



NOTICE OF TELECONFERENCE MEETING Landscape Architects Technical Committee (LATC) 10:00 a.m., Friday, September 4, 2020

LATC MEMBERS

Marq Truscott, Chair
Jon S. Wreschinsky, Vice Chair
Andrew C. N. Bowden
Susan M. Landry
Patricia M. Trauth

**Action may
be taken on
any item
listed on the
agenda.**

NOTE: Pursuant to Governor Gavin Newsom's Executive Order [N-29-20](#), issued on March 17, 2020, this meeting will be held by teleconference with no physical public locations.

Important Notice to the Public: The LATC will hold a public meeting via WebEx Events. To participate in the WebEx meeting, please log on to this website the day of the meeting:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e3f9543b84fc6a9abeceb7b9cf596e186>

Instructions to connect to the meeting can be found at the end of this agenda.

Agenda 10:00 a.m. – 3:30 p.m. (or until completion of business)

- A. Call to Order – Roll Call – Establishment of a Quorum
- B. Chair's Procedural Remarks and LATC Member Introductory Comments
- C. Public Comment on Items Not on the Agenda
The LATC may not discuss or take action on any item raised during this public comment section, except to decide whether to refer the item to the LATC's next Strategic Planning session and/or place the matter on the agenda of a future meeting (Government Code sections 11125 and 11125.7(a)).
- D. Update on the Department of Consumer Affairs (DCA) – Carrie Holmes, Deputy Director, Board and Bureau Relations, DCA

(Continued)

- E. Review and Possible Action on February 5, 2020 LATC Meeting Minutes
- F. Program Manager's Report
 - 1. Update on LATC's Administrative/Management, Examination, Licensing, and Enforcement Programs
 - 2. Discuss and Possible Action on Annual Enforcement Report
- G. Council of Landscape Architectural Registration Boards (CLARB)
 - 1. Presentation by CLARB on Uniform Standard (Policy), Landscape Architect Registration Examination (LARE) Uniform Application (Process), and Time to Licensure (Procedure)
 - 2. Review CLARB September 10, 2020 Virtual Annual Meeting Agenda
 - 3. Review and Possible Action on 2020 CLARB Board of Directors and Leadership Advisory Council Elections Ballot
- H. Review and Discuss 2020 Legislation
 - 1. Assembly Bill (AB) 2028 (Aguiar-Curry) State Agencies: Meetings
 - 2. AB 2113 (Low) Refugees, Asylees, and Special Immigrant Visa Holders: Professional Licensing: Initial Licensure Process
 - 3. AB 2257 (Gonzalez) Worker Classification: Employees and Independent Contractors: Occupations: Professional Services
 - 4. Senate Bill (SB) 878 (Jones) Department of Consumer Affairs: License: Application: Processing Timeframes
 - 5. SB 1474 (Committee on Business, Professions and Economic Development) Business and Professions
- I. Presentation on Qualified Stormwater Pollution Prevention Plan Developer (QSD) Certification by California State Water Resources Control Board
- J. Update on Intra-Departmental Contracts (IDC) with the Office of Professional Examination Services (OPES) for Landscape Architects California Supplemental Examination (CSE) Written Examination Development, and Review of LARE and Linkage Study
- K. Discuss and Possible Action on 2019-2021 Strategic Plan Objectives to Educate the Different Jurisdictional Agencies (State and Local) About Landscape Architecture Licensure and Its Regulatory Scope of Practice to Allow Licensees to Perform Duties Prescribed Within the Regulations
- L. Discuss and Possible Action on New LATC Logo
- M. Review of Future LATC Meeting Dates
- N. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the LATC Chair and may be taken out of order. The meeting will be adjourned upon completion of the agenda, which may be at a time earlier or later than posted in this notice. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the LATC are open to the public.

The meeting will be webcast, provided there are no unforeseen technical difficulties or limitations. To view the webcast, please visit thedcapage.wordpress.com/webcasts/ The meeting will not be cancelled if webcast is not available. Meeting adjournment may not be webcast if it is the only item that occurs after a closed session.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the LATC prior to taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the LATC, but the LATC Chair may, at their discretion, apportion available time among those who wish to speak. Individuals may appear before the LATC to discuss items not on the agenda; however, the LATC can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125 and 11125.7(a)).

This meeting is being held via WebEx Events. The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting:

Person: Blake Clark

Telephone: (916) 575-7236

Email: Blake.clark@dca.ca.gov

Telecommunication Relay Service:

Dial 711

Mailing Address:

Landscape Architects Technical Committee

2420 Del Paso Road, Suite 105

Sacramento, CA 95834

Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

Protection of the public shall be the highest priority for the LATC in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code section 5620.1).

HOW TO – Join – DCA WebEx Event

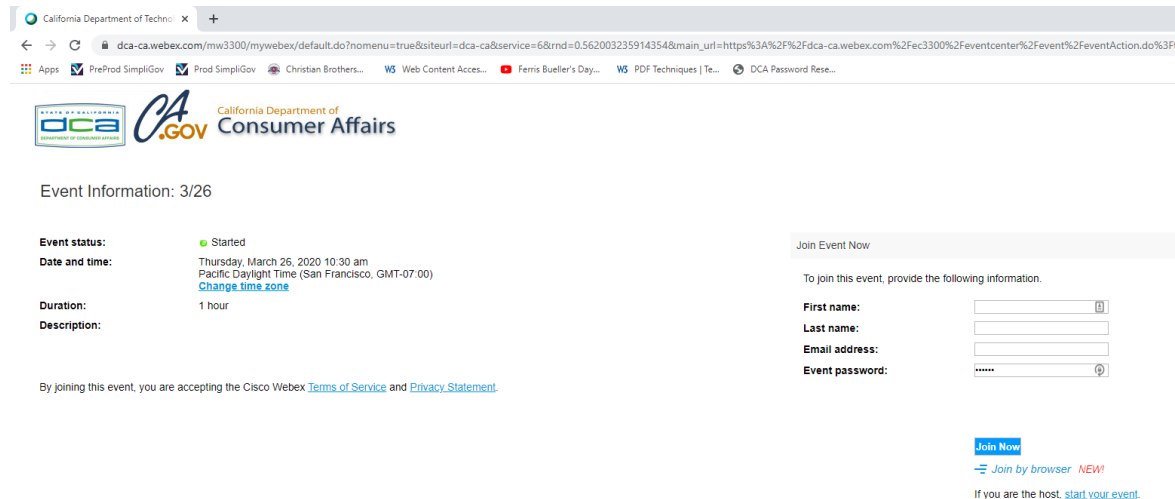
The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

