California.

It is impossible for the state to holistically evaluate its performance in protecting the public and determine

DISCREPANCIES IN OCCUPATIONAL REQUIREMENTS

The discrepancies in requirements to become manicurists and tattoo artists highlight the need to review California's occupational regulations. Both occupations involve hands-on contact with customers' bodies. Practitioners of these occupations are exposed to bloodborne diseases, bacteria and fungi, yet the requirements to work in each occupation vary dramatically.

Manicurists must complete at least 400 hours of classwork and training. At some schools this costs thousands of dollars. They then must take written and practical exams before becoming licensed. The practical exam only is offered in two cities: Fairfield and Glendale. Applicants are assigned dates for both portions of the exam and are unable to reschedule the date assigned to them for the practical exam. If they cannot travel to one of those two cities on the date assigned to them, their candidacy is terminated, they lose their application fee and they must begin the application process all over again.

Conversely, tattoo artists must register with their county's public health department, provide proof of Hepatitis B vaccination and take an annual two-hour bloodborne pathogens class, available online for \$25.

If state and local governments successfully protect consumers through the lighter regulatory regime for tattoo artists, state officials might consider whether the burdens imposed on aspiring manicurists are justifiable and whether lower levels of regulations might result in the same public safety outcomes.

whether it is unnecessarily acting as a gatekeeper to upward mobility if there is no single authority that knows who is licensed. Fortunately, there currently is an initiative underway that can provide the groundwork. Dr. Kleiner, funded in part by the Kauffman Foundation and Smith Richardson Foundation, is cataloguing the nation's universally licensed occupations. The goal is to provide data for a comprehensive cross-comparison study of licensing. Most academic studies of occupational licensing focus on a single occupation because getting data from multiple states is time-consuming and difficult. The work is expected to be completed within a year.⁵³ California officials across all departments that license one or more occupations should work with Dr. Kleiner to share their licensing data with this initiative, as the results of cross-comparison studies based on this data would help inform evidence-based policy decisions. They should then build on this effort and catalog all of California's licensing requirements in a single, easily and publicly accessible location, so that policymakers and stakeholders can better understand the extent of California's licensing regime.

Knowing which occupations are licensed in the state is only a start, however. For most occupations, demographic information is collected on a voluntary basis; the Legislature must authorize mandatory collection of information. The reasoning behind this is valid: "The person who decides whether someone receives a license should be blind to the individual's race and ethnicity," said Department of Consumer Affairs Director Awet Kidane. He went on to say that he believes in the utility of data and that demographic information in the aggregate would be helpful, but licensing and enforcement authorities should not have an individual's demographic information in front of them while they're making decisions.⁵⁴

Not collecting demographic data, however, leaves the state unable to track whether a licensing requirement is having an adverse racial, gender or other demographic impact. As will be discussed further in the next chapter, there is significant anecdotal evidence that some licensing requirements harm certain groups. But without data, it is difficult to know for certain. The Legislature should authorize the collection of demographic data, including race, ethnicity, gender, age, education level and languages spoken. For some occupations, it may be beneficial to collect other types of data, such as specific pre-licensure programs the applicant completed in order

to assess which pathways applicants are using to enter the occupation.

Given the impact of licensing on prices, availability, wages both inside and outside the licensed occupation, geographic mobility and entrepreneurship, it is critical that the state be absolutely sure that effects are justified by the consumer health and safety provided by each regulation. Most licensing authorities were created before the institution of the sunrise process, and never had to prove that the level of regulation requested was necessary to protect consumers. The sunset review process cannot completely escape political forces, and requires a small legislative staff to sort through a mountain of data compiled by the very boards under review in a relatively short period of time.

It is long past time for a nonpartisan research body to sift through the complete body of California's licensed occupations to determine whether each requirement justifiably protects public health and safety, then make recommendations for legislative action. California has the opportunity to participate in just such a venture. The U.S. Department of Labor is issuing a grant of up to \$7.5 million to consortia of states to examine licensing criteria, licensing portability issues and whether licensing requirements are overly broad or burdensome.⁵⁵ Additionally, the Department of Labor indicates that states may consider the approaches to licensing to protect public health and safety, such as certification.⁵⁶ The Upjohn Institute of Employment Research is organizing a consortium of states to apply for grant funding, and has invited California to participate. The opportunity to evaluate California's licensing laws with the assistance of federal funding, a nonprofit to coordinate the work, and the expertise of economists such as Dr. Kleiner is too valuable to squander. California should accept the Upjohn Institute's invitation and begin reviewing its licensing laws and regulations across all licensing authorities, not just the Department of Consumer Affairs.

Finally, California's sunrise and sunset review process is critical to ensuring occupational regulation erects the fewest barriers to entry into occupations while protecting health and safety. It is incumbent upon the state to provide the committees that carry out this important function with the resources they need. For future sunrise and sunset reviews, the Legislature should fund additional resources to assist the Assembly Committee

on Business and Professions and Senate Committee on Business, Professions and Economic Development to verify information submitted to the committees. This could take the form of dedicated analysts within the committees or funding for additional help from nonpartisan research bureaus or consultants outside the committees. When the data supplied by licensing entities is incomplete or questionable, legislators should request an audit by the state auditor.

Recommendations

Recommendation 1: The Legislature should authorize the mandatory collection of demographic information for license applications across all licensed occupations in California, including those outside of the Department of Consumer Affairs. This demographic information should not be made available to staff members issuing licenses or conducting enforcement actions, but should be studied in the aggregate to determine the impact of licensing requirements on different demographic groups.

Recommendation 2: The State of California should join a consortium of states organizing to attain federal funding to review their licensing requirements and determine whether those requirements are overly broad or burdensome to labor market entry or labor mobility, particularly for individuals who have moved to California from another state or country, transitioning service members, military spouses and former offenders. As part of this process, the state should consider whether there are alternative regulatory approaches that might be adequate to protect public health and safety, including, but not limited to, professional certification.

Recommendation 3: The Legislature should require reciprocity for all professionals licensed in other states as the default, and through the existing sunset review process, require boards to justify why certain licenses should be excluded. Specifically, licensing boards should be required to:

- Identify whether licensing requirements are the same or substantially different in other states.
- Grant partial reciprocity for professionals licensed in states with appropriately comparable testing and education requirements.

Recommendation 4: The Legislature should fund additional resources, in the form of additional staff or outside support, to assist the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development in verifying and evaluating information for sunrise and sunset reviews. The Legislature should request the California State Auditor conduct an audit when warranted.

PATHWAYS TO UPWARD MOBILITY

At the heart of all conversations about occupational regulation are people: protecting people, removing barriers for people, enabling upward mobility for people. The 2015 White House Report on occupational licensing described several groups of people particularly vulnerable to occupational licensing laws: former offenders, military spouses, veterans and immigrants.⁵⁷ With ever-increasing economic inequality, policymakers must think about the impact of occupational licensing policies on vulnerable groups. That is, how to create pathways for upward mobility for those who have the hardest time becoming employed – even though they may be qualified. In this chapter, the Commission explores how the groups identified in the White House report fare in California and offers recommendations on how the state can break down the barriers preventing them from finding good jobs:

- **Former Offenders:** People with convictions on their record often face difficulties in becoming licensed. They typically must demonstrate that their convictions were not substantially related to the duties of the occupation, or if their convictions were, that they have been rehabilitated. The problem is that “substantially related” and “rehabilitated” are not always clearly defined. Advocates report encountering some arbitrariness in licensing authorities’ decisions. Further, appealing a denial can be confusing and expensive for former offenders.
- **Military Spouses:** Military spouses suffer when their licenses do not transfer across state lines with them. Already at a disadvantage when job searching because employers know they will likely move again in a few years, starting over by spending a year or two redoing licensing requirements further diminishes their employability. The cost of lost job opportunities and of repeatedly meeting licensing requirements is considerable to military families. Most service members say their spouses’ ability to

maintain their career is an important factor when deciding whether to remain in the service – and Department of Defense personnel say they lose some of their best people because of spouses’ career difficulties. Ensuring that military spouses have rewarding careers has a positive impact on national security.

- **Veterans:** Veterans may be trained in the service in occupations that are licensed in the civilian sector. Sometimes, upon separation from the military, they have difficulties gaining credit for their military education and experience and have to begin again. Not only does this impose a cost on the veteran, it also affects taxpayers who pay for the veteran to learn an occupation in the military, then pay for it again upon separation through the G.I. Bill. Lawmakers have been proactive in passing laws to make it easier for veterans to become licensed. The Commission learned, however, that there may be a disconnect between the intent of the laws that were passed and the reality on the ground.
- **Foreign-trained Workers:** Workers trained in other countries often possess the skill sets for occupations in which California faces shortages, but there are a number of obstacles preventing them from gaining licensure in the state. Many have gaps in their training or experience. But there are few gap, or bridge, education programs to quickly fill those gaps, forcing them to begin again. Even those fully qualified may not be able to practice due to licensing statutes and regulations. This matters because California not only needs qualified personnel to meet its impending shortages, but it particularly needs professionals who are fluent in languages other than English and familiar with other cultures – needs that foreign-trained workers can easily meet.

This chapter offers recommendations to help these groups more easily enter occupations, without overhauling California’s regulatory regime or reducing standards. Further, these recommendations will help all Californians – not just those belonging to vulnerable groups – more easily enter licensed occupations: a rising tide that lifts all boats.

Former Offenders

Approximately eight million Californians have criminal records.⁵⁸ Ninety-six percent of Californians who are sent to prison will re-enter their communities.⁵⁹ This figure does not include the thousands of Californians who are sent to county jails for lesser offenses, who also will re-enter their communities after completing their sentences. In 2012, more than 18,000 prisoners were paroled and nearly 29,000 offenders were released from prison to post-release community supervision.⁶⁰ Tens of thousands more are released from county jails every year. A 2015 survey found that nearly 35 percent of unemployed men had a criminal record.⁶¹ Former offenders are most likely to recidivate in their first year after release.⁶² A 2008 Urban Institute Justice Policy Center Study found that at fewer than half of the former offenders were employed at eight months after release.⁶³

“...no available evidence demonstrates that the mere existence of a criminal record is related to poor occupational performance or low-quality services. In other words, simply having some type of a past record does not predict an individual’s ability to perform in an occupation.”

Michelle Natividad Rodriguez, Senior Staff Attorney,
National Employment Law Project

A job does not guarantee successful re-entry into society. That requires housing, mental and physical health care and other services tailored to the specific needs of the individual. But researchers have found employment is essential to helping former offenders. In addition to allowing former offenders to support themselves and their families, a job develops pro-social behavior, strengthens community ties, enhances self-esteem and improves mental health – all of which reduce recidivism.⁶⁴ These effects are strengthened the longer the individual holds the job and especially when it pays more than

minimum wage.⁶⁵ The ability of former offenders to hold stable jobs is enormously important to society.

Nationally, there is an ongoing bipartisan conversation about the loss of employment as a collateral consequence of incarceration. In November 2015, President Obama directed federal agencies to “ban the box.” Ban the box refers to not asking applicants about their convictions on the initial job application, instead waiting until later on in the hiring process to discuss convictions. Twenty-four states and more than 100 counties and cities also have adopted ban the box policies.⁶⁶ More than 100 companies, ranging from Google to Coca Cola, also have pledged to give people with convictions opportunities to work there through actions such as banning the box, providing internship opportunities to ex-offenders and hosting job fairs for former offenders.⁶⁷ Yet these efforts are limited in their effectiveness if people with convictions on their records face barriers to obtaining the credentials needed to work.

The Problems Former Offenders Encounter in Being Licensed

Several levels of regulation and guidelines govern how former offenders may be licensed. Licenses issued by the entities under the Department of Consumer Affairs are regulated by the California Business and Professions Code, which states that a license may be denied if the offense is substantially related to “the qualifications, functions, or duties of the business or profession for which application is made.”⁶⁸ Convictions that are not substantially related are not supposed to be a cause for denial. The Business and Professions Code also says that licenses cannot be denied if applicants meet the criteria for rehabilitation. The Business and Professions Code goes on to give the boards, bureaus, commissions and programs under the Department of Consumer Affairs authority to develop the criteria for what constitutes “substantially related” and “rehabilitation.”⁶⁹

The many licenses issued by other licensing authorities are governed by a patchwork of laws across many legal codes that, as one witness told the Commission, may allow license denial even for a conviction not substantially related to the duties of the occupation.⁷⁰ Under federal law for example, the Insurance Commissioner must provide permission for anyone convicted of a felony

involving dishonesty or breach of trust who wants to work in the business of insurance, including jobs without access to sensitive information.⁷¹ Hearing witness CT Turney, a lawyer for the Los Angeles-based A New Way of Life Reentry Project, told the Commission that often licensing entities have internal guidelines that further determine how a former offender is evaluated. While these criteria usually can be obtained through a Freedom of Information Act request, they're sometimes not easily available to applicants.⁷²

Applicants face similar challenges in some occupations that technically are non-licensed. California licenses many types of facilities, and the regulations governing the facilities' licenses may have employment requirements that make it difficult for former offenders to find employment. Witnesses cited the California Department of Social Services and the Department of Developmental Services as two examples for which employees would "provid[e] care for children, elderly, and developmentally disabled adults".⁷³ CT Turney emphasized that the ability to work in these types of jobs is important to the re-entry community.⁷⁴

“When policies and decisions are made based on visceral fear rather than on a reasoned analysis of actual risk, they reach far beyond the justification of public safety. Instead they merely serve as additional punishment for a past offense. In the process, such policies impose greater burdens on individuals, who lose out on stable work and better pay, and on communities, who lose out on financially stable members as well as the services of otherwise qualified professionals.”

CT Turney, Senior Staff Attorney,
A New Way of Life Reentry Project

The Tradeoff Between Certainty and Flexibility

There is a fine balance between outlining specific offenses that will disqualify an individual from licensure and leaving licensure requirements vague enough to allow for flexibility. For some occupations in California, there are a few crimes that automatically disqualify

people. For example, sex offenders may not be licensed as teachers.⁷⁵ Beyond that, however, it is often up to the discretion of the licensing entity. This is problematic for former offenders who must decide whether to invest in the education, training, and application process – which often requires an expensive test and fees – when there is no certainty they will be eligible for licensure. For example, individuals applying for employment at facilities licensed by the Department of Social Services technically may be denied employment for anything beyond a traffic violation.⁷⁶

The problem, however, with creating a list of automatic disqualifications is the state loses the flexibility to assess applicants according to the nuances of their offenses. Awet Kidane, director of the Department of Consumer Affairs told the Commission, “There is a difference between a doctor who gets a DUI driving home after a shift versus a doctor who gets a DUI on the way to the operating room.”⁷⁷ Licensing officials reiterated the need for flexibility throughout the Commission’s study process. One licensing board cited the case of a woman convicted of assault that, when it examined the case, transpired to be a mother confronting someone who assaulted her child. By outright rejecting assault convictions, licensing officials warned, people who pose no legitimate threat to consumers also will get caught in that net.

Director Kidane told the Commission that his department constantly evaluates room for improvement in licensing former offenders. He said there is significant discussion about what “substantially related” means and of what constitutes “mitigating circumstances.”⁷⁸ Representatives from other licensing entities also told the Commission that they, too, aim to improve their licensing processes for former offenders.

Background Checks

Applicants with criminal convictions on their records face another barrier: what CT Turney called the candor trap. Applicants often are asked to list criminal convictions on their applications, as well as undergo background checks. If the convictions an applicant lists do not match the convictions on the background check, the applicant may be disqualified for lying. CT Turney explained there are reasons an applicant may unintentionally err when listing previous convictions. Many, particularly those who are less educated or legally unsophisticated, see three lines

on the application and assume they only need to write a broad overview instead of obtaining police reports and a lawyer to get the details right. People also often do not remember their conviction histories correctly. People with 30-year-old convictions or addiction or mental health issues, and those who have accepted plea agreements to charges differing from what they remember being arrested for, often unintentionally make misstatements on their application form. All of society loses when former offenders cannot get a good job because they were automatically disqualified due to unintentional misstatements not matching their background checks.

The Department of Insurance offers an alternative model to learn about applicants' criminal convictions. The department asks applicants to submit certified court documents regarding their convictions with their applications. In this way, applicants are not inadvertently caught in the candor trap. However, this model comes with a price: Applicants pay \$32 for a state background check, \$17 for a federal background check, plus fees charged by the live scan locations and the costs of procuring other requested documentation.⁷⁹ The state has a fee-waiver program for low-income applicants for the state background check, but there is room for improvement. Applicants must first apply for a fee waiver and cannot proceed with their background check until they receive a response, which can take several weeks. Then they must wait for the background check, which also takes several weeks.⁸⁰ Implementing instant responses to requests for fee waivers would make important progress in getting applicants to work faster, advocates said.⁸¹

Complex Appeals Process

Application processes vary by licensing authority. But in general, when individuals with convictions on their records apply for licenses, their applications are flagged and reviewed by analysts, who are not necessarily legal professionals. In many cases, these analysts work with internal guidelines based on the licensing authority's interpretation of substantially-related duties and rehabilitation. Advocates working with former offenders said that sometimes denials seem arbitrary.⁸²

Many applicants do not appeal denials because they are intimidated, advocates told the Commission.⁸³ When applicants do appeal, the process is expensive

and not straightforward. When applicants appeal denials, advocates said, they often believe they are simply meeting with licensing board officials to explain their convictions. In some cases, however, they find themselves in formal legal hearings overseen by administrative law judges with attorneys representing the licensing boards. There, they discover they need to present evidence and witnesses to prove they meet certain legal standards. People often do not understand the process, CT Turney said, and the client base A New Way of Life Reentry Project serves often cannot afford attorneys. Further, very few organizations provide *pro bono* occupational licensing-related legal services to low-income applicants. Applicants often lack the knowledge or experience to defend themselves against state attorneys, advocates said, and consequently, often lose.⁸⁴

An intermediate review process would help mitigate some of the barriers these applicants face. That process, between an applicant's initial denial and an administrative law hearing, allows applicants to meet with licensing officials and explain why they believe their denial was erroneous. Advocates cited the good results of the Bureau of Security and Investigative Services' intermediate review program as a model for other licensing authorities.⁸⁵ Further, because administrative law proceedings require judges, lawyers, and court reporters, they are costly for the state. Instituting an intermediate review process between licensing entity officials and the applicant could save the state money.

Steps to Help Former Offenders Gain Employment

The entire community benefits when former offenders are gainfully employed. Yet as a group they face severe obstacles when looking for work. Easing licensing barriers does not mean unconditionally allowing former offenders to work in any job. No one suggests allowing convicted child molesters to become schoolteachers or convicted elder abusers to become nurses. But a 10-year-old drug conviction should not keep individuals from finding a job to support themselves and their families.