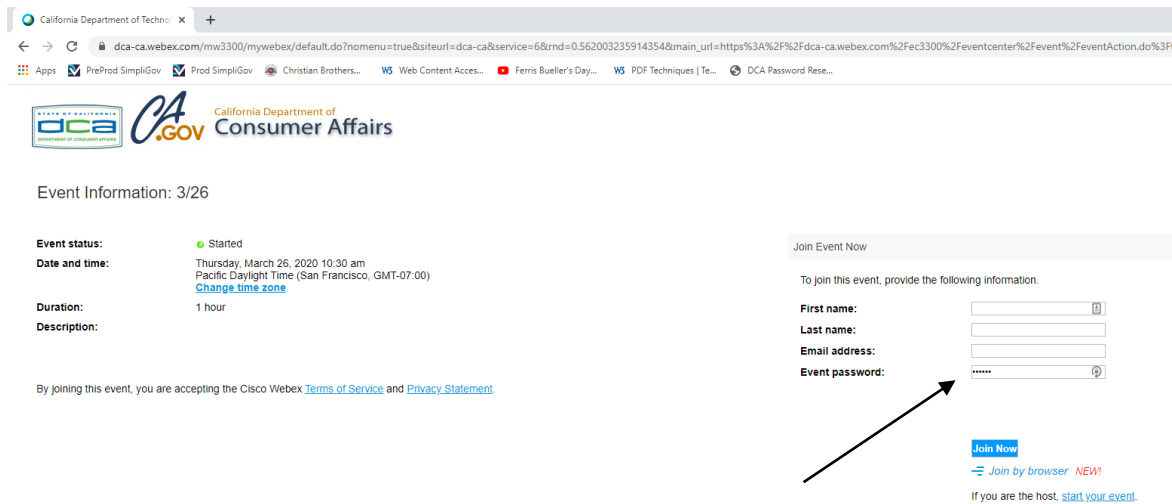
Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>



2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.
NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during public comment.

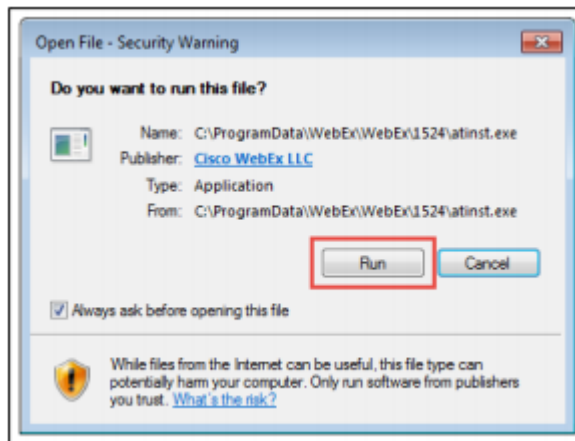
HOW TO – Join – DCA WebEx Event



3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

Starting Webex...



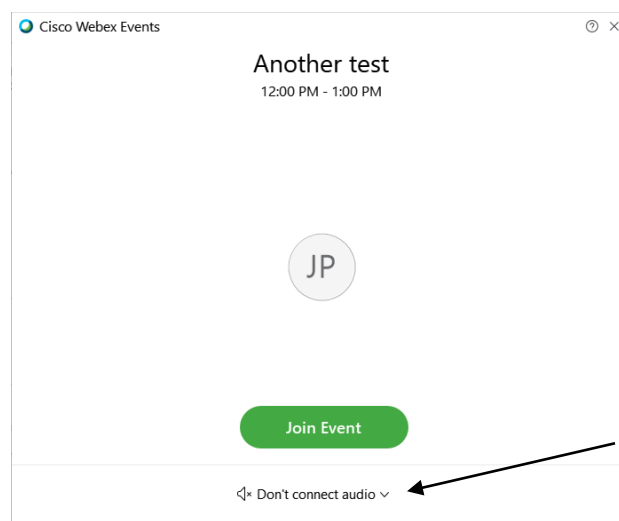
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



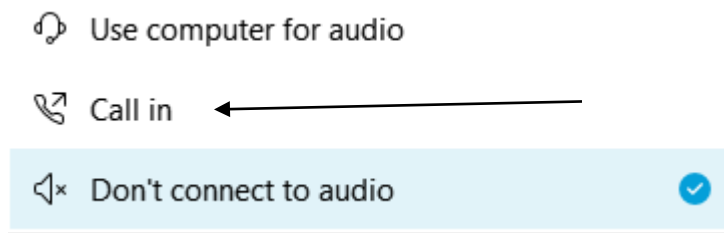
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.

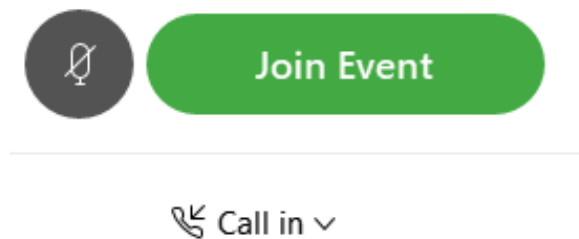


8. When the audio menu appears click 'Call in'.

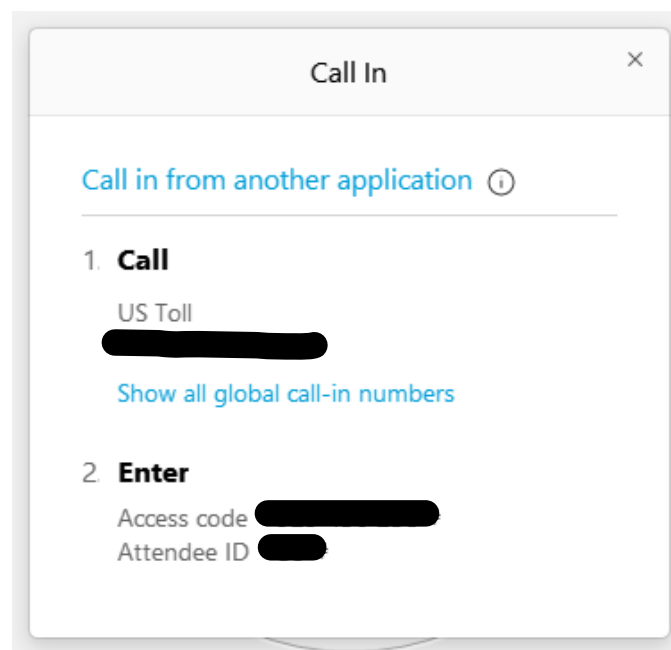
HOW TO – Join – DCA WebEx Event



9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



10. Call into the audio conference with the details provided.

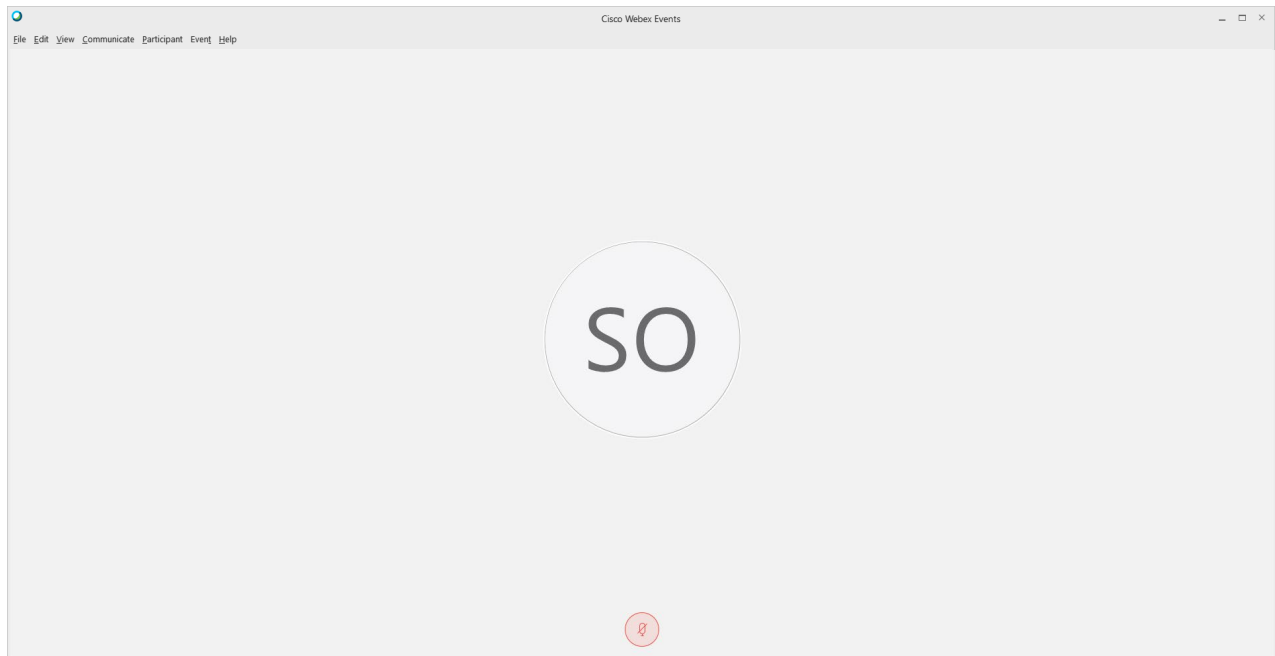


NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

HOW TO – Join – DCA WebEx Event

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

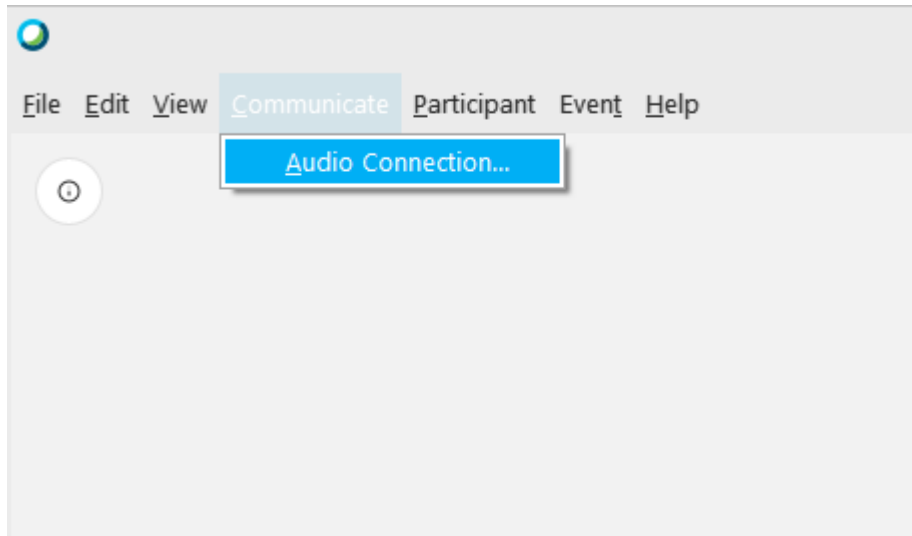


NOTE: Your audio line is muted and can only be unmuted by the event host.