As discussed in the previous chapter, a thorough review of all of California's occupational licensing regulations is needed and part of the review must include whether there are unnecessary barriers for ex-offenders. In the

meantime, the state can take steps to ease barriers to licensing for former offenders. Among them:

- Make the criteria licensing authorities use to evaluate former offenders more transparent. Some licensing authorities do this, and the rest should follow suit. The Commission recognizes that the final determination of whether a license is issued or not results from a conversation between the licensing authorities and the applicant. The Commission understands that addressing applicants with convictions on a case-by-case basis allows flexibility. But applicants should not have to file Freedom of Information Act requests to know the guidelines by which they will be evaluated. Having this information up front can help potential applicants make informed decisions about how to invest their time and resources.
- Follow the Department of Insurance model by relying on background checks and court documents for reviewing convictions. For occupations that require background checks, the licensing authority should not rely on applicants' recollection of convictions to make its decision. Requiring applicants to outline their criminal histories in addition to a background check serves no purpose. The state also could make its background check fee waiver more efficient for low-income applicants so they do not have to wait as long to begin working.
- Institute an intermediate review process within the licensing authorities that do not have one. Some licensing authorities keep the lines of communication open with applicants throughout the entire application process, while others do not. An intermediate review process allows applicants who are not legally sophisticated to discuss problems with their applications with licensing authorities before it turns into an administrative law hearing. This saves the state money as well.

Though the specific convictions that qualify as “substantially related” will vary by occupation, the principles guiding the development and application of those standards will not. As the umbrella organization over most of the state’s licensing authorities, the

Department of Consumer Affairs is a logical choice to develop best practices for licensing former offenders. The Department of Consumer Affairs also should share its best practices with licensing authorities not under its purview, and periodically coordinate roundtables with these other authorities to promote the exchange of ideas and assess whether California is helping its eight million residents with criminal records find employment.

Those Who Serve

Separating service members and military spouses also are hard hit by occupational licensing regulations. Every few years there is a burst of legislation designed to ease the barriers they face, yet on-the-ground reports say that little changes. The men and women who serve our country, as well as their families, deserve better than to be kept out of occupations for which they qualify. California must focus less on new legislation and more on implementing past legislation.

Military Spouses

Military spouses are particularly vulnerable to state licensing laws. In the civilian population, approximately 1.1 percent of spouses move across state lines each year due to their spouse’s job. In the military population, 14.5 percent of spouses move across state lines annually. Thirty-four percent of military spouses hold occupational licenses, and 19 percent of military spouses report challenges in maintaining their licenses through moves.⁸⁶

“We know that most decisions to stay in the military are made around the kitchen table and not in the personnel office. To retain our trained and experienced military, we must retain the family. ... Sixty-eight percent of married service members reported their spouse’s ability to maintain a career impacts their decision to remain in the military by a large or moderate extent, thus making the ability of the spouse to obtain a professional license in each state of assignment an influence on national security.”

Laurie Crehan, Regional State Liaison, Southwest, Office of the Deputy Assistant Secretary of Defense, Military Community and Family Policy

This affects more than the military spouse, however. Sixty-eight percent of married service members report their spouse's ability to maintain a career affects their decision to remain in the military.⁸⁷ "We lose good service members and we see this as a national security issue," a Department of Defense witness told the Commission.⁸⁸ Military spouses report that employment is critical for two reasons. One, it is difficult to support a family on the service member's salary alone, particularly

HELPING MILITARY SPOUSES BECOME LICENSED

The Department of Defense asks state licensing boards to do three things to help military spouses gain licensure in a new state:

1. Endorse the license if a military spouse or separating service member holds a license significantly similar to the state's license. If military spouses must spend a year or two becoming re-credentialed, they become virtually unemployable – as employers know their service member spouse will soon be transferred again.
2. Issue temporary licenses. Allow military spouses to work under the direction of others who are fully licensed while they complete the state licensing process.
3. Expedite the licensing process. It takes too long to collect and validate paperwork, a problem compounded by licensing tests that are offered infrequently. The Department of Defense asks states to simply take the supporting documents applicants supply and allow them to practice instead of waiting while the documents are being verified. If there is a problem with the documents, the licensee's ability to practice can be revoked.

The Department of Defense stresses that it is not asking states to remove or dumb down standards, only to make the licensing process more flexible to support service members and their spouses.

Source: Laurie Crehan, Regional State Liaison, Southwest, Office of the Deputy Assistant Secretary of Defense, Military Community and Family Policy. February 12, 2016. Phone call with Commission staff.

for lower-ranking service members. Secondly, being employed, many military spouses report, provides a distraction and boosts their morale while the service member is deployed.⁸⁹

Veterans

More than one million service members are expected to leave military service and enter the civilian workforce between 2014 and 2020,⁹⁰ joining the approximately 11 million veterans of working age.⁹¹ California, home to approximately 1.9 million veterans, has more veterans than any other state.⁹² Though the unemployment rate for veterans in general is not significantly different from that of the civilian population, there is an important exception: Male veterans between the ages of 25 and 35 post-September 2001 (what the U.S. Bureau of Labor Statistics defines as the Gulf War II era) have a significantly higher unemployment rate than their civilian counterparts, at 6.8 percent versus 5.4 percent.⁹³ As nearly half of the veterans in the Gulf War II era are 25-35 years old,⁹⁴ their higher rate of unemployment is a challenge states must address.

The primary occupational licensing problem for separating service members is licensing boards' not accepting their military-acquired knowledge, skills and abilities toward credentialing requirements. This common roadblock impacts taxpayers as well as service members, noted Commission witness Laurie Crehan, of the Department of the Defense. Taxpayers foot the bill twice to train service members for the same job: the first time while they're in the military, then again following discharge to meet licensing requirements.⁹⁵

The Department of Defense is taking steps to make it easier for state licensing boards to credit military experience and education to licensing requirements. In the past, each branch of the military had its own transcript for the education its service members received. The department now has a standardized transcript so that employers can more easily understand the document. The department has hired consultants to cross reference the knowledge, skills and abilities acquired in each military job to their civilian equivalent. Finally, the military is working with the American Council of Education to analyze military training to see if it meets the rigor, content and criteria for college credit. The goal is to prevent separating service members from having to

start from scratch. Many need only “bridge education” (also called gap education) to fill in the gap between what they learned in the military and what they need to learn for their license.⁹⁶ However, even after all this work, the Department of Defense cannot force licensing boards to use these translations to credit veterans for their past experience or to provide bridge education programs.

“Taxpayers pay for the service member to be trained twice. Once while in the military, then again when the service member returns, through the GI Bill.”

Laurie Crehan, Regional State Liaison, Southwest, Office of the Deputy Assistant Secretary of Defense, Military Community and Family Policy

Legislative Fixes, but What Progress?

Enacting legislation to make employing veterans and military spouses easier is popular. Since 2010, California has enacted numerous laws to ease licensing barriers for veterans and military spouses. Some are limited to specific occupations, while others are far-reaching, including:

- **SB 1226** (2014, Correa): Requires Department of Consumer Affairs (DCA) boards to expedite licensure of honorably-discharged veterans. Took effect July 1, 2016.
- **AB 186** (2014, Maienschein): Requires DCA boards to issue 12-month temporary licenses to military spouses with out-of-state licenses for the following occupations: registered nurse, vocational nurse, psychiatric technician, speech-language pathologist, audiologist, veterinarian, all licenses issued by the Board for Professional Engineers, Land Surveyors and Geologists and all licenses issued by the Medical Board.
- **AB 1057** (2013, Medina): Requires DCA boards to renew licenses that expire while an individual is on active duty without penalties or examination.
- **AB 1588** (2012, Atkins): Requires DCA boards to waive renewal fees for licenses that expire while the practitioner is on active duty.

- **AB 1904** (2012, Block): Requires DCA boards to expedite licensure for military spouses.
- **AB 2462** (2012, Block et al.): Requires the Chancellor of the California Community College to determine which courses should receive credit for prior military experience, using the descriptors and recommendations provided by the American Council on Education.
- **AB 2783** (2010, Salas et al.): Requires DCA boards to promulgate regulations to evaluate and credit military education, training, and experience if applicable to the profession.

Despite the state’s having enacted appropriate legislation, the Commission heard anecdotally that veterans and military spouses still face difficulties in becoming licensed. No studies or implementation tracking have been done to assess how effectively the legislation has been implemented. One glaring omission in the above legislation is state licensing authorities outside of the Department of Consumer Affairs.

Experts identify common problems in state laws nationwide intended to ease licensing barriers for veterans and military spouses:

- Broadly written laws provide too little guidance.
- Veterans may be unaware of their licensing eligibility.
- Legitimate skills gaps may go unaddressed.
- Insufficient partnerships between state, schools and the military.
- Lack of consistent metrics to measure licensure challenges.⁹⁷

Many laws are in place in California. But we do not know if they are having the desired effect. Because the retention of experienced military personnel depends on spouses’ ability to hold a job – making military spouse licensure a national security concern – and because helping veterans secure gainful employment after their service is often stated as a policymaker priority, the Commission recommends that the Legislature authorize a research institute to work in collaboration with the Department of Defense to conduct a study on the implementation of the legislation listed on this page. The

review should identify gaps between the intent of the laws and practice outcomes, and issue recommendations for executive or legislative action on how to bridge those gaps. The review should examine and include recommendations on whether the legislative focus on the Department of Consumer is sufficient or whether policymakers should encourage other departments to prioritize veterans and military spouses. The review also should assess licensing authorities' outreach efforts to inform veterans that they are eligible for expedited licensing, and provide recommendations on how the state can better educate veterans about these benefits.

The beneficial effects of finding work are personal. A representative from Swords to Plowshares, a San Francisco-based nonprofit that provides wraparound services for veterans including employment assistance, told Commission staff that the impact of not being able to secure a job in the field that the veteran has been working in for perhaps the last eight or 10 years is significant. Being experienced in a field and leaving the military only to discover that they are considered unqualified to work in that field is a rude awakening, she said.⁹⁸

Foreign-Trained Workers

The impacts of occupational licensing regulations on out-of-state workers were discussed in the first chapter. This problem is magnified when it comes to foreign-trained workers. Foreign-trained workers can be a sensitive subject. To some it conjures images of undocumented immigrants. To others the topic brings to mind the questionable use of H-1B temporary work permits to hire foreign professionals, often in the information technology industry, at lower wages than Americans.⁹⁹ While these issues deserve thoughtful attention by policymakers, they should not obscure the fact that foreign-trained workers are a legal and dynamic part of California's workforce, and in many cases, are native or naturalized Californians who were educated or trained abroad.

High-skilled workers who are trained abroad typically have a post-secondary degree, are more likely than others to speak English or take classes to build English proficiency, and often work in a high-demand field. Currently that field is STEM, or Science, Technology, Engineering and Math.¹⁰⁰ The licensing difficulties they face are similar to those of veterans: An applicant may have the appropriate skill set for the occupation, but

the licensing board may not be able to translate the applicant's foreign education and experience to the board's requirements. Often, there will be differences between the education and experience an individual needs to successfully practice in an individual's country of origin and what the individual needs to practice successfully in California. A researcher from the Migration Policy Institute writes:

"Perhaps the central problem that makes credential recognition difficult is that foreign professionals, especially the newly arrived, are not interchangeable with their locally trained counterparts. ... Professionals with the same job title do not always perform exactly the same set of tasks in different countries, creating real differences in knowledge and skills gained on the job. In the medical field, for example, different medical procedures and responsibilities may be delegated to nurses as compared to doctors, and to generalists as compared to specialists; certain medical devices are not as widely available in all countries, giving practitioners less experience in their use; institution or administrative functions such as medical referral processes can differ widely; and some health-care practitioners require relatively high levels of language proficiency to communicate with patients and colleges."¹⁰¹

José Ramón Fernández-Peña, associate professor at San Francisco State University and policy chair of IMPRINT, an immigrant advocacy organization, testified that there are few options for bridge education for foreign-trained workers in California who meet all but a few licensing requirements.¹⁰² Many find themselves having to start over. In some cases this borders on the absurd. Foreign-trained doctors with many years of experience, for example, must complete an entire residency program to be licensed in the United States, often enduring the same residency matching process and low pay as students freshly graduated from medical school.¹⁰³ A foreign-trained doctor cannot even work as a physician assistant in California without completing an approved physician assistant training program.¹⁰⁴ Dental hygienists can have equivalent experience in their home country and earn a perfect score on the exam, but cannot be licensed because they did not graduate from an accredited dental hygiene program.¹⁰⁵

Foreign-trained dentists used to be able to become licensed in California after successfully passing dental exams, Mr. Fernández-Peña testified. But professional associations lobbied to have that right removed. Now there are two ways foreign-trained dentists can become licensed in California. They can attend a foreign dental program that has been approved by the Dental Board of California. As the program must teach California Occupational Safety and Health Standards, few foreign schools qualify. Currently, only the University de La Salle in Leon, Guanajuato, Mexico is approved.¹⁰⁶ The second way to qualify is to take a two-year Advanced Standing Program and earn a Doctor of Dental Surgery degree. There are four schools in California that offer this two-year program, with an average total cost of \$150,000, Mr. Fernández-Peña told the Commission.¹⁰⁷

Why it Matters that Foreign-Trained Workers Face Barriers to Licensure

By 2025, California will have a shortfall of one million workers with four-year degrees and 2.5 million workers with other levels of degrees, certificates and diplomas.¹⁰⁸ When qualified foreign-trained workers are stuck working lower-level jobs because they did not graduate from an accredited school or are missing a couple of classes, it hurts all Californians. Consumers have a harder time finding service providers and may have to pay more. Lesser-qualified Californians are pushed out of lower-skilled jobs and face unemployment or menial tasks. Then there are the impacts of a lower income on workers and their families. This is an inefficient use of resources and it exacerbates growing economic inequality.

Professional Shortages are Looming

As described above, in fewer than 10 years, California will face a workforce shortfall of approximately 3.5 million workers with varying levels of education and expertise. Looking at shortfalls in specific industries gives a clearer picture of how this affects Californians. By 2030, California will have only two-thirds of the primary care physicians it needs to maintain its current physician-to-population ratio – which already is worse than the national average.¹⁰⁹ By 2030, according to projections, California will have 193,000 fewer registered nurses than it needs.¹¹⁰ California already is 60,000 teachers short to maintain pre-recession student-teacher

ratios and 135,000 teachers short of national average student-teacher ratios.¹¹¹ The greatest deficiency is in mathematics, science and special education.¹¹² Mathematics and science are the fields in which current waves of high-skilled immigrants are trained.¹¹³ Foreign-trained workers often possess many, if not all, the qualifications to fill these gaps, if the state eases barriers that keep them from practicing.

California Needs Professionals Fluent in Other Languages and Cultures

California has a diverse population and needs professionals and workers who can fluently serve its diversity. Lack of diversity in the health workforce, for instance, is a contributing factor to racial and ethnic health disparities, witnesses testified.¹¹⁴ In California, 37 percent of the population is Latino, yet only 5 percent of doctors, 8 percent of registered nurses and 7 percent of dentists are Latino.¹¹⁵ By 2025, 48 percent of the senior population in California will be non-white.¹¹⁶ Positive health outcomes will depend on access to geriatric care providers who can communicate with and understand them.

Inefficient Labor Market Outcomes Result in Lower Paychecks

Many high-skilled immigrants take lower-skilled jobs for which they immediately qualify, or which require only minimal training, instead of the occupations they practiced in their countries of training. The Migration Policy Institute found that many people accept a lower-skilled position as a more attractive option than starting from the beginning again in their own profession.¹¹⁷ California is home to approximately 1.7 million foreign-born, college-educated immigrants. (This figure includes foreign-born immigrants who were educated in California and excludes California-born residents who were educated abroad.) Of these, 400,000 are unemployed or working in low-skilled jobs.¹¹⁸ Sometimes this may be a lower-skilled job within the individual's industry, such as a physician becoming a laboratory technician. Sometimes this means taking a low-paying job outside of the industry. IMPRINT offered the Commission numerous examples, such as foreign psychologists becoming housekeepers and doctors becoming car wash attendants in the U.S.¹¹⁹ The problem is that these individuals and their families will live on less money than the market rate

for their skill sets, and they take lower-skilled jobs from those who legitimately have fewer qualifications. These situations aggravate California’s upcoming shortages of trained professionals.

Models to Get People Working

The state need not wait for a complete overhaul of occupational licensing regulation to reduce the barriers keeping people out of jobs. Several models exist that could be applied to other licensed occupations. Not all of these models are appropriate for all occupations. But collectively they present a variety of options for workers already qualified and licensed, and individuals who want to develop qualifications for upward mobility. The state could implement these programs now to help move people into good jobs. Moreover, none of these models require lessening requirements or abolishing licensing: They only require policy or statute changes to let people into the occupations.

California Commission on Teacher Credentialing Model

The California Commission on Teacher Credentialing has a straightforward model for teachers who possess out-of-state licenses. It issues licenses to teachers with a provision that they meet all of California’s education and training requirements during the five years before they are required to renew their licenses.¹²⁰ The state could use this model to allow people in other licensed occupations to work while meeting requirements.

Medical Service Technician-to-Registered Nurse Model

In 2015, the Legislature enacted a bill, SB 466, requiring nursing programs to grant credit for military education and training to fast track veterans who were medical service technicians in the military to become registered nurses.¹²¹ In this model, the Legislature took several steps to better position the initiative for success:

- It gave a deadline, January 1, 2017, for nursing programs to have their processes in place to begin fast tracking veterans.
- It gave the Board of Registered Nursing the authority to apply swift and severe sanctions to

nursing programs that fail to comply: Schools that are not in compliance by the deadline will be stripped of their approval to teach nursing.

- It required continuous monitoring of nursing programs’ performance in fast tracking veterans. The Board of Registered Nursing must review schools’ policies and procedures for granting credit to veterans for their military education and training at least once every five years.¹²²

THE STATE WORKFORCE PLAN: MID-SKILLED JOBS AS A PATH TO UPWARD MOBILITY

The Commission recommends piloting bridge education and apprenticeship programs in the state’s own facilities. The state also should look to its own State Workforce Plan and concentrate resources on developing pathways for upward mobility within the areas of expected job needs. Below are the top 12 mid-skilled – defined as needing more than a high school education but less than a four-year degree – occupations with anticipated worker needs:

Occupation	Annual New Workers Needed, 2012-22
Registered Nurses	9,230
Teacher Assistants	4,470
Truck Drivers	4,410
Nursing Assistants	4,180
Medical Assistants	3,450
Licensed Vocational Nurses	3,040
Computer User	
Support Specialists	2,490
Preschool Teachers	1,820
Hairstylists / Cosmetologists	1,750
Dental Assistants	1,640
Actors	1,500
Dental Hygienists	1,060

Source: California Workforce Development Board. State Workforce Plan.

This bridge education model could be applied for other veteran employment categories, as well as for workers from outside California to rapidly complete missing requirements and begin working.

The Apprenticeship Model

Though hundreds of years ago apprenticeships were gateways into the original guilds, which limited who could practice an occupation, today they represent an opportunity for inclusion into, instead of exclusion from, occupations. Instead of placing the burden of educational costs and training onto the job seeker, California's apprenticeship model pays job seekers while they complete their education and training and gain the experience and skills necessary to thrive in their jobs.