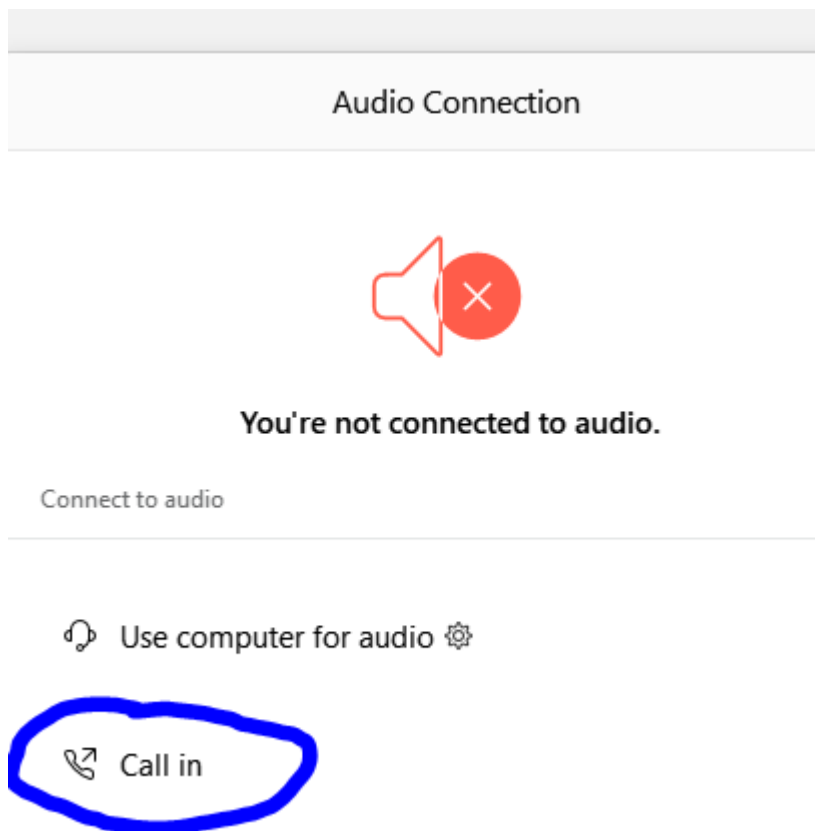
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

HOW TO – Join – DCA WebEx Event



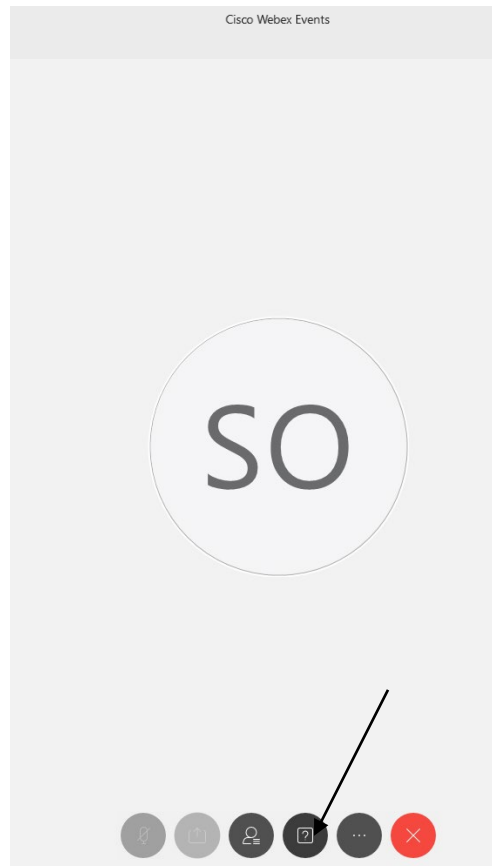
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

Participating During a Public Comment Period

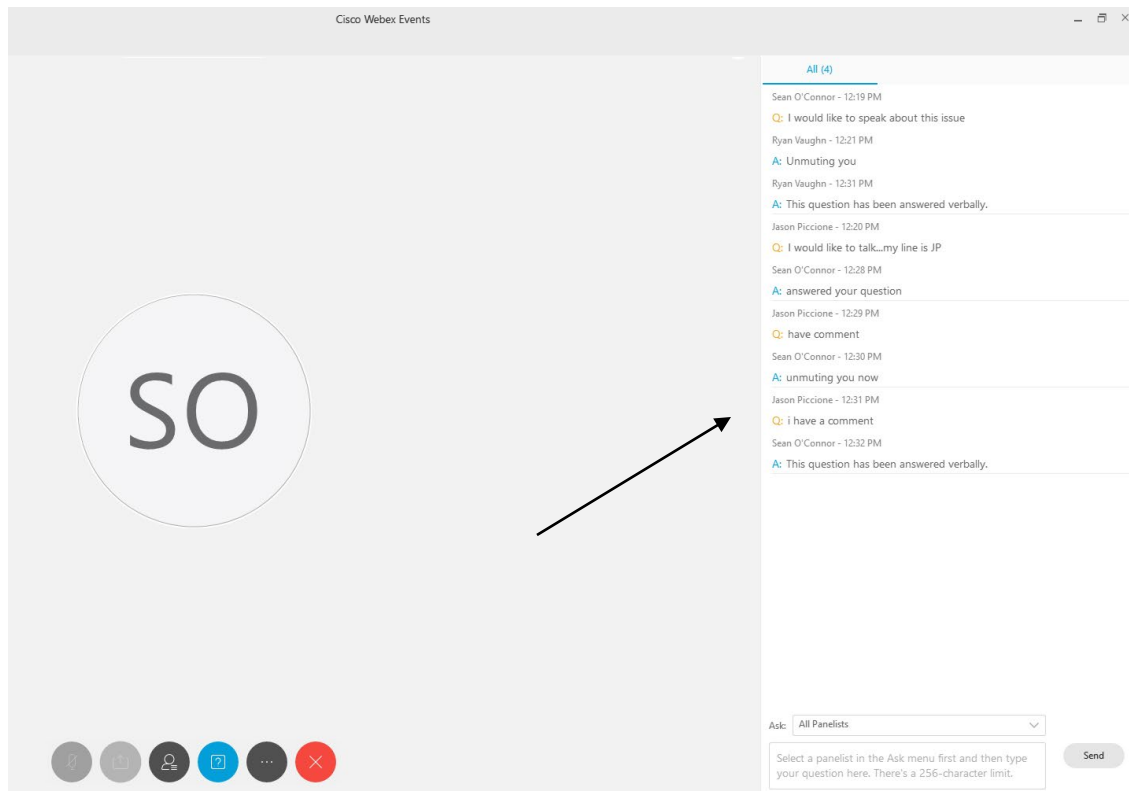
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.