California has the largest apprenticeship program in the United States.¹²³ Its programs, overseen by the Division of Apprenticeship Standards (DAS) within the Department of Industrial Relations, are created through partnerships between post-secondary educational institutions and employers. There is a minimum requirement of 144 hours of training in the classroom with one year of on-the-job training. Most programs last 3.5 years.¹²⁴ Employers can, on an individual basis, give credit for past experience, making apprenticeships a potential

option to efficiently integrate veterans and others trained outside of California into the workforce. Additionally, there are apprenticeships designed to integrate former offenders into the workforce – sometimes starting while the offender is still in prison, through the Prison Industry Authority. These often operate as pre-apprenticeship programs focusing on training, with the offender eligible to join an apprenticeship program upon release.¹²⁵

Approximately 70 percent of California's apprenticeships are in the construction industry.¹²⁶ The prevalence of construction apprenticeships likely can be attributed in part to California's requirements that public works projects include apprenticeship programs.¹²⁷ Outside of construction there are not many apprenticeships in licensed industries, Department of Apprenticeship Standards officials reported. In some practice areas, particularly healthcare occupations, scope-of-practice restrictions prevent it, they said.¹²⁸ Learners still gain hands-on experience. For example, nursing students are required to have clinical experience, but in the current nursing school model, they pay for the practical learning experience. Whereas in an apprenticeship, learners would be paid for their time and work.

There is, however, a new pilot program in the California Health Care Facility in Stockton to create a pathway for 50 licensed vocational nurses (LVNs) to become registered

WHATS IN A NAME? MAKING APPRENTICESHIP PROGRAMS ACCESSIBLE

The Little Hoover Commission has long advocated clarity and plain language in state job titles and program descriptions. Most recently, in its 2015 report on customer interactions with government, the Commission wrote, "Government can perhaps most easily improve the customer experience by changing the way it communicates with the public: being succinct, clear, accurate, precise, as well as approachable, and easy to find and understand." In its 2014 report on civil service, the Commission detailed how job-seekers could not find state jobs by searching for commonly-used job titles, such as policy analyst. If they did not know the complicated language the state used for job titles, their state job search yielded zero results.

The Commission's call for clear, easily-understandable communication applies to the state's apprenticeship programs as well. The title of the state's new "Earn and Learn" program is catchy, but it does not immediately convey that it is an apprenticeship program. The term often is used to describe youth job programs. Job-seekers would not be blamed for thinking that it might refer to a college grant or tuition reimbursement program, or a typical work-study program not designed to build skills for an upwardly mobile career path. "Earn and Learn" is an apprenticeship program: The first step in recruiting people to it is to call it what it is.

Sources: Little Hoover Commission. October 2015. A Customer-Centric Upgrade for California Government. Page 43. Also, Little Hoover Commission. February 2014. From Hiring to Retiring: Strategies for Modernizing State Human Resources. Page 14.

NONPARTISAN AND BIPARTISAN SUPPORT FOR OCCUPATIONAL LICENSING REFORM

Support for occupational licensing reform can be found in nonpartisan think tanks as well as institutions that span the political spectrum. Below is a list of recent studies calling for states to reevaluate their occupational licensing policies:

Dick M. Carpenter II, Lisa Knepper, Angela C. Erickson. May 2012. [License to Work: A National Study on the Burdens of Occupational Licensing](#). Institute for Justice.

Kauffman Foundation. January 2012. [A License to Grow: Ending State, Local, and Some Federal Barriers to Innovation and Growth in Key Sectors of the U.S. Economy](#).

Morris M. Kleiner. January 2005. [Reforming Occupational Licensing Policies](#). The Brookings Institution Hamilton Project.

Michelle Natividad Rodriguez and Beth Avery. April 2016. [Unlicensed and Untapped: Removing Occupational Barriers to State Occupational Licenses for People with Records](#). National Employment Law Project.

Stephen Slivinski. February 2015. [Bootstraps Tangled in Red Tape](#). Goldwater Institute.

The White House. July 2015. [Occupational Licensing: A Framework for Policymakers](#).

nurses. In this apprenticeship program, called “Earn and Learn,” LVNs spend 20 hours a week in the classroom and 20 hours a week in hands-on training, and are paid for both the classroom and the practical portions. The demand to participate in this pilot program was overwhelming: Ninety-seven LVNs expressed interest in being chosen for one of the 50 spots.¹²⁹ This pilot program opens a path for upward mobility from a lower-paying occupation into a higher-paying profession, while also addressing some racial disparities. Statewide, 80 percent of LVNs are minorities, while only 33 percent of registered nurses are minorities.¹³⁰

California’s apprenticeship programs are proving effective at reaching minorities. In 2014, 59 percent of the 53,000 Californians participating in apprenticeship programs were minorities.¹³¹ The gender divide is bleaker: Women represented 5.3 percent of apprenticeship participants in 2014.¹³² The concentration of apprenticeships within the construction sector explains a lot of the gender differentials, Department of Apprenticeship Standards officials said. They are working to counteract the inequity by promoting apprenticeships in other industries – and encouraging women to participate in construction apprenticeships.¹³³

In April 2016, the Commission released a report on excess overtime for state healthcare personnel in state hospitals, correctional facilities, veterans’ homes and

developmental centers. It found that in 2014-15, state health professionals logged 3.75 million hours of overtime – at a cost to taxpayers of nearly \$179 million – often due to staffing shortages.¹³⁴ Instead of spending excessively on overtime, the state could better use the money to create apprenticeship programs within its own institutions. This would train a new generation of healthcare professionals to meet its staffing needs while helping more Californians move into better-paying jobs.

Summary

Certain populations are more vulnerable to occupational licensing regulations than others. People with convictions on their records can face uncertainty in knowing whether they are eligible for the job in the first place, an application process that can seem arbitrary and confusing, and an intimidating appeals process. People who move across state lines face problems of licensing portability and may have to re-complete education or training. This is particularly challenging for military spouses who move more than most and may only have a limited amount of time at a new location. Veterans and foreign-trained workers face similar challenges in that their existing credentials may not be recognized by licensing authorities, or they may have completed most, but not all, of a state’s licensing requirements and there are no programs to help them quickly complete missing requirements and start working. Many laws have been passed to expedite

licensing for veterans and military spouses, but those laws primarily focus on occupations under the Department of Consumer Affairs and no one is tracking outcomes.

Though there should be a comprehensive review of California’s licensing statutes and regulations, there are many ways to help Californians start working quickly and more easily without overhauling California’s licensing system. Make the application process more transparent and straightforward. When conviction histories are needed, rely on background checks instead of applicants’ memories, and make the fee-waiver process more customer-friendly. Give applicants a chance to explain red flags on their application before proceeding with an administrative law hearing. Create bridge education programs to help those who are mostly qualified swiftly complete the gaps in their education. Allow interim licensing so those who come to California with other states’ qualifications can work under supervision while finishing California-specific requirements. Create apprenticeship programs to allow people to develop their skills through hands-on experience. California does not have to sacrifice consumer protection to make it easier for its residents to hold good jobs.

Recommendations

Recommendation 5: With the Department of Consumer Affairs serving as a clearinghouse of best practices and providing guidance to other departments as needed, all licensing authorities should take the following steps to make it easier for former offenders to gain employment:

- Post on their website the list of criteria used to evaluate applicants with criminal convictions so that potential applicants can be better informed about their possibilities of gaining licensure before investing time and resources into education, training and application fees.
- When background checks are necessary, follow the Department of Insurance model and require applicants with convictions to provide certified court documents instead of manually listing convictions. This will prevent license denials due to unintentional reporting errors. The State of California also should expedite the fee-waiver process for all low-income applicants requesting background checks.

- Follow the Bureau of Security and Investigative Services model and create an informal appeals process between an initial license denial and an administrative law hearing.

Recommendation 6: The Legislature should authorize a research institute, in conjunction with federal partners as needed, to study the implementation of recent legislation that requires the Department of Consumer Affairs to ease or waive licensing requirements for veterans and military spouses. The review should identify gaps between the intent of the laws and outcomes, and issue recommendations for executive or legislative action to bridge those gaps. The review also should assess the effectiveness of licensing authorities’ outreach campaigns to inform veterans of their eligibility for expedited licensing.

Recommendation 7: The Legislature should require California colleges and training academies to create bridge education programs for veterans and workers trained outside of California to help them quickly meet missing educational requirements. Specifically:

- California licensing boards and other departments providing licenses and credentials should identify common educational gaps between the qualifications of returning service members and state licensing requirements.
- California colleges should create and offer programs to fill these gaps and expedite enrollment – or risk losing authorization for these programs.

Recommendation 8: The State of California should develop interim work and apprenticeship models to provide opportunities for people missing certain qualifications to work while meeting their requirements, and to promote upward mobility within career paths.

APPENDICES

APPENDIX A

Public Hearing Witnesses

The lists below reflect the titles and positions of witnesses at the time of the hearings in 2016.

February 4, 2016

Sacramento, California

Dick Carpenter II, Ph.D., Director of Strategic Research,
Institute for Justice

Morris Kleiner, Ph.D., Professor, Humphrey School of
Public Affairs, University of Minnesota

Le Ondra Clark Harvey, Ph.D., Chief Consultant,
Assembly Committee on Business and Professions

Sarah Mason, Consultant, Senate Committee on
Business, Professions and Economic Development

Robert Fellmeth, Executive Director, Center for Public
Interest Law, University of San Diego

Jason Wiens,* Policy Director in Research and Policy,
Ewing Marion Kauffman Foundation

March 30, 2016

Culver City, California

Laurie Crehan, Ed.D., Regional State Liaison,
Southwest, Office of the Deputy Assistant Secretary of
Defense, Military Community and Family Policy

Michelle Natividad Rodriguez, Senior Staff Attorney,
National Employment Law Project

Deborah Davis, President & CEO, Deborah Davis
Design

Tracy Rhine, Chief Deputy Director, Department
of Consumer Affairs for Awet Kidane,* Director,
Department of Consumer Affairs

José Ramón Fernández-Peña, MD, MPA, Associate
Professor, Health Education, San Francisco State
University; Policy Chair, IMPRINT; Director, Welcome
Back Initiative

Jane Schroeder, Regulatory Policy Specialist, California
Nurses Association

Myra Irizarry Reddy, Government Affairs Director,
Professional Beauty Association

CT Turney, Senior Staff Attorney, A New Way of Life
Reentry Project

**Submitted written testimony but was unable to attend in person*

APPENDIX B

Public Meeting Witnesses

The lists below reflect the titles and positions of witnesses at the time of the hearings in 2016.

**Roundtable on Occupational Licensing
June 30, 2016
*Sacramento, California***

Shannon Carrion, Manager, Curriculum and Office Review Bureau, Department of Insurance

Adam Quiñonez, Assistant Deputy Director of Legislative and Regulatory Review, Department of Consumer Affairs

Vincent Chee, Consultant, Assembly Committee on Business and Professions

Assemblymember Rudy Salas, Chair, Assembly Committee on Business and Professions

Awet Kidane, Director, Department of Consumer Affairs

Joshua Speaks, Legislative Representative, California Commission on Teacher Credentialing

Keith Kuzmich, Chief, Licensing Services, Department of Insurance

Peter Williams, Deputy Secretary and General Counsel, California Business, Consumer Services and Housing Agency

Sarah Mason, Consultant, Senate Committee on Business, Professions and Economic Development

NOTES

- 1 Office of the Attorney General. September 10, 2015. Opinion of Kamala D. Harris, Attorney General and Susan Duncan Lee, Deputy Attorney General. No 15-402.
- 2 Department of the Interior. 1918. "California Mining Statutes Annotated." Bulletin 161. Law Serial 13. Page 33. Citing Laws 1850, P. 221; Apr. 13, 1850.
- 3 Federal Reserve Bank of Minnesota. "Consumer Price Index (Estimate) 1800 –" <https://www.minneapolisfed.org/community/teaching-aids/cpi-calculator-information/consumer-price-index-1800>. Accessed July 8, 2016.
- 4 Jean Pfaelzer. 2007. "Foreign Miners Tax." *Encyclopedia of U.S. Labor and Working Class History*. Volume 1: A-F. Ed. Eric Arnesen. Routledge: New York. Pages 468-470.
- 5 Linda A. McCready and Billie Harris. 1995. "From Quackery to Quality Assurance: The First Twelve Decades of the Medical Board of California." *Medical Board of California*. Page 2. <http://www.mbc.ca.gov/publications/quackery.pdf>. Accessed July 1, 2016.
- 6 Linda A. McCready and Billie Harris. 1995. "From Quackery to Quality Assurance: The First Twelve Decades of the Medical Board of California." *Medical Board of California*. Page 3. <http://www.mbc.ca.gov/publications/quackery.pdf>. Accessed July 1, 2016.
- 7 Linda A. McCready and Billie Harris. 1995. "From Quackery to Quality Assurance: The First Twelve Decades of the Medical Board of California." *Medical Board of California*. Pages 3-5. <http://www.mbc.ca.gov/publications/quackery.pdf>. Accessed July 1, 2016.
- 8 Awet Kidane, Director, Department of Consumer Affairs. June 23, 2016. Sacramento, CA. Little Hoover Commission Roundtable.
- 9 Tami Luhby. May 6, 2016. "California: The Nation's Most Unequal State." *CNN Money*. <http://money.cnn.com/2015/05/05/news/economy/california-unequal/>. Accessed August 3, 2016. Also, Sarah Burd-Sharps and Kristen Lewis. April 22, 2015. "Geographies of Opportunities: Ranking Well-Being by Congressional District." <http://ssrc-static.s3.amazonaws.com/wp-content/uploads/2015/04/Geographies-of-Opportunity-4.22.2015.pdf>. Accessed August 3, 2016.
- 10 White House. July 2015. "Occupational Licensing: A Framework for Policymakers." https://www.whitehouse.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf. Accessed September 10, 2015. Page 8.
- 11 Morris Kleiner. March 2015. "Reforming Occupational Licensing Policies." *Brookings Institute Hamilton Project*. Discussion Paper 2015-01. Page 1.
- 12 White House. July 2015. "Occupational Licensing: A Framework for Policymakers." https://www.whitehouse.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf. Accessed September 10, 2015. Also, Employment Development Department. "Labor Market Information." <http://www.labormarketinfo.edd.ca.gov/>. Accessed October 6, 2015.
- 13 White House. July 2015. "Occupational Licensing: A Framework for Policymakers." https://www.whitehouse.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf. Accessed September 10, 2015. Page 24.
- 14 Dick M. Carptenter II, Lisa Knepper, Angela Erickson and John K. Ross. May 2012. "License to Work: A National Study of Burdens from Occupational Licensing." Page 7.
- 15 Dick M. Carptenter II, Lisa Knepper, Angela Erickson and John K. Ross. May 2012. "License to Work: A National Study of Burdens from Occupational Licensing." Pages 44-45.
- 16 Assembly Committee on Business and Professions. Rev. February 11, 2015. "Review of Occupational Regulation and the 'Sunrise' Process." <http://abp.assembly.ca.gov/sites/abp.assembly.ca.gov/files/publications/Description%20of%20Sunrise%20Process-%20Asm.pdf>. Accessed October 6, 2015.
- 17 California Department of Consumer Affairs, Division of Legislative and Regulatory Review. November 2015. "2016 Legislative Resource Booklet." http://www.dca.ca.gov/publications/2016_legislative_resource.pdf. Accessed March 8, 2016.
- 18 Keith Kuzmich, Licensing Services Division Chief, California Department of Insurance. April 20, 2016. Written communication with Commission staff. Also, California Department of Education. August 18, 2015. "Fingertip Facts on Education in California – CalEdFacts." <http://www.cde.ca.gov/ds/sd/cb/ceffingertipfacts.asp>. Accessed May 18, 2016. Also, the State Bar of California. August 17, 2016. Member Demographics. <https://members.calbar.ca.gov/search/demographics.aspx>. Also, California Department of Consumer Affairs. See endnote 17. Also, Department of Business Oversight. "Number of Licensees 2015-16." Commission staff communication with Legislative Analyst's Office. September 27, 2016.
- 19 Myra Irizarry Reddy, Government Affairs Director, Professional Beauty Association. February 25, 2016. Phone call with Commission staff.
- 20 Deborah Davis, President & CEO, Deborah Davis Design. February 25, 2016. Phone call with Commission staff.

- 21 Deborah Davis, President & CEO, Deborah Davis Design. February 25, 2016. Phone call with Commission staff.
- 22 Lee McGrath, Managing Attorney, Institute for Justice. October 1, 2015. Phone call with Commission staff.
- 23 Morris Kleiner, Professor, Humphrey School of Public Affairs, University of Minnesota. February 4, 2016. Written testimony to the Commission.
- 24 Jane Schroeder, Regulatory Policy Specialist, California Nurses Association. February 16, 2016. Sacramento, CA. Meeting with Commission staff.
- 25 Assembly Bill 1279. Holden. 2015. http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB1279.
- 26 Jane Schroeder, Regulatory Policy Specialist, California Nurses Association. February 16, 2016. Sacramento, CA. Meeting with Commission staff.
- 27 Susan Stuart, Partner and Erin Evans-Fudem, Legislative Counsel, Capitol Advisors. February 22, 2016. Sacramento, CA. Meeting with Commission staff.
- 28 Susan Stuart, Partner and Erin Evans-Fudem, Legislative Counsel, Capitol Advisors. February 22, 2016. Sacramento, CA. Meeting with Commission staff.
- 29 Myra Irizarry Reddy, Government Affairs Director, Professional Beauty Association. February 25, 2016. Phone call with Commission staff.
- 30 Morris M. Kleiner. March 2015. "Reforming Occupational Licensing Policies." [Brookings Institute Hamilton Project](#). Discussion Paper 2015-01. Page 6.
- 31 Morris M. Kleiner and Robert T. Kudrle. October 2000. "Does Regulation Affect Economic Outcomes? The Case of Dentistry." [Journal of Law and Economics](#) 43:2. Pages 547-82.
- 32 Morris M. Kleiner. March 2015. "Reforming Occupational Licensing Policies." [Brookings Institute Hamilton Project](#). Discussion Paper 2015-01. Page 13.
- 33 Morris M. Kleiner. March 2015. "Reforming Occupational Licensing Policies." [Brookings Institute Hamilton Project](#). Discussion Paper 2015-01. Page 13.
- 34 Morris M. Kleiner. March 2015. "Reforming Occupational Licensing Policies." [Brookings Institute Hamilton Project](#). Discussion Paper 2015-01. Page 13.
- 35 Morris M. Kleiner. 2015. "Guild-Ridden Labor Markets: The Curious Case of Occupational Licensing." [Upjohn Institute for Employment Research](#). Page 31.
- 36 Morris M. Kleiner. March 2015. "Reforming Occupational Licensing Policies." [Brookings Institute Hamilton Project](#). Discussion Paper 2015-01. Page 6.
- 37 Morris M. Kleiner. March 2015. "Reforming Occupational Licensing Policies." [Brookings Institute Hamilton Project](#). Discussion Paper 2015-01. Page 13.
- 38 Morris M. Kleiner. March 2015. "Reforming Occupational Licensing Policies." [Brookings Institute Hamilton Project](#). Discussion Paper 2015-01. Page 13.
- 39 Jason Wiens, Policy Director, Kauffman Foundation. October 1, 2015. Phone call with Commission staff.
- 40 Stephen Slivinski. February 23, 2015. "Bootstraps Tangled in Red Tape: How State Occupational Licensing Hinders Low-Income Entrepreneurship." https://goldwater-media.s3.amazonaws.com/cms_page_media/2015/4/15/OccLicensingKauffman.pdf. Accessed September 24, 2015.
- 41 Stephen Slivinski. February 23, 2015. "Bootstraps Tangled in Red Tape: How State Occupational Licensing Hinders Low-Income Entrepreneurship." https://goldwater-media.s3.amazonaws.com/cms_page_media/2015/4/15/OccLicensingKauffman.pdf. Accessed September 24, 2015.
- 42 Lee McGrath, Managing Attorney, Institute for Justice. October 1, 2015. Phone call with Commission Staff. Also, Minnesota State Board of Bar Examiners. October 2015. "Character and Fitness for Admission to the Bar." <https://www.ble.state.mn.us/resource-center/character-and-fitness-for-admission-to-bar.aspx>. Accessed October 5, 2015.
- 43 Menachem Wicker. December 17, 2015. "Weighing the Benefits, Disadvantages of Attending a Non-ABA Law School." [U.S. News & World Report](#). <http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2012/12/17/weigh-the-benefits-disadvantages-of-attending-a-non-aba-law-school>. Accessed October 5, 2015.
- 44 Physician Assistant Board. December 1, 2015. "2016 Sunset Review Report." http://www.pac.ca.gov/forms_pubs/sunset_2016.pdf. Accessed September 7, 2016. Attachment G.
- 45 Robert J. Schiller. September 30, 2013. "The Best, Brightest and Least Productive?" <http://www.project-syndicate.org/commentary/the-rent-seeking-problem-in-contemporary-finance-by-robert-j--shiller>. Accessed October 5, 2015.
- 46 Jason Wiens. Policy Director, Research and Policy. Kauffman Foundation. October 1, 2015. Phone call with Commission staff.
- 47 Robert Fellmeth, Price Professor of Public Interest Law, University of San Diego. February 4, 2016. Written testimony to the Commission.
- 48 Division of Legislative and Regulatory Review, California

Department of Consumer Affairs. November 2015. "2016 Legislative Resource Booklet." http://www.dca.ca.gov/publications/2016_legislative_resource.pdf. Accessed February 25, 2016.

49 AB 1939. Patterson. 2016. http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB1939.

50 The State Bar of California. July 9, 2016. "Member Demographics." Accessed July 10, 2016. <https://members.calbar.ca.gov/search/demographics.aspx>.

51 Kuzmich, Keith, Licensing Services Division Chief, California Department of Insurance. April 20, 2016. Written communication with Commission staff.

52 California Department of Education. "Fingertip Facts on Education in California – CalEdFacts." Number of teachers in public schools: 2014–15. <http://www.cde.ca.gov/ds/sd/cb/ceffingertipfacts.asp>. Accessed August 18, 2016.

53 Jason Wiens, Policy Director, Kauffman Foundation and Chris Jackson, Research Analyst, Kauffman Foundation. October 1, 2015. Phone call with Commission staff.

54 Awet Kidane, Director, Department of Consumer Affairs. June 23, 2016. Sacramento, CA. Little Hoover Commission Roundtable.

55 U.S. Department of Labor Employment and Training Administration. Notice of Intent to Fund Project on Occupational Licensing Review and Portability: NOI-ETA-16-14. <https://www.doleta.gov/grants/pdf/NOI-ETA-16-14.pdf>. Accessed June 27, 2016.

56 U.S. Department of Labor Employment and Training Administration. Notice of Intent to Fund Project on Occupational Licensing Review and Portability: NOI-ETA-16-14. <https://www.doleta.gov/grants/pdf/>

[NOI-ETA-16-14.pdf](#). Accessed June 27, 2016.

57 The White House. July 2015. "Occupational Licensing: A Framework for Policymakers." https://www.whitehouse.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf. Accessed September 10, 2015. Pages 8-10.

58 Note: There are 11.4 million people listed in the California's database of arrests and convictions. The database includes people who no longer reside in California and who are deceased, however. At the national level, the National Employment Law Project estimates approximately 30 percent of states' rolls to be deceased or double-counted.

Citation: Michelle Natividad Rodriguez, Senior Staff Attorney, National Employment Law Project. March 14, 2016. Communication with Commission staff.

59 California Department of Corrections. September 2013. "Prison Census Data as of June 30, 2013." http://www.cdcr.ca.gov/reports_research/offender_information_services_branch/Annual/Census/CENSUSd1306.pdf. Accessed February 12, 2014. Also, Little Hoover Commission. February 2014. "Sensible Sentencing for a Safer California."

60 Note: Comprehensive parolee data after 2012 is not readily available, but 2012 is an adequate sample year because it represents prisoner release after prison realignment via Assembly Bill 109 in 2011, but before the reclassification of many crimes to misdemeanors through Proposition 47 in 2014.

Citation: Department of Corrections and Rehabilitation. January 2013. "County and Region of Parole: Calendar Year 2012." Page 3. http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/

[Annual/MISC5/MISC5d2012.pdf](#). Accessed September 1, 2016. Also, Chief Probation Officers of California. California Realignment Dashboard. <http://www.cpoc.org/assets/Realignment/dashboard.swf>. Accessed September 6, 2016.

61 Benjamin Appelbaum. February 28, 2015. "Out of Trouble, but Criminal Records Keep Men Out of Work." *The New York Times*. http://www.nytimes.com/2015/03/01/business/out-of-trouble-but-criminal-records-keep-men-out-of-work.html?_r=1. Accessed September 1, 2016.

62 U.S. Department of Justice. April 2014. "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010." <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>. Accessed September 6, 2016.

63 Christy Visher, Sara Debus and Jennifer Yahner. October 2008. "Employment after Prison: A Longitudinal Study of Releasees in Three States." Urban Institute Justice Policy Center. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411778-Employment-after-Prison-A-Longitudinal-Study-of-Releasees-in-Three-States.PDF>. Accessed September 6, 2016.

64 The Council of State Governments Justice Center. September 2013. "Integrated Reentry and Employment Strategies: Reducing Recidivism and Promoting Job Readiness." <https://www.bja.gov/Publications/CSG-Reentry-and-Employment.pdf>. Accessed February 24, 2016.

65 The Council of State Governments Justice Center. September 2013. "Integrated Reentry and Employment Strategies: Reducing Recidivism and Promoting Job Readiness." <https://www.bja.gov/Publications/CSG-Reentry-and-Employment.pdf>. Accessed February 24, 2016.

- 66 Michelle Natividad Rodriguez and Beth Avery. September 1, 2016. “Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies.” National Employment Law Project. <http://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide/>. Accessed September 2, 2016.
- 67 Bourree Lam. May 2, 2016. “Obama’s Proposal to ‘Ban the Box’ for Government Jobs.” *The Atlantic*. <http://www.theatlantic.com/business/archive/2016/05/obama-memorandum-opm/480909/>. Accessed September 2, 2016. Also, The White House. “Take the Fair Chance Pledge.” <https://www.whitehouse.gov/issues/criminal-justice/fair-chance-pledge>. Accessed September 2, 2016.
- 68 CT Turney, Senior Staff Attorney, A New Way of Life Reentry Project. March 30, 2016. Written testimony to the Commission.
- 69 CT Turney, Senior Staff Attorney, A New Way of Life Reentry Project. March 30, 2016. Written testimony to the Commission.
- 70 CT Turney, Senior Staff Attorney, A New Way of Life Reentry Project. March 30, 2016. Written testimony to the Commission.
- 71 California Department of Insurance. Notice – Filing Requirement for Written Consent Pursuant to U.S.C. §1033. <http://www.insurance.ca.gov/0200-industry/0200-prod-licensing/0100-applicant-info/0600-1033-application/>. Accessed September 21, 2016.
- 72 CT Turney, Senior Staff Attorney, A New Way of Life Reentry Project. March 30, 2016. Written testimony to the Commission.
- 73 CT Turney, Senior Staff Attorney, A New Way of Life Reentry Project. March 30, 2016. Written testimony to the Commission.
- 74 CT Turney, Senior Staff Attorney, A New Way of Life Reentry Project. March 30, 2016. Written testimony to the Commission.
- 75 California Education Code. Section 44346. http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=44346.
- 76 CT Turney, Senior Staff Attorney, A New Way of Life Reentry Project. March 30, 2016. Written testimony to the Commission.
- 77 Awet Kidane, Director, Department of Consumer Affairs. June 23, 2016. Little Hoover Commission Roundtable on Occupational Licensing.
- 78 Awet Kidane, Director, Department of Consumer Affairs. June 23, 2016. Little Hoover Commission Roundtable on Occupational Licensing.
- 79 Office of the Attorney General. “Fingerprint Background Checks.” <https://oag.ca.gov/fingerprints>. Accessed May 24, 2016. Also, California Department of Justice. August 2012. “Applicant Fingerprint Processing Fees.” <https://oag.ca.gov/sites/all/files/agweb/pdfs/fingerprints/forms/fees.pdf?>. Accessed May 24, 2016.
- 80 Endria Richardson, Staff Attorney, Legal Services for Prisoners with Children. May 23, 2016. Phone call with Commission staff.
- 81 Endria Richardson, Staff Attorney, Legal Services for Prisoners with Children. May 23, 2016. Phone call with Commission staff.
- 82 CT Turney, Senior Staff Attorney, A New Way of Life Reentry Project. March 30, 2016. Written testimony to the Commission.
- 83 See Endnote 82.
- 84 See Endnote 82.
- 85 See Endnote 82.
- 86 Department of Defense. “Removing Licensure Impediments for Transitioning Spouses.” http://www.usa4militaryfamilies.dod.mil/MOS/?p=USA4:ISSUE:0:::P2_ISSUE:7. Accessed March 8, 2016.
- 87 Department of Defense. “Removing Licensure Impediments for Transitioning Spouses.” http://www.usa4militaryfamilies.dod.mil/MOS/?p=USA4:ISSUE:0:::P2_ISSUE:7. Accessed March 8, 2016. Also, Laurie Crehan, Regional State Liaison, Southwest, Office of the Deputy Assistant Secretary of Defense, Military Community and Family Policy. March 30, 2016. Written testimony to the Commission.
- 88 Laurie Crehan, Regional State Liaison, Southwest, Office of the Deputy Assistant Secretary of Defense, Military Community and Family Policy. March 30, 2016. Testimony to the Commission.
- 89 Laurie Crehan, Regional State Liaison, Southwest, Office of the Deputy Assistant Secretary of Defense, Military Community and Family Policy. February 12, 2016. Phone call with Commission staff.
- 90 United States Government Accountability Office. September 2014. “Veterans Affairs: Better Understanding Needed to Enhance Services to Veterans Adjusting to Civilian Life.” <http://www.gao.gov/assets/670/665725.pdf>. Accessed August 5, 2016.
- 91 Lisa Lutz, President, Solid LLC. May 4, 2015. Facilitating State Licensing of Service Members and Veterans. Presentation to National Attorneys General Training and Research Institute.
- 92 Rebecca E. Blanton, Senior Policy Analyst, California Research Bureau. March 20, 2013. “Overview of Veterans in California.” Testimony before the Joint Hearing of the Assembly Committee on Veteran Affairs and the Assembly Committee on Housing and Community Development. <https://www.library.ca.gov/crb/13/13-020.pdf>. Accessed July 27, 2016.

- 93 U.S. Bureau of Labor Statistics. March 22, 2016. "Economic News Release: Employment Situation of Veterans Summary – 2015." <http://www.bls.gov/news.release/vet.nr0.htm>. Accessed July 26, 2016.
- 94 U.S. Bureau of Labor Statistics. March 22, 2016. "Economic News Release: Employment Situation of Veterans Summary – 2015." <http://www.bls.gov/news.release/vet.nr0.htm>. Accessed July 26, 2016.
- 95 Laurie Crehan, Regional State Liaison, Southwest, Office of the Deputy Assistant Secretary of Defense, Military Community and Family Policy. February 12, 2016. Phone call with Commission staff.
- 96 Laurie Crehan, Regional State Liaison, Southwest, Office of the Deputy Assistant Secretary of Defense, Military Community and Family Policy. March 30, 2016. Written testimony to the Commission.
- 97 Michael Behm, Co-Chief Executive Officer & Principal, Stateside Associates. September 2014. "Initiatives to Assist Transitioning Service Members and Veterans." Presentation to Council on Licensure, Enforcement & Regulation Pre-Conference Workshop.
- 98 Erica Trejo, Director, Employment Programs and Training Services, Swords to Plowshares. March 1, 2016. Phone call with Commission staff.
- 99 Michael Hiltzik. February 20, 2015. "A Loophole in Immigration Law is Costing Thousands of American Jobs." *Los Angeles Times*. <http://www.latimes.com/business/hiltzik/la-fi-hiltzik-20150222-column.html>. Accessed July 27, 2016.
- 100 Barry R. Chiswick. July 2011. "Immigration: High Skilled vs. Low Skilled Labor?" Institute for the Study of Labor IZA Policy Paper No. 28. <http://ftp.iza.org/pp28.pdf>. Accessed March 4, 2016. Page 2.
- 101 Madeleine Sumption. July 2013. "Tackling Brain Waste: Strategies to Improve the Recognition of Immigrants' Foreign Qualifications." Migration Policy Institute. <http://www.migrationpolicy.org/sites/default/files/publications/Sumption-Credentialing-FINAL.pdf>. Accessed March 4, 2016.
- 102 José Ramón Fernández-Peña, Associate Professor, Health Education, San Francisco State University; Policy Chair, IMPRINT; Director, Welcome Back Initiative. March 30, 2016. Testimony to the Commission.
- 103 Upwardly Global. 2011. "California Physician Professional Licensing Guide." <https://www.upwardlyglobal.org/skilled-immigrant-job-seekers/american-licensed-professions/california/physician/california-physician-professional-licensing-guide>. Accessed March 4, 2016.
- 104 José Ramón Fernández-Peña, Associate Professor, Health Education, San Francisco State University; Policy Chair, IMPRINT; Director, Welcome Back Initiative. March 30, 2016. Written Testimony to the Commission.
- 105 José Ramón Fernández-Peña, Associate Professor, Health Education, San Francisco State University; Policy Chair, IMPRINT; Director, Welcome Back Initiative. March 9, 2016. Phone call with Commission staff.
- 106 Upwardly Global. "California Dentist Professional Licensing Guide." <https://www.upwardlyglobal.org/skilled-immigrant-job-seekers/american-licensed-professions/california/dentist/california-dentist-professional-licensing-guide>. Accessed March 10, 2016.
- 107 José Ramón Fernández-Peña, Associate Professor, Health Education, San Francisco State University. March 30, 2016. Written Testimony to the Commission. Also, Upwardly Global. "California Dentist Professional Licensing Guide." <https://www.upwardlyglobal.org/skilled-immigrant-job-seekers/american-licensed-professions/california/dentist/california-dentist-professional-licensing-guide>. Accessed March 10, 2016.
- 108 Hans Johnson and Ria Sengupta. April 2009. "Closing the Gap: Meeting California's Need for College Graduates." Public Policy Institute of California. http://www.ppic.org/content/pubs/report/R_409HJR.pdf. Accessed September 21, 2016. Also, Little Hoover Commission. October 2013. *A New Plan for a New Economy: Reimagining Higher Education*.
- 109 Robert Graham Center. "California: Projecting Primary Care Physician Workforce." <http://www.graham-center.org/content/dam/rgc/documents/maps-data-tools/state-collections/workforce-projections/California.pdf>. Accessed September 21, 2016.
- 110 Stephen P. Juraschek, Xiaoming Zhang, Vinoth K. Ranganathan, and Vernon Lin. January 1, 2012. "United States Registered Nurse Workforce Report Card and Shortage Forecast." *Public Health Resources*. Paper 149. <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1148&context=publichealthresources>. Accessed September 21, 2016.
- 111 Linda Darling-Hammond, Roberta Furger, Patrick M. Shields, and Leib Sutcher. 2016. "Addressing California's Emerging Teacher Shortage: An Analysis of Sources and Solutions." www.learningpolicyinstitute.org/address-ca-teacher-shortage. Accessed March 4, 2016.
- 112 Linda Darling-Hammond, Roberta Furger, Patrick M. Shields, and Leib Sutcher. 2016. "Addressing California's Emerging Teacher Shortage: An Analysis of Sources and Solutions." www.learningpolicyinstitute.org/address-ca-teacher-shortage. Accessed March 4, 2016.

- 113 Barry R. Chiswick. July 2011. "Immigration: High Skilled vs. Low Skilled Labor?" Institute for the Study of Labor IZA Policy Paper No. 28. <http://ftp.iza.org/pp28.pdf>. Accessed March 4, 2016. Page 2.
- 114 José Ramón Fernández-Peña, Associate Professor, Health Education, San Francisco State University. March 30, 2016. Written Testimony to the Commission.
- 115 José Ramón Fernández-Peña, Associate Professor, Health Education, San Francisco State University. March 30, 2016. Written Testimony to the Commission.
- 116 José Ramón Fernández-Peña, Associate Professor, Health Education, San Francisco State University. March 30, 2016. Written Testimony to the Commission.
- 117 Madeleine Sumption. July 2013. "Tackling Brain Waste: Strategies to Improve the Recognition of Immigrants' Foreign Qualifications." Migration Policy Institute. <http://www.migrationpolicy.org/sites/default/files/publications/Sumption-Credentialing-FINAL.pdf>. Accessed March 4, 2016. Page 7.
- 118 José Ramón Fernández-Peña, Associate Professor, Health Education, San Francisco State University. March 30, 2016. Written Testimony to the Commission.
- 119 IMPRINT. Skilled Immigrants 101. IMPRINT 101 Issue Brief. <http://www.imprintproject.org/images/SkilledImmigrants101.pdf>. Accessed March 29, 2016.
- 120 Joshua Speaks, Legislative Representative, California Commission on Teacher Credentialing. June 23, 2016. Little Hoover Commission Roundtable on Occupational Licensing.
- 121 SB 466 (2015, Hill). http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB466.
- 122 SB 466 (2015, Hill).
- 123 Interagency Working Group on Earn and Learn Job Training Strategies and Apprenticeship in California. December 2012. "Apprenticeship as a Critical Component of an "Earn and Learn" Job Training Strategy in California." <http://www.dir.ca.gov/DAS/reports/WhitePaperApprenticeship.pdf>. Accessed July 27, 2016. Page 10.
- 124 Diane Ravnik, Chief, Division of Apprenticeship Standards, Department of Industrial Relations. July 25, 2016. Sacramento, CA. Meeting with Commission staff.
- 125 California Prison Industry Authority. "Career Technical Education." <http://pia.ca.gov/OffenderDevelopment/CTE.aspx>. Accessed July 28, 2016.
- 126 Division of Apprenticeship Standards. "Overview of DAS." http://www.dir.ca.gov/das/DAS_overview.html. Accessed July 27, 2016.
- 127 Division of Apprenticeship Standards. "Apprentices on Public Work Projects Summary of Requirements." <http://www.dir.ca.gov/das/DASApprenticesonPublicWorksSummaryOfRequirements.htm>. Accessed July 27, 2016.
- 128 Diane Ravnik, Chief, Division of Apprenticeship Standards, Department of Industrial Relations. July 25, 2016. Sacramento, CA. Meeting with Commission staff.
- 129 Hellan Roth Dowden, Principal, HR Dowden & Associates. July 25, 2016. Sacramento, CA. Meeting with Commission staff.
- 130 See Endnote 129.
- 131 Division of Apprenticeship Standards. "Overview of DAS." http://www.dir.ca.gov/das/DAS_overview.html. Accessed July 27, 2016.
- 132 Division of Apprenticeship Standards. "Overview of DAS." http://www.dir.ca.gov/das/DAS_overview.html. Accessed July 27, 2016.
- 133 Diane Ravnik, Chief, Division of Apprenticeship Standards, Department of Industrial Relations. July 25, 2016. Sacramento, CA. Meeting with Commission staff.
- 134 Little Hoover Commission. April 2016. "Time and Again: Overtime in State Facilities." <http://www.lhc.ca.gov/studies/231/Report231.pdf>.