AGENDA ITEM A: CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF A QUORUM

Roll is called by the Landscape Architects Technical Committee (LATC) Vice Chair or, in his/her absence, by an LATC member designated by the Chair.

LATC Member Roster

Andrew C. N. Bowden
Susan M. Landry
Patricia M. Trauth
Marq Truscott
Jon S. Wreschinsky

AGENDA ITEM B: CHAIR'S PROCEDURAL REMARKS AND LATC MEMBER INTRODUCTORY COMMENTS

LATC Chair Marq Truscott or, in his absence, the Vice Chair will review the scheduled LATC actions and make appropriate announcements.

AGENDA ITEM C: PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Members of the public may address the Committee at this time.

The Committee may not discuss or take action on any item raised during this public comment section, except to decide whether to refer the item to the Committee's next Strategic Planning session and/or place the matter on the agenda of a future meeting (Government Code sections 11125 and 11125.7(a)).

Public comments will also be taken on agenda items at the time the item is heard and prior to the Committee taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Committee Chair.

AGENDA ITEM D: UPDATE ON THE DEPARTMENT OF CONSUMER AFFAIRS (DCA) - CARRIE HOLMES, DEPUTY DIRECTOR, BOARD AND BUREAU RELATIONS, DCA

Carrie Holmes, Deputy Director, Board and Bureau Relations will provide the Committee with an update on the DCA.

AGENDA ITEM E: REVIEW AND POSSIBLE ACTION ON FEBRUARY 5, 2020 LATC MEETING MINUTES

Summary

The Committee is asked to review and take possible action on the minutes of the February 5, 2020 LATC meeting.

Action Requested

Approval of the February 5, 2020 LATC Meeting Minutes.

Attachment

February 5, 2020 LATC Meeting Minutes (Draft)



Draft Minutes

CALIFORNIA ARCHITECTS BOARD Landscape Architects Technical Committee

February 5, 2020
Chula Vista

Landscape Architects Technical Committee (LATC) Members Present

Marq Truscott, Chair
Jon S. Wreschinsky, Vice Chair
Andrew C. N. Bowden
Patricia M. Trauth

LATC Member Absent

Susan M. Landry

California Architects Board (Board) Member Present

Tian Feng, LATC Liaison, Board President

Staff Present

Laura Zuniga, Executive Officer (EO)
Vickie Mayer, Assistant EO
Trish Rodriguez, Program Manager
Tara Welch, Attorney III, Department of Consumer Affairs (DCA)
Ryan Greenlaw, Attorney III, DCA
Cheri Gyuro, Public Information Officer, DCA
Stacy Townsend, Enforcement Analyst
Blake Clark, Licensing Coordinator
Mike Sanchez, Television Specialist, DCA

Guests Present

David Clarke, Association of Professional Landscape Designers
Joy Lyndes, California Chapter American Society of Landscape Architects

A. CALL TO ORDER – ROLL CALL – ESTABLISHMENT OF A QUORUM

LATC Chair, Marq Truscott called the meeting to order at 10:00 a.m. and Vice Chair Jon S. Wreschinsky called roll. Four members of the LATC were present, thus a quorum was established.

B. CHAIR'S PROCEDURAL REMARKS AND LATC MEMBER INTRODUCTORY COMMENTS

Mr. Truscott announced that a voluntary sign-in sheet was located near the entrance to the meeting room, and if attendees were to sign in, they would be recorded in the official minutes of the meeting. He advised on the voting requirements and stated that all motions and seconds would be repeated for the record and votes will be taken by rollcall. Mr. Truscott stated the Committee would be recessing at approximately 11:45 a.m. for a lunch break.

C. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Mr. Truscott invited members of the audience to address the Committee, stating that their comments would be recorded in the official minutes. There were no comments from the public.

D. UPDATE ON THE DEPARTMENT OF CONSUMER AFFAIRS (DCA)

Trish Rodriguez presented a written update from the DCA dated February 3, 2020 which covered the December 16, 2019 Directors Quarterly Meeting held by DCA Director Kimberly Kirchmeyer; the recently created DCA Legal Office Regulations Unit and future implementation of the Cherwell data system that will track regulation submissions; an upcoming DCA Budget Office and Office of Information Services project to combine Fi\$Cal data and budget information in DCA's Quality Business Interactive Reporting Tool (QBIRT) system to create new reports; upcoming board member orientation trainings; Form 700 filings due by April 1, 2020; and current activity of the DCA Organizational Improvement Office including the Review of DCA's Centralized Services, and the Business Analytics projects.

G.* PRESENTATION ON SOUTHWESTERN COLLEGE

Mr. Truscott introduced Landscape Architecture & Nursery Technology Program Chair, Mark Valen. Mr. Valen welcomed the Committee to the Southwestern College campus and gave a detailed overview of Southwestern's Landscape Architecture & Nursery Technology Program. He announced that a recent bond measure will allow the school to upgrade its classroom facilities as well as the surrounding four acres within the next two years. He explained that the program educates students ranging from current industry professionals to students right out of high school. Mr. Valen then invited meeting attendees to visit the school's public garden which was designed, built, and maintained by students. He explained that the program is offered mainly on weeknights and weekends to accommodate student needs. Mr. Wreschinsky questioned the makeup of the program's faculty. Mr. Valen responded that the program is in process of maintaining two full-time tenured faculty with nine part-time adjunct faculty. He added that the current program average is estimated to be 150 distinct students and explained that enrollment can be counted in different ways. Mr. Valen continued that courses are offered for six different degree pathways, and in response to a changing industry the

program is in the process of changing the current six-degree structure to two degrees with specialties in irrigation, floral design, retail nursery, plant production, and sports turf management. Patricia Trauth questioned how many of the program's students continue on to four-year programs. Mr. Valen responded that the number is difficult to track, but estimated that approximately 30 percent of students are transfers, and the remaining 70 percent attend the program with the intention of gaining specialty skills to enhance their careers rather than transferring to a four-year program. He added that almost all students who begin the program with the intention of transferring to a four-year program do so within two years and that the program has transfer agreements with four-year programs.

E. REVIEW AND POSSIBLE ACTION ON NOVEMBER 8, 2019 LATC MEETING MINUTES

Mr. Truscott requested that the last sentence of the first paragraph on page two of the November meeting minutes be revised to read "Mr. Truscott will continue to attend the MWELo meetings on behalf of the LATC." He also requested that his name be corrected on page eleven.

Mr. Wreschinsky questioned if the Office of Professional Examination Services (OPES) is expected to provide a presentation to the LATC in May on the upcoming linkage study. Ms. Rodriguez confirmed that OPES is still on track to provide the presentation during the May meeting planned at the University of California, Davis (UC Davis).

Mr. Wreschinsky inquired if the legislative proposal to require half of all board members to consist of women had become law. Laura Zuniga confirmed that it did not become law. Mr. Wreschinsky followed up from the November meeting discussion and asked if the LATC will coordinate a Qualified Stormwater Pollution Prevention Plan Developer (QSD) certification presentation in the future. Ms. Rodriguez confirmed that a representative was not available to provide a presentation at the current meeting and that staff are working to schedule a presentation for the May LATC meeting.

- **Andrew C. N. Bowden moved to approve the November 8, 2019 LATC Meeting Minutes with the specified three corrections.**

Jon S. Wreschinsky seconded the motion.

There were no comments from the public.

Members Bowden, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. Member Landry was absent. The motion passed 4-0.

F. PROGRAM MANAGER'S REPORT - UPDATE ON LATC'S ADMINISTRATIVE/ MANAGEMENT, EXAMINATION, LICENSING, AND ENFORCEMENT PROGRAMS

Ms. Rodriguez reminded the Committee that the EO Report is now prepared quarterly, prior to each Board meeting. She explained that the most recent report included in the meeting materials was presented in the November meeting packet but includes updated LATC examination and enforcement data. She informed the Committee that she plans to email the upcoming EO Report to the members when available.

Mr. Wreschinsky suggested incorporating links to the minutes of each meeting mentioned within the EO Reports. He asked if the Business Modernization Plan outlined in the provided EO Report will allow LATC and Council of Landscape Architectural Registration Boards (CLARB) systems to communicate and exchange information. Ms. Rodriguez and Zuniga confirmed that staff are exploring options to build interfaces with different systems.

H. DISCUSS AND POSSIBLE ACTION ON 2019-2021 STRATEGIC PLAN OBJECTIVES TO:

1. Develop an Online Tutorial to Clarify the Licensure Process for Candidates

Ms. Rodriguez introduced DCA Public Information Officer Cheri Gyuro and announced that Ms. Gyuro would provide an overview of the video tutorials created by staff to meet the LATC objective to develop an online tutorial to clarify the licensure process for candidates. Ms. Gyuro explained that staff requested her assistance with producing a tutorial to help guide candidates through the licensure process. She added that three separate videos were produced under the guidance of LATC staff covering the examination requirements and application process, education and training experience, and the initial license application process. Ms. Gyuro then presented the video tutorials to the LATC members and meeting attendees.

After viewing the videos, Mr. Bowden stated that the proposed changes to the current education and training requirements should be addressed within the tutorials. Tara Welch clarified that the proposed regulatory changes are not in effect and that the proposal is still under DCA review for submission to the Office of Administrative Law (OAL) for review and hopeful approval. Ms. Trauth inquired about the status of the proposed changes to expand pathways to licensure. Ms. Welch explained that the DCA Budget and Legal Affairs Offices must prioritize review of regulatory packages related to Assembly Bill (AB) 2138 and sunset review. She added that the package for expanded pathways is currently under review by DCA Legal Affairs and the Budget Office. Ms. Trauth asked for a status report indicating where the current LATC regulatory packages are in the overall review process. Ms. Zuniga confirmed that an update could be provided to the members following the meeting and possibly included as an item on a future meeting agenda.

Tian Feng complimented Ms. Gyuro on the quality of the videos and suggested that the California Architects Board (Board) emulate the idea. He then asked if CLARB approves candidates to take the Landscape Architect Registration Examination (LARE). Ms. Rodriguez clarified that some jurisdictions, such as California, require pre-approval

and others allow candidates to apply directly to CLARB. Mr. Feng questioned if candidates must provide the same documentation to both CLARB and LATC in order to take the LARE. Ms. Rodriguez responded that candidates may submit transcripts and work experience to CLARB to establish a Council Record and the LATC would accept Council Records from CLARB; however, she added that CLARB will not accept documentation from LATC. Mr. Wreschinsky asked if candidates must apply with CLARB in order to take the LARE. Ms. Rodriguez explained that candidates must obtain approval from LATC to take the LARE and then register through CLARB. She added that a benefit to applying directly to LATC prior to establishing a CLARB Council Record is that candidates who do not already meet California's eligibility requirements are notified by LATC and may then earn the appropriate education and/or training experience prior to paying the fees associated with establishing a Council Record. Mr. Truscott clarified that once an applicant creates a CLARB Council Record annual fees are required to maintain it. He added that candidates are only required to pay Council Record fees while they are taking the LARE. Ms. Trauth recommended adding further clarification to the video tutorials to better explain the process candidates must follow to apply for exam approval through LATC and LARE registration through CLARB. Ms. Gyuro noted that she could work with LATC staff to rewrite the script.

Mr. Wreschinsky commented that the videos are concise and include helpful references. Mr. Bowden opined that the scene with shoveling gravel could be misconstrued with landscape contractors rather than landscape architects. Mr. Truscott praised the use of LATC's website within the videos to assist viewers when navigating through the website. He suggested including additional office and studio images since landscape architects spend most of their day in a professional environment. Mr. Truscott also noted that since the videos are geared for emerging professionals, the actors should be more representative of the current diversity of students and applicants. Ms. Gyuro explained that sourcing actors is difficult because DCA is unable to pay them. Mr. Truscott offered to work with local professionals to assist with locating emerging professionals or students in the Sacramento area to participate in the videos. Mr. Feng added that landscape architects help clients envision a broad view of the environment and recommended including scenes that depict landscape architects consulting with owners and agencies to envision the built environment. Joy Lyndes suggested adding a visual or flow chart to help clarify when candidates should engage with CLARB and LATC.