Little Hoover Commission Members

CHAIRMAN PEDRO NAVA (*D-Santa Barbara*) Appointed to the Commission by former Speaker of the Assembly John Pérez in April 2013. Government relations consultant. Former state Assemblymember from 2004 to 2010. Former civil litigator, deputy district attorney and member of the state Coastal Commission. Elected chair of the Commission in March 2014.

VICE CHAIRMAN JACK FLANIGAN (*R-Granite Bay*) Appointed to the Commission by Governor Edmund G. Brown Jr. in April 2012. A member of the Flanigan Law Firm. Co-founded California Strategies, a public affairs consulting firm, in 1997.

SCOTT BARNETT (*R-San Diego*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in February 2016. Founder of Scott Barnett LLC, a public advocacy company, whose clients include local non-profits, public charter schools, organized labor and local businesses. Former member of Del Mar City Council and San Diego Unified School District Board of Trustees.

DAVID BEIER (*D-San Francisco*) Appointed to the Commission by Governor Edmund G. Brown Jr. in June 2014. Managing director of Bay City Capital. Former senior officer of Genentech and Amgen. Former counsel to the U.S. House of Representatives Committee on the Judiciary. Serves on the board of directors for the Constitution Project.

SENATOR ANTHONY CANNELLA (*R-Ceres*) Appointed to the Commission by the Senate Rules Committee in January 2014. Elected in November 2010 and re-elected in 2014 to represent the 12th Senate District. Represents Merced and San Benito counties and a portion of Fresno, Madera, Monterey and Stanislaus counties.

ASSEMBLYMEMBER CHAD MAYES (*R-Yucca Valley*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in September 2015. Elected in November 2014 to represent the 42nd Assembly District. Represents Beaumont, Hemet, La Quinta, Palm Desert, Palm Springs, San Jacinto, Twentynine Palms, Yucaipa, Yucca Valley and surrounding areas.

DON PERATA (*D-Orinda*) Appointed to the Commission in February 2014 and reappointed in January 2015 by the Senate Rules Committee. Political consultant. Former president pro tempore of the state Senate, from 2004 to 2008. Former Assemblymember, Alameda County supervisor and high school teacher.

ASSEMBLYMEMBER SEBASTIAN RIDLEY-THOMAS (*D-Los Angeles*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in January 2015. Elected in December 2013 and re-elected in 2014 to represent the 54th Assembly District. Represents Century City, Culver City, Westwood, Mar Vista, Palms, Baldwin Hills, Windsor Hills, Ladera Heights, View Park, Crenshaw, Leimert Park, Mid City, and West Los Angeles.

SENATOR RICHARD ROTH (*D-Riverside*) Appointed to the Commission by the Senate Rules Committee in February 2013. Elected in November 2012 to represent the 31st Senate District. Represents Corona, Coronita, Eastvale, El Cerrito, Highgrove, Home Gardens, Jurupa Valley, March Air Reserve Base, Mead Valley, Moreno Valley, Norco, Perris and Riverside.

JONATHAN SHAPIRO (*D-Beverly Hills*) Appointed to the Commission in April 2010 and reappointed in January 2014 by the Senate Rules Committee. Writer and producer for FX, HBO and Warner Brothers. Of counsel to Kirkland & Ellis. Former chief of staff to Lt. Governor Cruz Bustamante, counsel for the law firm of O'Melveny & Myers, federal prosecutor for the U.S. Department of Justice Criminal Division in Washington, D.C., and the Central District of California.

JANNA SIDLEY (*D-Los Angeles*) Appointed to the Little Hoover Commission by Governor Edmund Brown Jr. in April 2016. General counsel at the Port of Los Angeles since 2013. Former deputy city attorney at the Los Angeles City Attorney's Office from 2003 to 2013.

HELEN TORRES (*NPP-San Bernardino*) Appointed to the Little Hoover Commission by Governor Edmund Brown Jr. in April 2016. Executive director of Hispanas Organized for Political Equality (HOPE), a women's leadership and advocacy organization.

SEAN VARNER (*R-Riverside*) Appointed to the Little Hoover Commission by Governor Edmund Brown Jr. in April 2016. Managing partner at Varner & Brandt LLP where he practices as a transactional attorney focusing on mergers and acquisitions, finance, real estate and general counsel work.

“Democracy itself is a process of change, and satisfaction and complacency are enemies of good government.”

*Governor Edmund G. “Pat” Brown,
addressing the inaugural meeting of the Little Hoover Commission,
April 24, 1962, Sacramento, California*

BPELSG Licensing System Project Timeline

April 2016

- Contract executed to conduct a business process improvement study.

May 2016

- Kick-off meetings held with contractor (VIP) and staff to present project scope.

June 2016

- Began identifying business processes directly associated with licensing, regulation, and enforcement.
- Identified forty (40) business processes, agreed to complete thirty (30) under current contract. (Processes listed below).
- Began As-Is business process workshops and job shadowing.

July 2016

- Continued As-Is business process workshops and job shadowing.

August 2016

- Completed As-Is business process workshops and job shadowing.
- Conducted all staff meetings to introduce To-Be workshops and requirements gathering.
- Project status report delivered at Board Meeting at HQ2.
- Developed and surveyed BPELSG stakeholders regarding Board project goals.

September 2016

- Began To-Be workshops and stakeholder requirements gathering.

October 2016

- Completed To-Be workshops
- Continued stakeholder requirements gathering.

November 2016

- Completed stakeholder requirements gathering.
- Began developing Use Case workshops.

December 2016

- Completed Use Case workshops.
- Updated requirements
- Completed all deliverables under executed contract.

January 2017

- Advertising RFO for ten (10) processes and requirements to complete all business processes. (Processes listed below*).

- | | | |
|----------------------------|----------------------------------|---------------------------------------|
| ➤ Initial Application | ➤ License Verification | ➤ Probation Monitoring |
| ➤ Refile Application | ➤ Duplicate Certificate | ➤ Reporting Requirement Monitoring |
| ➤ Exam Scheduling | ➤ Retired Status | ➤ Fingerprint Results |
| ➤ State Exam Results | ➤ Subpoena Tracking | ➤ Non-Complaint Inquiries/Corr. |
| ➤ National Exam Results | ➤ Complaint Intake | ➤ Formal Discipline |
| ➤ Occupational Analysis | ➤ Complaint Investigation | ➤ Statement of Issues |
| ➤ Change of Address | ➤ Cite & Fine | ➤ Cost Recovery |
| ➤ Change of Name | ➤ Organization Records | ➤ Refunds |
| ➤ License Renewal | ➤ Business Structure Change (OR) | ➤ Geology Initial Application Process |
| ➤ Certification of License | ➤ NODD Forms | ➤ EIT/LSIT Application |
| ➤ Comity Applications* | ➤ Exam Result Verification* | ➤ Renewal Assessment* |
| ➤ Geology Exam Scheduling* | ➤ Formal Citation Appeals* | ➤ Expert Contracts* |
| ➤ Geology Re-Exam* | ➤ Senior Registrar* | ➤ License Lookup* |
| ➤ License Exception* | | |



**California & Nevada Civil Engineers and
Land Surveyors Association, Inc.**

December 1, 2016

Sent Via Email and U.S. Mail

Richard B. Moore
Executive Officer
California Board for Professional Engineers, Land Surveyors and Geologists
2535 Capitol Oaks Drive, Suite 300
Sacramento, California 95833-2944
Tel: (916) 263-2222

Re: Surveyors' Coalition - Questions for the California Board for Professional Engineers, Land Surveyors and Geologists

Dear Mr. Moore:

On behalf of the American Council of Engineering Companies, California (ACEC California), the California & Nevada Civil Engineers and Land Surveyors Association, Inc (CELSA) and the California Land Surveyors Association (CLSA), we want to thank you for your dedication to our profession.

As you know, there has been great dialogue between our three organizations about the professionalism and integrity of the land surveying profession, with a big step being taken in 2016 with the introduction of Senate Bill 1099, authored by Anthony Cannella (R- Ceres).

Due to legislative deadlines, agreement was not reached by all land surveying groups in regard to the language of the bill, and as the conversation continued, it became evident that moving forward on legislation could not be done without also addressing two other vital components: education and enforcement.

As statewide associations, representing the vast majority of the land surveyors in California, we have formed a coalition made up of professional land surveyors from each organization. We are committed to fruitful dialogue and a collaborative approach to tackling head on several issues that we believe are hurting the land surveying profession, thus putting the safety of the public at risk.

This coalition, representing all three associations but speaking as one voice, recognizes the central role of California's Board of Professional Engineers, Land Surveyors and Geologists (BPELSG), and as we examine and seek to better define the practice of professional land surveying, a key component is working collaboratively and inclusively.

In shaping the direction and determining the goals of our coalition, we want to collect information from many sources, which certainly includes our licensing board, and to that end have developed questions that will help us better understand BPELSG's role in licensing, enforcement, education and possible legislation if warranted.

Technical Expert Consultants

We understand that BPELSG's Enforcement Unit maintains a pool of technical expert consultants who review enforcement complaint investigation cases for compliance with the laws and regulations and the standards of care and practice. We recognize that the expert is only required to opine as to whether or not the subject of the complaint has demonstrated negligence, incompetence, or both [reference CLSA article?]. We would like however, to better understand how these experts are chosen and how their level of expertise is determined.

1. Technical Expert Consultants must be licensed in good standing for a minimum of five years in California. Are there additional professional qualifications considered by BPELSG before accepting an individual as an expert?
2. How does BPELSG determine that the individual seeking to become a Technical Expert Consultant is in fact, an "expert" in his or her area (Land Surveyors and Civil Engineers, Electrical Engineers and Mechanical Engineers, Professional Geologists)? What is the selection process?
3. Is there criteria that would disqualify a person as a Technical Expert Consultant? If so, what is it?
4. What type of education/training (if any) is provided for the individual accepted as a Technical Expert Consultant?
5. Is there a third-party review of the work product (written report and opinion) completed by the Technical Expert Consultant? Who has the final approval of the reports generated by the experts?
6. Are Technical Expert Consultants limited to a period of time to work with BPELSG in that capacity?

Enforcement

The BPELSG has the authority to investigate complaints of violations of the PLSA. In addition to violations against licensees, the Board also has the authority to investigate allegations of unlicensed practice against unlicensed individuals.

This coalition believes there is a need to identify and curtail unlicensed land surveying practices and would like to work alongside BPELSG in an effort to establish a more efficient and effective complaint process.

1. What authority does BPELSG have to enforce unlicensed land surveying practices?
2. What efforts have been explored or pursued to proactively strengthen the BPELSG's ability to halt unlicensed land surveying practices?
3. It is our understanding that surveyors generate a higher percentage of consumer complaints than the other professionals regulated by the Board. Is this accurate and what can be done about it?
4. Does the Board have sufficient staff to investigate and process complaints, and if not, are there actions that our organizations can take to help with this issue?

Unmanned Aerial Vehicles

The legitimate use of unmanned aerial vehicles (UAVs) by licensed land surveyors is accelerating. With the expanded use of this technology, we believe that more and more unlicensed individuals are using this technology to promote and provide illegal land surveying services.

1. Does BPELSG have the authority to regulate unlicensed UAV land surveying?
2. If so, what protections are in place for the general public to ensure proper licensing of individuals using UAVs to perform surveying services?
3. If not, what proactive steps are being considered to ensure proper licensing of individuals using UAVs to perform surveying services?

Thank you in advance for responding to these questions. If possible, please provide your written responses on or before January 9th, 2017.

Sincerely,



Jeff Walker, PE

President

ACEC California

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IX. Board and Technical Advisory Committees Operating Procedures (Possible Action)

BOARD AND TECHNICAL ADVISORY COMMITTEES OPERATING PROCEDURES

Staff Report from the December 2016 Board Meeting

This item has been included on the agenda for two reasons: 1) at its August 2016 meeting, the Board directed staff to prepare language to add to the Board Operating Procedures regarding recognition of departing Board and Committee members; and 2) it has been 20 years since the Board and Technical Advisory Committees Operating Procedures have been reviewed and revised.

Staff has performed an initial review and has made proposed revisions to both the Board Operating Procedures and the Technical Advisory Committees Operating Procedures. Many of the suggested changes are based on changes to the laws as well as changes to the policies and procedures of the Board over time. Some of the changes are simply to rearrange the items in a more logical sequence. Staff comments are included to help explain some of the changes.

At this time, staff is seeking input from the Board members and the Board's Legal Counsel for any further revisions to be made before presenting the final draft for approval at the next Board meeting. [It should be noted that formatting, such as spacing and pagination, along with the table of contents, will need to be done once all revisions have been made.]

Updates for the February 2017 Board Meeting

At the December meeting, the Board briefly discussed the Operating Procedures, and Board President Coby King requested that Board Members provide any comments to staff [Nancy Eissler] by January 15 so that the comments could be included in the report for the February meeting.

The discussion at the December meeting centered on two issues.

1. In both the Board and TAC Operating Procedures, there is a list of three specific items under the heading "Role of Technical Advisory Committees." It was questioned why there were only three items. These three items are taken verbatim from the statutes (Business and Professions Code sections 6726, 7826, and 8715) that authorize the Board to create TACs. As such, it is recommended that they not be altered.
2. In the Board Operating Procedures, the section on Standing Committees makes it sound like the Board President must create all four Standing Committees. This should be reworded or wording should be added to make it clear that the Board President may create whichever Standing Committees he or she feels are necessary or may create none at all.

Comments were received from Board Members Steve Wilson and Mohammad Qureshi and from the Board's Legal Counsel, Michael Santiago.

Comments from Steve Wilson:

Board Procedures:

Item 1.5 f): These items may present better if arranged in the approximate order of the agenda?

Item 2.0.1: Recommend option that the majority of the currently appointed members constitute a Quorum. This would account for times when there could be multiple vacancies.

TAC Procedures:

Item C: The last sentence is incomplete.

Item E: The two-term limit should be a recommendation.

Item L: Should the TAC be scheduling their own meetings, and recommending items for future discussion? These appear to be the functions of the Board.

Comments from Mohammad Qureshi:

I made my comments in the electronic documents for the most part *. There are two that are more general that I am including here in the email.

1) I notice many of the more powerful features such as automatic outline numbering and using header styles to automatically generate a table of contents are not being used. In fact, it looks more like someone used Word as typewriter. Hopefully it was just that we scanned a document to create the Word file and all the clean up will be done later.

2) I would suggest that items for the TAC OP not be duplicated in the Board OP. I would recommend one place. In fact, the TAC OP are so minimal, I would not have an issue with just including them in the TAC section of the Board OP.

* Included are the Operating Procedures (OP) with Dr. Q's notes/comments. In the Board OP, his comments are listed with the initials "QM," and his changes are shown in blue. In the TAC OP, his comments are listed with the initials "DRQ," and his changes are shown in blue. The changes shown in red and the comments with the initials "NE" are the original changes/comments from Nancy Eissler.

Comments from Michael Santiago:

The Board's Legal Counsel provided handwritten comments on certain pages of the Board Operating Procedures. Those specific pages are included.

Dr. Q's Comments and Suggested Revisions



Board for Professional Engineers, Land Surveyors, and Geologists

~~BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS~~

OPERATING PROCEDURES

Adopted (INSERT DATE OF ADOPTION)

TABLE OF CONTENTS

**TO BE CREATED ONCE PROCEDURES ARE FINALIZED
AND DOCUMENT IS FORMATTED**

ARTICLE I: PARLIAMENTARY PROCEDURE

1.0 RULE PRIORITY

1.0.1 ~~All state laws and their associated regulations (e.g., the Bagley-Keene Open Meeting Act (Government Code section 11120, et seq.), the Professional Engineers Act (Business and Professions Code section 6700, et seq.)) govern the actions and procedures of the Board and its Committees for all meetings and take precedence over the Board Operating Procedures in case of any conflict.~~

1.0.2 The Board Operating Procedures will govern the actions to be taken by the Board and ~~the its~~ Committees. If a situation is not covered by the Board Operating Procedures, Robert's Rules of Order ~~as set forth in the Bantam Books paperback edition~~ will govern the actions to be taken by the Board and ~~the its~~ Committees.

~~1.0.2 All votes for an action to be taken at board meetings shall be carried by a majority vote of no less than five members as set forth in Section 6716 of the Business and Professions Code.~~

Comment [NE1]: This law was amended many years ago. The vote is now a simple majority of the members present. Additionally, voting is addressed in a separate section.

1.1 SUSPENSION OF AN OPERATING PROCEDURE

1.1.1 ~~Any operating procedure of the Board may be suspended temporarily by a majority of the members present, provided that such temporary suspension shall apply only to the matter under immediate consideration, and in no case shall it extend beyond adjournment.~~

1.2 AMENDMENT TO THE BOARD OPERATING PROCEDURES

1.2.1 ~~The Board Operating Procedures may be amended at a scheduled meeting of the Board by a majority of the members present, provided that the proposed amendment has been placed on the agenda.~~

Comment [NE2]: These two were moved from later on in the document to be in a more logical order.