Ms. Trauth asked if the proposal to amend the current education and training requirements could be posted to the LATC website. Ms. Welch confirmed that the current proposal is already posted as part of the LATC meeting materials and that the public comment period will be announced in the future along with the Notice of Proposed Regulatory Action. She advised against posting an additional announcement because a possible approval date is unknown. Ms. Gyuro closed by stating that she would incorporate the Committee's feedback and return with the updated tutorials at a future LATC meeting.

2. Educate the Different Jurisdictional Agencies (State and Local) About Landscape Architecture Licensure and Its Regulatory Scope of Practice to Allow Licensees to Perform Duties Prescribed Within the Regulations

Ms. Rodriguez explained that in line with this Strategic Plan objective, staff prepared a letter to the local jurisdictions educating them on the regulatory scope of practice and duties landscape architects are able to perform. She further stated that in working with DCA's Legal Counsel, LATC did not have the authority to send such a letter due to not having jurisdiction over local government agencies. It was later identified that the Board's *Building Official Information Guide (Guide)* contains a section on landscape architects, which could include language clarifying what services a landscape architect may provide. Ms. Rodriguez provided that additional language to the landscape architect's section within the *Guide* was being proposed for the Committee to review and provide input.

Ms. Rodriguez proposed adding language to Business and Professions Code (BPC) section 5659 (Inclusion of License Number – Requirement) to read: "Plans and specifications shall not be rejected from filing with a local jurisdiction solely on the grounds of the presence of a stamp of a licensed landscape architect, as specified under this section.", as a second means of meeting the Strategic Plan objective, and, if they agree with the language, to recommend to the Board for approval. Ms. Rodriguez clarified that action is only being requested for the proposed language to BPC section 5659. She further requested from the Committee to inform staff if the proposed language to the *Guide* and BPC section 5659 will satisfy the objective to educate local jurisdictions.

Mr. Truscott reiterated staff findings are that LATC should not advocate or market for landscape architects to do business, but rather to ensure that regulations are in place to allow for landscape architects to do business. Ms. Welch agreed that LATC can educate local jurisdictions about state law and cautioned LATC about overarching statements beyond what statutes provide. She further explained that if LATC is attempting to address a concern at a local level, then LATC needs to ensure that there is statutory authority or protection under the statutes for the situation that is trying to be resolved. Ms. Welch perceived that the proposal to add language to BPC section 5659 would provide LATC with the statutory authority and protection. She continued that this language would assist with landscape architect stamps not being accepted by local jurisdictions for a service landscape architects are licensed to provide.

Mr. Wreschinsky inquired on the status of the publication of the *Guide*. Ms. Zuniga confirmed that the *Guide* is final and in circulation to a number of local jurisdictions and is also available online. Mr. Bowden questioned if the Board received any comments from building officials, to which Ms. Zuniga answered that she believed there were a couple of questions that were addressed by the Board's architect consultant but did not recall the nature. She further offered to research the questions received and summarize them for the Committee.

Ms. Welch requested confirmation that the *Guide* was created for use by potential inspectors at building sites and that, potentially, the ability to file landscape documentation with local county recorders would be for a different audience. Ms. Welch further questioned if the building officials, for whom the *Guide* is intended, are also the county recorders that would, or would not, accept the documentation. Ms. Townsend confirmed that the building officials are responsible for accepting the documentation. Ms. Trauth inquired on distribution of the *Guide* and Ms. Zuniga responded that there was a mailing list of local jurisdictions prepared by the architect consultants. Ms. Trauth also inquired whether a person could take the *Guide* to a building official to inform them that they are able to design a specific project; Ms. Zuniga answered that the *Guide* is available online. Mr. Truscott suggested including public works departments, and Ms. Trauth suggested including development services. Ms. Rodriguez requested some guidance from the Committee members on which local entities landscape architects submit their work to in order to distribute the *Guide* to all appropriate audiences. Mr. Truscott appointed Ms. Trauth to assist staff with researching the agencies to provide the *Guide*.

Ms. Welch informed the Committee one of the statements proposed in the *Guide* goes beyond statutory authority in an attempt to educate local jurisdictions and that local jurisdictions are allowed to have ordinances to protect the public if they have identified a situation in which they will only accept plans prepared by certain licensed professionals and not others.

Mr. Bowden reiterated that the problem has been that local jurisdictions are not accepting the stamps of landscape architects on projects and requiring the stamp of a civil engineer or architect without project involvement. Ms. Welch agreed there is an authority issue; however, LATC does not have the authority to require local jurisdictions to accept the stamp of a landscape architect. She stated it would be the landscape architect to make that argument, not LATC. Ms. Welch informed the Committee they could recommend amendments to the statutes to inform local jurisdictions that they cannot reject documents prepared by a licensed landscape architect solely because they are not a different licensed professional.

Mr. Wreschinsky provided an additional example in which a local jurisdiction would not accept a landscape architect's stamp and required all drainage and grading plans to be prepared by a civil engineer. He went on to say that the local jurisdiction was approached and provided the statutes explaining that landscape architects were able to provide drainage and grading plans in which they agreed and changed their policy to accept those documents from landscape architects. Mr. Wreschinsky inquired how to settle conflict between different regulations. Ms. Welch explained that she has not been able to identify a conflict in which there is prohibition of accepting documents signed and stamped by a landscape architect and advised that LATC could educate and inform that landscape architects are allowed to sign and stamp certain design documents but did not have authority to enforce acceptance by local jurisdictions.

Mr. Truscott turned the Committee's attention to the proposed language to BPC section 5659 where they were asked to review the proposed language and make a recommendation to the Board. Ms. Welch questioned the Committee on whether the proposed added language was inclusive enough and whether the language should include "reports." Mr. Truscott affirmed, on occasion, landscape architects need to submit reports, such as for the Model Water Efficient Landscape Ordinance. Ms. Welch suggested adding "other instruments of service" to the proposed language to encompass all types of documents landscape architects may submit to local jurisdictions. The Committee agreed with amending the language to include that statement.