1.34 TIME AND PLACE OF **BOARD** MEETINGS

1.34.1 Board meetings shall occur at times and places determined by the Board, ~~and As required by Business and Professions Code section 101.7,~~ the Board shall hold at least ~~two three~~ regular meetings each calendar year; ~~at least one meeting shall be in northern California and at least one shall be in southern California.~~

1.34.2 Any meeting or session may be recessed or adjourned for cause, in accordance with the provisions of the Bagley-Keene Open Meeting Act, to any time or from time-to-time,

when determined necessary by a majority of the Board or Committee for the expeditious transaction of business.

~~1.1.3 Standing Committee and Special Committee meetings shall be scheduled by the Committee Chairperson with notification and approval of the Board President.~~

Comment [NE3]: Moved to section on committees.

1.42 SELECTION OF BOARD PRESIDENT, VICE PRESIDENT, AND TEMPORARY PRESIDENT, AND COMMITTEE CHAIRPERSONS

Comment [NE4]: Moved to section on committees.

1.42.1 The nomination for and selection of the Board President and Vice President shall be accomplished by the last scheduled meeting of each fiscal year.

1.42.2 The method of selection for the Board President shall be by nomination from the members of the Board. The Board President may appoint a Nominating Committee to recommend to the Board a proposed Board President and Vice President. Members of the Board may suggest names to the Nominating Committee. Nominations from the floor shall also be accepted.

~~1.2.3 The method of selection for the four (4) Standing Committee Chairpersons shall be by appointment by the President from among the members of the Board.~~

Comment [NE5]: Moved to section on committees.

1.4.32-4 The terms for the Board President and Vice President and Chairpersons shall be for a period of one year commencing July 1.

1.4.42-5 During the absence of the Board President or Chairperson, the Vice President or Vice Chairperson shall preside, and, in the event that both the Board President and Vice President or Chairperson and Vice Chairperson are absent, the Board or Committee members present shall select a member as Temporary President or Chairperson.

~~1.2.6 The President may appoint Special Committees and work groups as deemed necessary for the conduct of the Board affairs.~~

Comment [NE6]: Addressed in sections on committees.

~~1.2.7 The ex officio member of a committee shall not serve as committee chairperson of a Standing Committee, shall not count toward a quorum, and does not have a right to vote. An alternate committee member, appointed pursuant to 1.3.2.g., may serve as chairperson of a Standing Committee, may count toward a quorum, and has a right to vote.~~

Comment [NE7]: Moved to section on committees.

1.4.52-8 In the event that the office of the Board President and/or Vice President becomes vacant, the Board members present shall elect from its members to complete the term(s) of office.

~~1.2.9 In the event that the office of a committee Chairperson and/or Vice Chairperson becomes vacant, the President shall select a Board member to complete the term(s) of office.~~

Comment [NE8]: Moved to section on committees.

1.53 ROLE OF BOARD PRESIDENT

1.53.1 The Board President is considered to be an active participant in all Board matters. As such, the Board President may make or second motions and may vote on any motion.

1.53.2 The duties of the Board President are as follows:

a) Presiding over Board meetings as Chairperson and facilitating the process whereby the Board accomplishes its business.

b) Fostering Board cooperation and teamwork including expeditious and frequent communication with all Board members, as allowable under the Bagley-Keene Open Meeting Act.

Comment [NE9]: Legal Counsel should advise on this item.

c) Publicly representing the Board on policies made and actions taken by the Board, and other factors affecting the Board.

d) Appointing the Chairperson and members of the Standing Committees, Special Committees, work groups, and ~~alternates-representatives~~ to NCEES and ASBOG meetings.

e) Approving public agenda notices for Board meetings.

f) Setting the agenda items in the Order of Business for scheduled Board meetings. The Order of Business may include, but is not limited to, the following items:

Roll Call

Public Comment ~~on Open and Closed Agenda Items~~

Closed Session

Open Session to Announce the Results of Closed Session

Action Items

Administrative Report

Enforcement Report

Examinations Report

Legislative Report

Executive Officer's Report

Committee Reports

President's Report/Board Member Activities

Approval of Consent Agenda

Approval of the Minutes of a Previous Meeting

New Business for future consideration

Information Items

Adjournment

g) The Board President is either an ex-officio or an alternate member of all sStanding eCommittees. When a committee does not have a quorum, the Board President may designate himself or /herself as an alternate member of the committee; and/or the Board President may designate a Board member as an alternate. The voting right is extended only to alternates. The Board President shall give notice to the Committee Chairperson informing him or /her which Board member has been designated as an alternate for that Committee meeting prior to the commencement of the Committee's meeting.

h) The Board President shall schedule at least one annual performance appraisal of the Executive Officer at a Board meeting.

1.5.3 The Vice President of the Board assumes the duties of the Board President in the full or temporary absence; or temporary incapacitation of the Board President.

Comment [QM10]: This should probably have its own section of the heading of the section should be modified to say duties of President and Vice President.

~~1.4~~ ~~SUSPENSION OF AN OPERATING PROCEDURE~~

~~1.4.1~~ Any operating procedure of the Board may be suspended temporarily by a majority of the members present (but not less than five), provided that such temporary suspension shall apply only to the matter under immediate consideration, and in no case shall it extend beyond adjournment.

~~1.5~~ ~~AMENDMENT TO OPERATING PROCEDURES~~

~~1.5.1~~ Board operating procedures may be amended at a scheduled meeting of the Board by a majority of the members present (but not less than five), provided that the proposed amendment has been placed on the agenda.

Comment [NE11]: Moved to earlier in the document.

ARTICLE II: MEETINGS OF THE BOARD ~~AND COMMITTEES~~

2.0 QUORUM

2.0.1 ~~Seven-Eight~~ members of the Board shall constitute a quorum. Except as otherwise provided by law, the vote required for any action of the Board is a majority of the members present ~~(but not less than five)~~. No business shall proceed when the number of ~~voting~~ members present is reduced below a quorum with the exception of informational items.

~~2.0.2 A majority of members of the Committee shall constitute a quorum. The vote required for a recommendation of the committee to the Board is a majority of those present. No business shall proceed when the number of voting members is reduced below a quorum with the exception of information items.~~

Comment [NE12]: Moved to section on committees.

2.1 ROLL CALL

2.1.1 A roll call to establish a quorum of members present shall be made at each Board ~~and Committee~~ meeting.

2.2 APPROVAL OF MINUTES

2.2.1 The Executive Officer (or Designee) shall ensure that the Minutes of each scheduled meeting are included in the agenda of the next scheduled meeting. The Minutes of the preceding meeting shall not be read at any Board ~~or Committee~~ meeting unless a member shall request it, but the Board President or Committee chairperson shall inquire whether there are corrections to the Minutes ~~and shall order them approved, without objection, after any corrections ordered have been made.~~ Any member may make recommendations for corrections; however, no corrections shall be made unless approved by a majority vote of the members present.

Comment [QM13]: May be this should be a separate clause somewhere at the beginning of the procedures like in a section of Definitions.

2.3 PRESERVATION OF MINUTES

2.3.1 The Minutes of the Board and the Committees including corrections, shall be kept by the Executive Officer, typewritten and maintained with pages numbered consecutively. ~~All resolutions and actions taken by the Board shall be excerpted from the minutes and placed into a log.~~ The Executive Officer is charged with the custody of all papers, books, documents, and materials of the Board and shall make these available to the public during normal business hours. Closed session minutes will not be made available to the public.

Comment [NE14]: Legal Counsel should advise if this provision is appropriate or necessary.

~~2.3.2 Resolutions established by the board, such as policy resolutions, shall remain in effect until changed or modified by the Board. A record of these resolutions shall be maintained separate and apart from the Board minutes.~~

2.4 RECORDING OF THE MEETINGS

2.4.1 The Executive Officer shall ensure that recordings of Board and Committee meetings are made and retained, as permitted by law, for the required legal retention period.

Comment [NE15]: Legal Counsel should advise if this provision is appropriate or necessary.

| **2.5 BOARD MEETING NOTICE AND AGENDA**

| 2.5.1 The Executive Officer shall prepare and issue a notice and agenda for each scheduled meeting.

| 2.5.2 Matters not contained on the agenda for a scheduled meeting shall not be considered by the Board ~~or Committee~~ at that meeting except as an informational al item.

2.5.3 Matters on the agenda for scheduled meetings which have not been considered and acted upon, or continued to a subsequent meeting, shall be deemed continued to the next scheduled meeting as an agenda item.

2.5.4 The agenda shall specifically designate items thereon that are scheduled for reconsideration.

| 2.5.5 The agenda shall be approved by the Board President. [See 1.5.2.e and 1.5.2.f]

Comment [NE16]: This item is duplicative of items under the "Role of the Board President"; however, it is suggested that it remain in this section as a cross-reference.

2.5.6 Any member of the Board or the Executive Officer shall be authorized to place items on the Board agenda. The Executive Officer shall have the authority to consider requests from a member of the public to place items on the Board ~~or Committee~~ agenda.

| **2.6 PROCEDURES GOVERNING MOTIONS**

| 2.6.1 To make a motion, resolution, or any other call to action by the Board ~~or Committee~~, a member must be recognized by the Board ~~President or Committee Chairperson~~. The member shall then state the motion, resolution or call to action. Any other member may second the motion. If there is no second, the motion, resolution or call for action dies and shall be declared so by the Board ~~President or Committee Chairperson~~. If a second is declared, the matter is open for discussion, ~~or~~ a call for a vote.

| 2.6.2 A motion, resolution, or any other call to action by the Board ~~or Committee~~ open for discussion may be amended any time prior to adoption or rejection by an amendatory motion made by any member. An amendatory motion may be in the form of a substitute motion so that it replaces the original motion and can be adopted with a majority vote or may be phrased as to amend the original motion. If the substitute motion fails to carry, the original motion shall be voted upon. If an amendment to the original motion is separately voted upon and is not adopted, the original motion shall then be voted upon. If the amendment is adopted, the original motion as amended shall then be voted upon.

| 2.6.3 A motion may be withdrawn by the maker at any time before ~~adopted-adoption~~ or rejection with the consent of the second. The second to a motion may be withdrawn by the seconding member at any time before adoption or rejection of the motion, and the

motion shall then be deemed dead for lack of a second unless seconded by another member.

2.6.4 After a motion has been seconded, any member may discuss or comment on the motion. When no member wishes to add further comment, the Board ~~President or Committee Chairperson~~ shall call for a vote. In the event of a prolonged discussion, a motion to end debate shall take precedence over further debate.

2.6.5 A motion to reconsider the vote may be made by any member who voted with the prevailing side. No question can be reconsidered twice unless it was amended after its first consideration. Such a motion may be made at the meeting at which it was acted upon, or at the continued session of the same meeting.

2.7 VOTING

2.7.1 The ~~Board~~ President ~~or Chairperson~~ may vote on any call for a vote.

2.7.2 Members must be present to vote and shall cast only one vote at each call for a vote.

2.7.3 Pursuant to the Bagley-Keene Open Meeting Act, all votes shall be done as roll call votes. Votes cast by voice or show of hands, shall be counted, tallied and announced by the Board or Committee Chairperson. The results shall appear in the minutes, with the total votes on each side of the issue or abstaining and a listing of how each member voted.

Comment [QM17]: Do we need to mention closed session is excluded?

~~2.7.4 Any member may ask for a roll call vote. The Board or Committee Chairperson shall call for votes in favor, opposing or abstaining. The results shall be announced by the Board or Committee Chairperson and shall appear in the minutes, with the names of the members voting on each side of the issue or abstaining.~~

2.8 PUBLIC COMMUNICATION WITH THE BOARD

2.8.1 The PUBLIC COMMENT items on Board ~~and Committee~~ meeting agendas are provided to allow members of the public to speak on any item(s) related to Board business.

2.8.2 During deliberation of an agenda item, public comment may be solicited and shall always be entertained.

2.8.3 The Board ~~President or Committee Chairperson~~ may establish a reasonable time limit for public comment, consistent with the conduct of ~~its~~ business.

2.8.4 The Board ~~President or Committee Chairperson~~ may limit the time available for ~~the~~ public comments on an item before the Board ~~or Committee~~. Insofar as possible, the agenda will identify when public comment will be limited.

2.9 DISRUPTION OF BOARD MEETINGS

2.9.1 In the event that a meeting of the Board ~~or Committee~~ is deliberately interrupted so as to prevent the conducting of business in a timely or orderly manner, the ~~Board President or Chairperson~~ may, unless there is an objection by a majority of ~~voting~~ members present, order the offending person or persons to remove themselves or be removed from the meeting.

2.10 MEMBER ATTENDANCE AT BOARD AND STANDING COMMITTEE MEETINGS

2.10.1 Each Board member will agree to commit to make their best effort to attend three-quarters of the scheduled Board and their assigned Standing Committee meetings. In the event that a member cannot attend a scheduled meeting, he or she will advise either the Board President, or the Committee chairperson, or the Executive Officer with as much advance notice as possible.

2.10.2 If a Board member cannot meet the Board's policy for attendance at meetings within a fiscal year, the member shall advise the appropriate appointing authority.

2.10.3 If a Board member cannot meet the Board's policy for attendance at meetings within a fiscal year, and cannot or will not advise the appointing authority, the Board President shall make a written report, with the approval of two-thirds of the Board, to the appointing authority of the absentee member.

Comment [NE18]: Legal Counsel needs to address whether this entire section (2.10) is appropriate.

ARTICLE III: STANDING COMMITTEES, SPECIAL COMMITTEES, WORK GROUPS, AND TECHNICAL ADVISORY COMMITTEES

3.0 STANDING COMMITTEES

3.0.1 The Board President may appoint Standing Committees as he or she determines necessary for the orderly and timely conduct of the Board's business. The four (4) Standing Committees of the Board are: 1) the Administrative Committee; 2) the Enforcement Committee; 3) the Examinations/Qualifications Committee; and, 4) the Legislative Committee.

Comment [QM19]: If the president adds additional committees do we need to amend this section or should we say the EO will maintain a list on the website.

3.0.2 The Administrative Committee shall consider all matters affecting the administrative operations of the Board and report its recommendations to the Board for appropriate action.

3.0.32 The Enforcement Committee shall consider all matters related to the enforcement of the Board's statutes, regulations, and rules and report its recommendations to the Board for appropriate action.

3.0.43 The Examination/Qualification Committee shall consider all matters related to the development and administration of examinations given under the authority of the Board and related to the qualifications of the applicants seeking licensure as professional engineers, ~~or~~ professional land surveyors, professional geologists, or professional geophysicists and report its recommendations to the Board for appropriate action.

3.0.54 The Legislative Committee shall consider all legislative matters that affect the Board and its operations; and report its recommendations to the Board for appropriate action.

Comment [QM20]: should these be 3.0.1.1 since they are a subset of 3.0.1?

3.0.6 The President shall appoint the Chairs, Vice Chairs, and members of the Standing Committees from among the membership of the Board.

3.0.7 The terms for the Chairpersons and Vice Chairpersons shall be for a period of one year commencing July 1.

3.1 SPECIAL COMMITTEES AND WORK GROUPS

3.1.1 The Board President may appoint Special Committees as he or she determines necessary for the orderly and timely conduct of the Board's business. Special Committees and Ad Hoc Committees are one and the same, and the terms are used interchangeably by this Board.

3.1.2 The President of the Board shall report the appointment of any Special Committee and specify its purpose and objectives at a regularly scheduled Board meeting.

3.1.3 Special Committees appointed by the President shall be deemed temporary in nature and shall cease to exist when the function or mission for which they were created is achieved or abandoned.

3.1.4 The Board shall review all Special Committees annually to determine their effectiveness and rationale for continuance. Following these reviews, the Board shall determine whether to continue or discontinue these committees.

3.1.5 A Board member shall be the Chairperson of Special Committees. ~~Special and Ad Hoc committees are one and the same kind of committee as used by this Board.~~ Special and Ad

Comment [NE21]: There is nothing in the current Operating Procedures that addresses who may serve on a Special Committee. The Board may want to consider adding this (see 3.0.5 and 3.1.6).

3.1.62 A work group is an informal body assembled at the discretion of the Board President to perform designated tasks. Work groups ~~can~~ may be comprised of Board members, Board staff, consumers, professionals, or any combination thereof.

Comment [NE22]: Moved to 3.1.1.

3.2 TECHNICAL ADVISORY COMMITTEES

3.2.1 The Board may establish Technical Advisory Committees (TAC) to advise and assist the Board in accordance with the provisions of Sections 6726 through 6726.4 (engineering), Sections 7826 through 7826.4 (geology and geophysics), and Sections 8715 through 8715.4 (land surveying) of the Business and Professions Code.

3.2.2 The Board may have Technical Advisory Committees in any discipline as needed.

3.2.3 The Technical Advisory Committees shall advise and assist the Board with respect to the following:

a) Application review and verification for any level of registration, licensure, authority, or title.

b) Evaluation and investigation of potential violations of the Acts.

c) Amendment, repeal, adoption, or revision of Board rules, regulations and procedures.

3.2.4 The Board shall establish Technical Advisory Committees only as it determines them necessary for the orderly and timely conduct of the Board's business.

3.2.5 All Technical Advisory Committees shall be advisory, and no Technical Advisory Committee nor individual TAC member shall have the power to bind or represent the Board except when specifically authorized by the Board.

3.2.6 The Board President shall designate two Board members to serve as Board liaisons to the TAC, one of whom shall be the corresponding professional member and one who is a public member. The professional member will be the senior representative and will make reports to the Board and recommendations on matters calling for Board action. The public member will report to the Board in the professional member's absence. All transactions between the TAC and the Board, and the Board and the TAC shall be through a Board liaison member.

~~3.2.2 The Board may have Technical Advisory Committees in any discipline as needed.~~

~~3.2.3 The Technical Advisory Committees shall advise and assist the Board with respect to the following:~~

~~a) Application review and verification for any level of registration, licensure, authority, or title.~~

~~b) Evaluation and investigation of potential violations of the Acts.~~

~~e) Amendment, repeal, adoption, or revision of Board rules, regulations and procedures.~~

~~3.2.4 Procedures for Technical Advisory Committees (TAC) will be in accordance with the document “Organization and Procedure: Technical Advisory Committees”. (Appendix A)~~

~~3.2.5 The “Organization and Procedure: Technical Advisory Committees” and changes thereto will be approved by the Board.~~

~~3.2.6 The TACs shall operate in accordance with the Board Operating Procedures and the most current “Technical Advisory Committees Operating Procedures” as adopted by the Board.~~

3.3 APPOINTMENT, NATURE AND TERM MEETINGS OF COMMITTEES

~~3.3.1 The President shall appoint the Chairs and members of the Standing and Special Committees from among the membership of the Board.~~

~~3.3.2 For the purpose of this rule, Special Committees appointed by the President as prescribed herein shall be deemed temporary in nature and shall cease to exist when the function or mission for which they were created is achieved or abandoned.~~

~~3.3.3 The President of the Board shall report the appointment of any Special committee and specify its purpose and objectives at a regularly scheduled Board meeting.~~

~~3.3.4 The Board shall review all Special Committees annually to determine their effectiveness and rationale for continuance. Following these reviews, the Board shall determine whether to continue or discontinue these committees.~~

Comment [NE23]: Moved to sections on Standing Committees and Special Committees as appropriate.

~~3.3.1 Unless otherwise noted, Standing Committee meetings and Special Committee meetings shall follow the procedures outlined in Article II, except any reference to the Board President and Vice President shall be deemed to be a reference to the Committee Chair and Vice Chair, respectively.~~

~~3.3.2 Standing Committee and Special Committee meetings shall be scheduled by the Committee Chairperson with notification and approval of the Board President.~~

~~3.3.3 During the absence of the Committee Chairperson, the Committee Vice Chairperson shall preside, and, in the event that both the Chairperson and Vice Chairperson are absent, the Committee members present shall select a member as temporary Chairperson.~~

~~3.3.4 A majority of members of the Committee shall constitute a quorum. The vote required for the Committee to make a recommendation on an item to the Board is a majority of~~

~~those present. No business shall proceed when the number of voting members is reduced below a quorum with the exception of information items.~~

~~3.3.5 The ex officio member of a committee shall not serve as committee chairperson of a Standing Committee, shall not count toward a quorum, and does not have a right to vote. An alternate committee member, appointed pursuant to 1.5.2.g., may serve as chairperson of a Standing Committee, may count toward a quorum, and has a right to vote.~~

~~3.3.6 In the event that the office of a Committee Chairperson and/or Vice Chairperson becomes vacant, the President shall select a Board member to complete the term(s) of office.~~

Comment [NE24]: Moved from other sections and made specific to committees.

3.4 DUTIES OF COMMITTEE CHAIRPERSONS

3.4.1 A Committee Chairperson shall be responsible for:

- a) Calling and cancellation of meetings;
- b) Setting the committee agenda;
- c) Presiding over committee meetings;
- d) Presenting the recommendations of the committee to the Board in an appropriate and timely manner;
- e) Facilitating adherence to the purposes and objectives of the committee in its deliberations and actions;
- f) Ensuring that the minutes of all committee meetings are recorded and are accessible.

~~3.5 COMMITTEE NOTICES AND AGENDA~~

~~3.5.1 The schedule of the committee meetings, and changes thereto, shall be approved by the Chairperson.~~

~~3.5.2 Each notice of a committee meeting and its agenda shall be approved by the Chairperson and distributed according to these rules and applicable law.~~

~~3.5.3 Items may be placed on committee agendas by the Board President, Board members, Committee members, or the Board's Executive Officer. The Executive Officer shall have the authority to consider requests from a member of the public to place items on the Committee agenda.~~

Comment [NE25]: This entire section is covered by the reference to Article II in 3.3.1.

ARTICLE IV. OTHER ACTIVITIES OF THE BOARD

4.1 3.6 NCEES AND ASBOG REPRESENTATION

~~4.1.1 3-6.1~~ The Board President shall appoint representatives from the Board membership to attend the NCEES Annual and Western Zone meetings and the ASBOG Annual meetings. ~~The Board's NCEES liaison shall be a registered member.~~

~~4.1.2 3-6.2~~ In appointing representatives, priority shall be given to the Board President, the Vice President, ~~the NCEES liaison,~~ and the Executive Officer ~~will attend the NCEES annual and western zone meetings.~~

~~3-6.3~~ ~~Alternates will be appointed by the Board President.~~

~~3-6.4~~ ~~First alternates to attend NCEES meetings will be the immediate Past President and/or Standing Committee Chairperson(s). The second alternates will be the remaining Board members.~~

~~4.1.3 3-6.5~~ As many members should be appointed by the Board President to represent the Board at NCEES and ASBOG meetings as are authorized by the Governor to attend. ~~Appointments will be made in accordance with Section 3-6.4.~~

~~4.1.4 3-6.6~~ All Board members may apply for membership on any of the ~~NCEES standing committees, task forces, or other work groups as designated by NCEES or ASBOG.~~

~~4.1.5 3-6.7~~ Each Board member shall notify the Board President and the Executive Officer of application and acceptance of membership on NCEES or ASBOG committee(s).

~~4.1.6~~ The Board may recommend/appoint former Board members for NCEES Emeritus Member status by formal motion and vote at any regularly scheduled Board meeting.

4.2 RECOGNITION OF DEPARTING BOARD AND COMMITTEE MEMBERS

~~4.2.1~~ A Board proclamation shall be presented to all Board members who served two full terms, as full terms are defined by statute.

~~4.2.2~~ The proclamation shall be presented at the last Board meeting of the Board member's second full term, prior to the Board member entering his or her grace period.

~~4.2.3~~ Letters of appreciation signed by the Board President, the Board Vice President, and the Executive Officer shall be sent to any Board member who did not serve two full terms upon his or her departure from the Board.

~~4.2.4~~ Letters of appreciation signed by the Board member liaisons and the Executive Officer shall be sent to Technical Advisory Committee members upon the member's departure from the Technical Advisory Committee.

ARTICLE IV: POLICIES FOR THE EXECUTIVE OFFICER

54.0 TRAVEL, AND TIME SHEETS AND COMPENSATION

54.0.1 The Board President shall review and authorize the travel claims of the Executive Officer.

54.0.2 The Board President shall review and authorize the time sheets of the Executive Officer.

~~4.0.3 The Executive Officer may accrue compensated time off only by Board Authority or the discretion of the President.~~

Comment [NE26]: This is questionable and likely not allowed under State Civil Service rules.

Comment [QM27]: Since these are duties of the president, they should be moved to the appropriate section above.

Dr. Q's Comments and Suggested Revisions



**Board for Professional Engineers,
Land Surveyors, and Geologists**

TECHNICAL ADVISORY COMMITTEES
OPERATING PROCEDURES

Adopted (INSERT DATE OF ADOPTION)

TABLE OF CONTENTS

**TO BE CREATED ONCE PROCEDURES ARE FINALIZED
AND DOCUMENT IS FORMATTED**

STATE OF
CALIFORNIA
BOARD FOR PROFESSIONAL ENGINEERS AND LAND
SURVEYORS

ORGANIZATION AND PROCEDURE:-
TECHNICAL ADVISORY COMMITTEES
(TAC)

~~I. GENERAL~~

~~POLICY/ORGANIZATION~~

~~A. Appointing Authority of Technical Advisory Committees~~

The Board may establish Technical Advisory Committees (TACs) to advise and assist the Board in accordance with the provisions of ~~Chapter &~~ (Sections 6726 through 6726.4 engineering), Sections 7826 through 7826.4 (geology and geophysics), and Sections 8715 through 8715.4 (land surveying) of the Business and Professions Code and ~~Articles 2 and 2.3 of Chapter 15 of the B & P Code.~~

The Board may have Technical Advisory Committees in any discipline as needed.

The Board shall establish Technical Advisory Committees only as it determines them necessary for the orderly and timely conduct of the Board's business.

All ~~TACs-Technical Advisory Committees~~ shall be advisory, and no ~~TAC-Technical Advisory Committee nor individual TAC member~~ shall have the power to bind or represent the Board except when specifically authorized by the Board. ~~(See Attachment A for duties.)~~

~~B. Governance of Technical Advisory Committees~~

All state laws and their associated regulations (e.g., the Bagley-Keene Open Meeting Act (Government Code section 11120, et seq.), the Professional Engineers Act (Business and Professions Code section 6700, et seq.)) govern the actions and procedures of the Technical Advisory Committees for all meetings and take precedence over the TAC Operating Procedures and the Board Operating Procedures in case of any conflict.

The TAC Operating Procedures and the Board Operating Procedures will govern the actions to be taken by the TACs. If a situation is not covered by the TAC Operating Procedures or the Board Operating Procedures, Robert's Rules of Order will govern the actions to be taken by the TAC.

Comment [DRQ1]: Why is the numbering system different than the Board OP? Should be same format I think.

Comment [DRQ2]: I would restate this more like an order of precedence. What has first priority, 2nd, and so forth. Perhaps as a numbered list.

The TAC Operating Procedures may be amended only by the Board at a scheduled meeting of the Board by a majority of the members present, provided that the proposed amendment has been placed on the agenda.

C. Role of Technical Advisory Committees

The role of the TAC is to advise and assist the Board with respect to the following:

- 1) Application review and verification for any level of registration, licensure, authority, or title.
- 2) Evaluation and investigation of potential violations of the act.
- 3) Amendment, repeal, adoption, or revision of board rules, regulations, policies, and procedures.

B. Chain of Authority

~~The Board president shall designate two Board members to serve as liaison to the TAC, one of whom shall be the corresponding professional member and one who is a public member. The professional member will be the senior representative and will make reports to the Board and recommendations on matters calling for Board action. The public member will report to the Board in the professional member's absence. All transactions between the TAC and the Board, and the Board and the TAC shall be through the Board liaison member.~~

Comment [NE3]: Moved to new C- Board Liaisons section.

C. Board Liaisons

The Board President shall designate two Board members to serve as Board Liaisons to the TAC, one of whom shall be the corresponding professional member and one who is a public member.

The professional member will be the senior representative and will make reports to the Board and recommendations on matters calling for Board action, including recommendations on appointments of individuals to serve on the TAC. The public member will report to the Board in the professional member's absence.

All transactions between the TAC and the Board, and the Board and the TAC shall be through the Board Liaisons.

The Board Liaisons are not members of the TAC and do not have voting privileges at TAC meetings. The role of the Board Liaisons is to provide guidance to the TAC on the topics assigned to it by the Board and to report to the Board the

Comment [DRQ4]: Sections AB and C seem to repeat elements in the Board OP. Why include them here? I think it should be in just one or the other and not both.

ED. Committee Composition

~~The Board shall solicit applications from interested parties for appointment to the TACs as it deems necessary. may consult with professional organizations and societies regarding the~~

~~nomination and appointment of persons registered in the applicable branch of engineering or licensed as land surveyors. The board professional liaison member may select for nomination to the Board any of those so suggested by the societies and/or others known to the member and who have the requisite competence, experience, and interest to serve in these responsible positions.~~

The TACs shall be limited to five members.

To the extent practical, ~~all appointments to the membership of the TACs shall be made in a manner as to provide for broad representation of the registrants and licensees in each branch of engineering and land surveying the discipline represented by the TAC.~~

All TAC members shall have a current and valid license registration in the discipline represented throughout their tenure on the TAC.

~~Members of the TACs shall be appointed for a two year term, beginning on July 1. The initial TAC appointments should be made so half of the appointees serve one year terms and the remainder serve regular two year terms. Appointments of TAC members shall be limited to two terms and shall serve at the pleasure of the Board. A vacancy in the membership of any TAC shall be filled by the Board.~~

Comment [NE5]: Addressed in new section: E - Terms of Appointment.

E. Terms of Appointment

Members of the TACs shall be appointed for a two-year term, beginning on July 1, and shall serve at the pleasure of the Board.

Appointments of TAC members shall be limited to two terms.

The initial appointments to a newly-created TAC should be made so half of the appointees serve one-year terms and the remainder serve regular two-year terms.

Comment [NE6]: I thought this had been changed to three terms (for a total of six years), but I can't find a record of that. Additionally, the Board does not currently follow this policy and allows members to be appointed for more than two terms.

A vacancy in the membership of any TAC shall be filled by the Board.

DE. Quorum

Three TAC members ~~present~~ shall constitute a quorum for the transaction of TAC business. A quorum shall be present to conduct business.

EG. TAC Meetings

TACs shall meet only when topics have been assigned to them by the Board. TACs shall not meet to discuss topics that have not been assigned by the Board.

The number of TAC meetings during the ~~budget~~ year will be governed by the approved budget and by approval of the Board. The locations of the TAC meetings shall be designated by the ~~e~~Chair of the TAC after coordination with the Board ~~Liaisons~~ and the Executive Officer.

TAC meetings in excess of those approved in the annual workplan may not be called unless approved by the Board President, ~~and the Board Liaisons, and the Executive Officer prior to notice and must be present on the agenda for approval at the Board's next scheduled meeting.~~

~~FH.~~ Voting

TAC eChairpersons may vote on all motions before their committees and may participate in the debate of questions and motion. ~~The executive officer or his/her designee shall serve as ex-officio members, without vote, on all committees.~~ Only TAC members shall vote on matters pending in TAC meetings.

~~GI.~~ Officers

Each TAC shall elect a eChairperson and may designate a ~~v~~Vice-eChairperson or other such person to act in the eChairperson's absence.

~~HJ.~~ Duties and Responsibilities of TAC Chairpersons

Preside at all TAC meetings

Insure compliance with the Bagley-Keene Open Meeting Act ~~including but no limited to the preparation of minutes for both the open and closed portion of for all aspects of TAC meetings, including but not limited to preparing notices and agendas for and minutes of the meetings.~~

May request consultation from the Board ~~Committees~~ or staff when necessary

Prepare TAC reports and recommendations prior to the scheduled Board meetings and deliver these to the Board ~~Liaisons~~ members.

~~See that minutes of the meeting are prepared.~~

Comment [NE7]: Addressed above.

~~HK.~~ Workplan

Each TAC shall submit ~~an a~~ proposed annual workplan to the Board through the Board Liaisons no later than two months prior to the beginning of each fiscal year. The ~~year end~~ work-plan for each TAC should contain the number of meetings required to accomplish the next year's work load.

Issues or topics not in the approved workplan shall be brought by the Board Liaisons to the attention of the Board for discussion and possible assignment to the TAC before such issues or topics may be discussed by the TAC.

~~J.~~ Notice

~~Notice of the TAC meetings is governed by the Open Meeting Act. All meetings are open to the public and any Board member who wishes to attend. However, pursuant to the Open Meeting Act, that portion of any meeting dealing with the review of applications for "qualifying experience", or specific investigations or disciplinary actions is to be held in closed session. Board members may participate in closed sessions but may later have to disqualify themselves from voting at subsequent Board meetings on those matters discussed at the closed session which deal with specific individuals or specific cases. Board members may, however, engage in discussion concerning various categories of offenses not dealing with any one specific case without disqualifying themselves.~~

Comment [NE8]: I do not believe this is necessary since there are other references to the need to comply with the Bagley-Keene Open Meeting Act in other sections.

L. Actions and Recommendations by the TAC

~~The TAC may take action to approve and adopt minutes of prior TAC meetings; to schedule future meetings; and to select items for discussion at future meetings. Any other "action" taken by the TAC must be in the form of a recommendation to be presented to the Board since the TAC has no authority to act on behalf of the Board.~~

M. Presentation of TAC Recommendations to the Board

~~The TAC members shall work with the Board Liaisons and the Executive Officer regarding the presentation of any recommendations from the TAC to the Board.~~

~~Recommendations from the TAC shall be considered by the Board at a regularly scheduled Board meeting with proper notice of such consideration.~~

H. TAC PROCEDURES, TAC REPORTS AND PROGRAM RESPONSIBILITY

A. Procedure

~~Issues not in the approved work plan should be brought to the attention of the Board for discussion and assignment, as appropriate, to the applicable Board committee.~~

Comment [NE9]: Moved to section on Workplan above.

B. TAC Reports

1. Content

~~As TAC report should be as brief as possible. It should give the background necessary to an understanding of any recommendation the TAC is making for decision by the Board. Each recommendation must be in the form of a motion or resolution to be presented by the Board liaison or the designee, and discussed and acted on as a separate motion by the Board.~~

~~The TAC report must reflect the opinions of the majority of its members and should include:~~

- ~~a. A recommendation for Board consideration~~

- b. A statement of the questions, subject, or work assigned to TAC, and any important instructions or priorities given to it by the Board.
- c. A brief explanation of how the TAC carried out its work.
- d. A description of the work that the TAC performed or, in the case of a deliberative or investigative issue, its findings and conclusions.

2. Consideration of TAC reports by Full Board

- a. A TAC report, after being presented to the Board is open for comment, questions, or criticism, but the members of the TAC and their motives may not be attacked.
- b. A TAC report cannot be amended except by the TAC since no one can make the TAC say anything it does not want to say.
- c. A TAC report, after it is presented to the Board may be disposed of in any of the following ways:
 - 1. The report may be received. A report that is received is not binding on the Board but is available for information and may be considered again at any time.
 - 2. A report may be rejected and referred back to the TAC. Frequently, TAC reports may require further study, modifications, or recommendations before Board action is appropriate.
 - 3. Consideration of a TAC report may be postponed to a more convenient time.
 - 4. A report may be adopted in total. This commits the Board to all findings and recommendations that might be included in it, but not to any recommendations submitted separately. A TAC report may be adopted in whole or in part or with reservations or exceptions.

C. Program Responsibility

If monetary resources are necessary after the issue review is completed, the action plan would be submitted to the Board's Administrative Committee for review and recommendation. The submitted plan would not only identify the specific resources necessary, but would also include a discussion of:

~~The program alternatives considered and the cost/benefit of each.~~

~~Identification of the program selected and reasons why the program was selected. If the program selected requires enactment of legislation or adoption of regulations, the report would be submitted to the Board's Legislative Committee for review and recommendation. The comments and recommendations from the Legislative Committee, the TAC and the original committee would then be presented to the full Board for final approval. Should the full Board decide to pursue the issue, the new issue can be prioritized with all other issues and responsibilities assigned to the appropriate Board committee or TAC.~~

~~Once the Board has granted authority to the TAC to begin work on the issue, the TAC would report back to the full Board following each identified work stage of the action plan scheduled.~~

Comment [NE10]: I would recommend deleting this entire portion. This is not the process we follow for presenting items to the Board (and I don't remember it being done this way in the last 25 years). I have added new sections L – Actions and Recommendations by the TAC and M – Presentation of TAC Recommendations to the Board, above,

ATTACHMENT A

ASSIGNMENT OF DUTIES TO TACS

~~The Board may establish one or more technical advisory committees to advise and assist the board with respect to the following:~~

- ~~1) Application review and verification for any level of registration, licensure, authority, or title.~~
- ~~2) Evaluation and investigation of potential violations of the act.~~
- ~~3) Amendment, repeal, adoption, or revision of board rules, regulations, policies, and procedures.~~

Comment [NE11]: Moved to "Authority of Technical Advisory Committees" section.

Michael Santiago's comments

~~1.2.9 In the event that the office of a committee Chairperson and/or Vice Chairperson becomes vacant, the President shall select a Board member to complete the term(s) of office.~~

Comment [NE8]: Moved to section on committees.

1.53 ROLE OF BOARD PRESIDENT

1.53.1 The Board President is considered to be an active participant in all Board matters. As such, the Board President may make or second motions and may vote on any motion.

1.53.2 The duties of the Board President are as follows:

a) Presiding over Board meetings as Chairperson and facilitating the process whereby the Board accomplishes its business.

Remove b) Fostering Board cooperation and teamwork including expeditious and frequent communication with all Board members, as allowable under the Bagley-Keene Open Meeting Act.

Comment [NE9]: Legal Counsel should advise on this item.

c) Publicly representing the Board on policies made and actions taken by the Board, and other factors affecting the Board.

d) Appointing the Chairperson and members of the Standing Committees, Special Committees, work groups, and alternates-representatives to NCEES and ASBOG meetings.

e) Approving public agenda notices for Board meetings.

f) Setting the agenda items in the Order of Business for scheduled Board meetings. The Order of Business may include, but is not limited to, the following items:

- Roll Call
- ~~Public Comment on Open and Closed Agenda Items~~
- Closed Session
- Open Session to Announce the Results of Closed Session
- Action Items
- Administrative Report
- Enforcement Report
- Examinations Report
- Legislative Report
- Executive Officer's Report
- Committee Reports
- President's Report/Board Member Activities
- Approval of Consent Agenda
- Approval of the Minutes of a Previous Meeting
- New Business for future consideration
- Information Items

2.5 **BOARD MEETING NOTICE AND AGENDA**

2.5.1 The Executive Officer shall prepare and issue a notice and agenda for each scheduled meeting.

2.5.2 Matters not contained on the agenda for a scheduled meeting shall not be considered by the Board ~~or Committee~~ at that meeting except as an information item.

*or discussed
to discuss if placement on agenda
is appropriate*

2.5.3 Matters on the agenda for scheduled meetings which have not been considered and acted upon, or continued to a subsequent meeting, shall be deemed continued to the next scheduled meeting as an agenda item.

2.5.4 The agenda shall specifically designate items thereon that are scheduled for reconsideration.

2.5.5 The agenda shall be approved by the Board President. [See 1.5.2.e and 1.5.2.f]

Comment [NE14]: This item is duplicative of items under the "Role of the Board President"; however, it is suggested that it remain in this section as a cross-reference.

2.5.6 Any member of the Board or the Executive Officer shall be authorized to place items on the Board agenda. The Executive Officer shall have the authority to consider requests from a member of the public to place items on the Board ~~or Committee~~ agenda.

2.6 **PROCEDURES GOVERNING MOTIONS**

2.6.1 To make a motion, resolution, or any other call to action by the Board ~~or Committee~~, a member must be recognized by the Board ~~President or Committee Chairperson~~. The member shall then state the motion, resolution or call to action. Any other member may second the motion. If there is no second, the motion, resolution or call for action dies and shall be declared so by the Board ~~President or Committee Chairperson~~. If a second is declared, the matter is open for discussion; or a call for a vote.

2.6.2 A motion, resolution, or any other call to action by the Board ~~or Committee~~ open for discussion may be amended any time prior to adoption or rejection by an amendatory motion made by any member. An amendatory motion may be in the form of a substitute motion so that it replaces the original motion and can be adopted with a majority vote or may be phrased as to amend the original motion. If the substitute motion fails to carry, the original motion shall be voted upon. If an amendment to the original motion is separately voted upon and is not adopted, the original motion shall then be voted upon. If the amendment is adopted, the original motion as amended shall then be voted upon.

2.6.3 A motion may be withdrawn by the maker at any time before ~~adopted-adoption~~ or rejection with the consent of the second. The second to a motion may be withdrawn by the seconding member at any time before adoption or rejection of the motion, and the

2.8.4 The Board ~~President or Committee Chairperson~~ may limit the time available for the public comments on an item before the Board ~~or Committee~~. Insofar as possible, the agenda will identify when public comment will be limited.

2.9 DISRUPTION OF BOARD MEETINGS

2.9.1 In the event that a meeting of the Board ~~or Committee~~ is deliberately interrupted so as to prevent the conducting of business in a timely or orderly manner, the Board President ~~or Chairperson~~ may, unless there is an objection by a majority of voting members present, order the offending person or persons to remove themselves or be removed from the meeting.

2.10 MEMBER ATTENDANCE AT BOARD AND STANDING COMMITTEE MEETINGS

2.10.1 Each Board member will agree to commit to make their best effort to attend three-quarters of the scheduled Board and their assigned Standing Committee meetings. In the event that a member cannot attend a scheduled meeting, he or she will advise either the Board President, or the Committee chairperson, or the Executive Officer with as much advance notice as possible.

2.10.2 If a Board member cannot meet the Board's policy for attendance at meetings within a fiscal year, the member shall advise the appropriate appointing authority.

2.10.3 If a Board member cannot meet the Board's policy for attendance at meetings within a fiscal year, and cannot or will not advise the appointing authority, the Board President shall make a written report, with the approval of two-thirds of the Board, to the appointing authority of the absentee member.

*anyone can contact
appoint auth or
BIB relative*

*Legal - ok
Appropriate - ?*

Comment [NE15]: Legal Counsel needs to address whether this entire section (2.10) is appropriate.

ARTICLE III: STANDING COMMITTEES, SPECIAL COMMITTEES, WORK GROUPS, AND TECHNICAL ADVISORY COMMITTEES

3.0 STANDING COMMITTEES

3.0.1 The Board President may appoint Standing Committees as he or she determines necessary for the orderly and timely conduct of the Board's business. The four (4) Standing Committees of the Board are: 1) the Administrative Committee; 2) the Enforcement Committee; 3) the Examinations/Qualifications Committee; and, 4) the Legislative Committee.

Language should mirror # 2.5.2

if no quorum can't discuss anything!

~~those present. No business shall proceed when the number of voting members is reduced below a quorum with the exception of information items.~~

~~3.3.5 The ex officio member of a committee shall not serve as committee chairperson of a Standing Committee, shall not count toward a quorum, and does not have a right to vote. An alternate committee member, appointed pursuant to 1.5.2.g., may serve as chairperson of a Standing Committee, may count toward a quorum, and has a right to vote.~~

~~3.3.6 In the event that the office of a Committee Chairperson and/or Vice Chairperson becomes vacant, the President shall select a Board member to complete the term(s) of office.~~

Comment [NE19]: Moved from other sections and made specific to committees.

3.4 DUTIES OF COMMITTEE CHAIRPERSONS

- 3.4.1 a) Calling and cancellation of meetings;
- b) Setting the committee agenda;
- c) Presiding over committee meetings;
- d) Presenting the recommendations of the committee to the Board in an appropriate and timely manner;
- e) Facilitating adherence to the purposes and objectives of the committee in its deliberations and actions;
- f) Ensuring that the minutes of all committee meetings are recorded and are accessible.

~~**3.5 COMMITTEE NOTICES AND AGENDA**~~

~~3.5.1 The schedule of the committee meetings, and changes thereto, shall be approved by the Chairperson.~~

~~3.5.2 Each notice of a committee meeting and its agenda shall be approved by the Chairperson and distributed according to these rules and applicable law.~~

~~3.5.3 Items may be placed on committee agendas by the Board President, Board members, Committee members, or the Board's Executive Officer. The Executive Officer shall have the authority to consider requests from a member of the public to place items on the Committee agenda.~~

Comment [NE20]: This entire section is covered by the reference to Article II in 3.3.1.

ARTICLE IV. OTHER ACTIVITIES OF THE BOARD

4.1 3.6 NCEES AND ASBOG REPRESENTATION

~~4.1.1 3.6.1 The Board President shall appoint representatives from the Board membership to attend the NCEES Annual and Western Zone meetings and the ASBOG Annual meetings. The Board's NCEES liaison shall be a registered member.~~

~~4.1.2 3-6.2~~ In appointing representatives, priority shall be given to ~~T~~the Board President, the Vice President, ~~the NCEES liaison,~~ and the Executive Officer ~~will attend the NCEES annual and western zone meetings.~~

~~3.6.3~~ — Alternates will be appointed by the Board President.

~~3.6.4~~ — First alternates to attend NCEES meetings will be the immediate Past President and/or Standing Committee Chairperson(s). The second alternates will be the remaining Board members.

~~4.1.3 3-6.5~~ As many members should be appointed by the Board President to represent the Board at NCEES ~~and ASBOG~~ meetings as are authorized by the Governor to attend. ~~Appointments will be made in accordance with Section 3-6.4.~~

~~4.1.4 3-6.6~~ All Board members may apply for membership on any of the ~~NCEES standing committees, task forces, or other work groups as designated by NCEES or ASBOG.~~

~~4.1.5 3-6.7~~ Each Board member shall notify the Board President ~~and the Executive Officer~~ of application and acceptance of membership on NCEES ~~or ASBOG~~ committee(s).

~~4.1.6~~ The Board may recommend/appoint former Board members for NCEES Emeritus Member status by formal motion and vote at any regularly scheduled Board meeting.

4.2 RECOGNITION OF DEPARTING BOARD AND COMMITTEE MEMBERS

~~4.2.1~~ A Board proclamation shall be presented to all Board members who served two full terms, as full terms are defined by statute.

~~4.2.2~~ The proclamation shall be presented at the last Board meeting of the Board member's second full term, prior to the Board member entering his or her grace period.

~~4.2.3~~ Letters of appreciation signed by the Board President, the Board Vice President, and the Executive Officer shall be sent to any Board member who did not serve two full terms upon his or her departure from the Board.

~~4.2.4~~ Letters of appreciation signed by the Board member liaisons and the Executive Officer shall be sent to Technical Advisory Committee members upon the member's departure from the Technical Advisory Committee.

do NO DISCRETION?

ARTICLE IV: POLICIES FOR THE EXECUTIVE OFFICER

54.0 TRAVEL, AND TIME SHEETS AND COMPENSATION

X. Technical Advisory Committees (TACs)

- A. Assignment of Items to TACs (Possible Action)
- B. Appointment of TAC Members (Possible Action)
- C. Reports from the TACs (Possible Action)

XI. President's Report/Board Member Activities

XII. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

A. Approval of the Minutes of the December 8, 2017, Board Meeting

DRAFT

MINUTES OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

Office of the Attorney General
600 West Broadway, Suite 1800
San Diego, California, 92101

Thursday, December 8, beginning at 9:00 a.m.

Board Members Present:	Coby King, President; Natalie Alavi; Fel Amistad; Chelsea Esquibias; Eric Johnson; Kathy Jones Irish; Betsy Mathieson; Karen Roberts; Robert Stockton; and Steve Wilson
Board Members Absent:	Mohammad Qureshi, Vice President; Asha Lang; Jerry Silva
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Celina Calderone (Board Liaison); Kara Williams (Legislative and Budget Analyst); Jeff Alameida (Administrative Manager); and Michael Santiago (Legal Counsel)

I. Roll Call to Establish a Quorum

President King called the meeting to order at 9:07 a.m., and a quorum was established.

II. Public Comment

During public comment, Bob DeWitt with ACEC reported on SB 1099, which was withdrawn last year, led to discussion among surveying groups regarding potential legislation, which led to a request for more information from the Executive Officer to better understand, specifically in the area of enforcement, drones and technical expert consultant process.

III. NCEES Board of Directors Report

Jerry Carter, CEO of NCEES, and Brian Hanson, PE, Western Zone Vice-President of NCEES, provided some history and how they are organized while sharing their mission to advance licensure throughout the country. Mr. Carter added that there are 76 full-time employees at NCEES which range from public affairs, exam administration, and exam development. There are about 1,000 professional licensees who contribute their time to aid in exam development. Their outreach efforts include working with the MBA's to implement policies that the boards develop, YouTube videos, and speaker's kits.

President King noted that former Board member Pat Tami was elected President Elect for NCEES and is pleased that California has a significant leadership role.

He thanked both Mr. Carter and Mr. Hanson for coming to San Diego to meet with the Board.

IV. Consideration of Rulemaking Proposals

A. Proposal to Amend Title 16, California Code of Regulations §3031 (Geologist Education and Experience Requirements)

Ms. Eissler reported that staff is continuing to work with legal counsel on developing the language and it is expected to be resolved for the February 2017 Board meeting.

B. Approval and/or Adoption of Proposed Amendments to Title 16, California Code of Regulations §425 (Land Surveyor Experience Requirements)

Ms. Eissler reported that they have been able to work out the concerns that the Board's legal counsel had, and no action is needed.

V. Legislation

A. Legislative Calendar

Ms. Williams presented the legislative calendar and outlined important dates. In October, the Little Hoover Commission released a report highlighting the strategies to ease occupational licensing barriers. The report has a number of recommendations aimed at reducing barriers among licensing boards particularly within the Department of Consumer Affairs. The Board requested that this report be placed on the agenda of a future meeting for discussion.

VI. Administration

A. Fiscal Year 2016/17 Budget Summary

Ms. Williams outlined the Board's budget. She reported that the Board is generating less revenue than allocated expenses and is projected to have a deficit at the end of the year. However, the Board's fund remains in a surplus.

President King and Mr. Stockton requested that the report contain the Governor's budget vs. the first of the year budget projection and how the projections change throughout the year. President King added that the method used to report the line items in the projected budget should be the same method used to report the adjustments.

VII. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2016/17 Update

Ms. Eissler reported that through November, 39 new investigations cases were opened and 31 investigations were completed, with 229 pending. Currently, there are 7% of the pending cases that are over a year old.

VIII. Exams/Licensing

A. Fall 2016 Update

Mr. Moore reported that he received an e-mail from NCEES that all state exams for the fall 2016 were administered with minor issues. Results are beginning to come in from Prometric for the state exams. Currently, the numbers are looking positive, and we are looking at releasing results in the next couple of weeks. NCEES results should be released soon, as the registration period for the spring exams opens up December 12, 2016. The final filing date for all previously-approved professional engineers and land surveyor candidates that intend to sit for state exams is January 9, 2017.

IX. Approval of Delinquent Reinstatements

MOTION:	Dr. Amistad and Mr. Johnson moved to approve all delinquent reinstatements.
VOTE:	10-0, Motion Carried.

Member Name	Yes	No	Abstain	Absent	Recusal
Coby King	X				
Mohammad Qureshi				X	
Natalie Alavi	X				
Fel Amistad	X				
Chelsea Esquibias	X				
Eric Johnson	X				
Kathy Jones Irish	X				
Asha Lang				X	
Betsy Mathieson	X				
Karen Roberts	X				
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

X. Executive Officer's Report

A. Legislation and Regulation Workgroup Summary

Mr. Moore reported that 16 CCR 464 pertaining to Corner Record is currently at OAL and is expected to be approved before the end of the calendar year and made effective April 1, 2017.

B. Personnel

Mr. Moore announced two staff additions. Stephanie Orozco has accepted the AGPA position in the licensing unit. Mr. Moore introduced Dallas Sweeney, the Board's new Land Surveyor Registrar. Donna Vaum from the Enforcement Unit and Sarah Colcleasure from the Licensing Unit will both retire at the end of the year.

C. ABET

No report given.

D. ASBOG

Ms. Mathieson reported that at the ASBOG annual meeting, she found it very helpful to have submitted in advance written record of the Board's concerns regarding unlicensed Subject Matter Experts participating in exam development and the Board's decision to disapprove unless amended a proposed bylaws change that defines Subject Matter Experts for exam development. She explained that Subject Matter Experts in California must be licensed, and it is vital for exam development to have people who have demonstrated they have the minimum standards while maintaining exam security. Unlicensed people are not subject to the same ethics and standards and could possibly take the exam in the future. The issue was tabled to allow ASBOG staff and committees to attempt to work out this issue.

E. NCEES

Mr. Moore reported that the Board President's Assembly will be held February 3-4, 2017 in Atlanta. Both President King and Mr. Moore will attend. One of the benefits of attending this meeting is that it provides a first glimpse to see what the committees are working on and the motions for the Annual Meeting. Mr. Stockton would like to propose an agenda item for the February meeting to discuss the idea of voting by representation with a possible recommendation to the Western Zone meeting. Mr. Moore suggested a discussion with Jerry Carter with NCEES first.

Mr. Moore reported that the E3 exam registration system includes applicant council records and a method for licensees to track their continuing education.

F. Outreach

Mr. Moore reported that Ms. Racca met with UC Davis professors that are working with AIPG (American Institute of Professional Geologists) to assist students with the cost of taking the Fundamentals of Geology exam and encouraging students to get their Geologist-in-Training before they graduate. The program is being called Pathway to Professional Geology.

Mr. Moore will be attending a CLSA Chapter meeting to discuss licensure for land surveyors. He also met with the CLSA Desert Chapter in Palm Desert to discuss enforcement. He and Mr. Phayer will attend the Fresno State Geomatics land surveyor conference in late January. Mr. Phayer and Mr. Alameida are working on outreach presentation materials and equipment.

G. 2015-2018 Strategic Plan – Mid Plan Review

Ms. Eissler reported on the Strategic Plan progress report which reflected the changes brought up at the last Board meeting. Mr. Stockton commended staff on the progress that has been made. Some of that items are indeed ongoing and will remain in progress. It will be included in every agenda and clearly identify progress.

XI. Board and Technical Advisory Committees Operating Procedures

Ms. Eissler asked the Board to provide any comments or suggestions by January 15, 2017, and she will include them in the next agenda packet. President King suggested composing language regarding standing committees.

XII. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs

No report given.

B. Appointment of TAC Members

No report given.

C. Reports from the TACs

Mr. Moore reported that there has been no interest in the LS TAC and Mr. Wilson suggested turning to the professional societies for possible recruitment opportunities.

XIII. President’s Report/Board Member Activities

Ms. Mathieson provided a report that she toured two limestone mines during an offsite meeting while in Kansas City that was hosted by ASBOG.

President King reported that he will be attending the NCEES Board Presidents Assembly meeting.

XIV. Approval of Consent Items

(These items are before the Board for consent and will be approved with a single motion. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

A. Approval of the Minutes of the October 13-14, Board Meeting

MOTION:	Ms. Mathieson and Dr. Amistad moved to approve the October minutes with minor changes.
VOTE:	9-0-1, Motion Carried.

Member Name	Yes	No	Abstain	Absent	Recusal
Coby King	X				
Mohammad Qureshi				X	
Natalie Alavi	X				
Fel Amistad	X				
Chelsea Esquibias	X				
Eric Johnson	X				
Kathy Jones Irish			X		
Asha Lang				X	
Betsy Mathieson	X				
Karen Roberts	X				
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

XV. Other Items Not Requiring Board Action

A. 2017 Board Meeting Schedule

The Board reviewed the 2017 Board meeting schedule and changed the February meeting to February 8-9 and the April meeting to April 20-21.

XVI. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126(e)(1), and 11126(e)(2)(B)(i)]

A. Civil Litigation

1. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
2. Lawrence Allen Stevens v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2016-80002334

XVII. Open Session to Announce the Results of Closed Session

During Closed Session, the Board took action on 9 stipulations and 3 proposed decisions and discussed litigation as noticed.

XVIII. Adjourn

The meeting adjourned at 3:30 p.m.

PUBLIC PRESENT

Bob DeWitt, ACEC

Jerry Carter, NCEES

Brian Hanson, NCEES

Gered Beeby, P.E.

XIII. Other Items Not Requiring Board Action

XIV. Closed Session– Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126(e)(1), and 11126(e)(2)(B)(i)]

a. Civil Litigation

1. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
2. Lawrence Allen Stevens v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2016-80002334

XV. Open Session to Announce the Results of Closed Session

XVI. Adjourn