Mr. Wreschinsky referred back to the *Guide*, in which he noticed that architects are referenced throughout and inquired on whether landscape architects could be referenced, in addition to architects, where appropriate. Ms. Zuniga requested that Mr. Wreschinsky send his suggestions to her so that she may review them and discuss with Mr. Feng. Mr. Feng agreed that a discussion would need to be had on whether to include landscape architects in appropriate sections of the *Guide* due to redundancy. Mr. Bowden clarified that the suggestion would be to have the *Guide* include "architect/landscape architect" on questions that pertain to both architects and landscape architects. Mr. Truscott stated that he expects the *Guide* to come back to LATC for review.

Ms. Welch further suggested adding the word "Such" at the beginning of the proposed language to BPC section 5659 so it reads, "Such plans, specifications, and other instruments of service shall not be rejected from filing with a local jurisdiction solely on the grounds of the presence of a stamp of a landscape architect, as specified under this section."

- **Andrew C.N. Bowden moved to accept the proposed language with the suggested edits discussed and to recommend to the Board.**

Patricia M. Trauth seconded the motion.

There were no comments from the public.

Members Bowden, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. Member Landry was absent. The motion passed 4-0.

3. Research Regulations Governing Allied Professionals to Better Understand Their Scope of Practice as it Relates to Landscape Architecture

Ms. Rodriguez explained that staff researched the regulations of allied professionals to assist with the previous agenda item in addition to the *Permitted Practices* document currently available on LATC's website. She further explained that the *Scope of Practices of Allied Professionals* attachment is included in the meeting materials to demonstrate the Strategic Plan objective has been completed as far as researching the scope of practice regulations of allied professionals and that no action is required.

I. REVIEW AND POSSIBLE ACTION ON PROPOSED AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 16, DIVISION 26, ARTICLE 1, SECTION 2611 ABANDONMENT OF APPLICATION

Ms. Rodriguez presented that while updating LATC's retention schedule, the definition for "abandonment of application" required clarification. She continued that in reviewing the CCR it was necessary to update CCR sections 2611 (Abandonment of Application) and 2616 (Application for Licensure Following Examination) and add 2611.5 (Retention of Candidate Files).

Mr. Wreschinsky requested clarification on section 2611 and whether the application for licensure is considered abandoned one year after the date of the letter and would it be exactly one year for the candidate to provide all necessary information. He further questioned on how LATC would proceed if a candidate were to request an extension to retain their application active. Ms. Townsend explained that section 2620(d) (Education and Training Credits) allows an extension for LARE candidates only. Mr. Wreschinsky expressed concern for a candidate to be able to request an extension and that the LATC would be able to grant the extension. Ms. Rodriguez explained that current practice is to notify the LARE candidate and if the candidate does not respond, then the file would be purged.

Mr. Greenlaw explained that if LATC wanted to grant extensions in terms of application abandonment then language would need to be added to allow for extensions. However, he continued that there is language that allows for an extension in terms of the entire candidate file. Ms. Welch explained that the regulation in question, in which there is no language for extensions, is for the abandonment of an application, where it is believed that the candidate has walked away.

Mr. Bowden inquired if the proposed language is addressing an existing problem. Mr. Greenlaw explained that in terms of the regulation there were omissions regarding the duration in which records should be maintained. He gave an example in which section 2611 provides for abandonment of an application for licensure and for the California Supplemental Examination (CSE) but not for the LARE. Mr. Greenlaw identified the other issue as being how long LATC should maintain a candidate file containing all materials accumulated throughout the landscape architect licensure process. He pointed out that there is language at the end of section 2620 which states, "the Board shall retain inactive applications for a five-year period" and "thereafter, the Board shall purge these records unless otherwise notified by the candidate." Mr. Greenlaw explained that is the only language in the Act in terms of LATC's authority to purge candidate files and the language does not specify what the inactive applications are for; however, since section 2620 refers to training and education credits to take the LARE, there is an argument to be made that the language is referring only to the application to take the LARE as opposed to the CSE. Mr. Greenlaw explained that

the purpose of adding section 2611.5 would be to provide a definition of “inactive” and the determining factors.

Mr. Greenlaw continued that section 2616 needed to be updated and include the method in which candidates receive examination results. He noted that in the current technological age a better measure would be to refer to the date of when the candidates are “provided” their results rather than “mailed.”

Mr. Wreschinsky inquired, in reference to section 2611.5, the type of format in which candidate records are kept. Ms. Townsend explained that LATC records are retained in a hard paper file, which contributes to a current space issue. She continued that existing language does not define retention periods for candidate files other than for the LARE. Mr. Wreschinsky interjected that digital record storage could eliminate space issues. Mr. Truscott inquired if LATC’s recordkeeping was in line with the Board. Ms. Zuniga affirmed that the Board also maintains records in paper format, however, with Business Modernization a majority of candidate records will become digital and reduce paper files. Mr. Truscott opined that it would still be best practice to purge digital information as well and that there is merit to have such a regulation to provide LATC the authority for purging records.

Mr. Wreschinsky requested verification of the types of examination documents being stored, whether it is the national examination or the CSE. Ms. Townsend confirmed that LATC maintains all examination eligibility documents which apply to both the national examination and the CSE, and pursuant to the proposed language in section 2611.5(c)(1), LATC would retain candidate examination scores.

Mr. Wreschinsky requested clarification on section 2616(b)(3) and whether that subsection is referencing reciprocity. He inquired about “waiver of the examination pursuant to BPC section 5651(b).” Ms. Zuniga explained that BPC section 5651(b) allows for a waiver for candidates currently licensed by a United States jurisdiction, Canadian province, or Puerto Rico and has passed an examination equivalent to the national examination. Mr. Wreschinsky requested further clarification regarding whether a reciprocity candidate would still be required to pass the CSE, to which Ms. Rodriguez confirmed that a reciprocity candidate would still need to meet LATC’s requirements and pass the CSE. Mr. Wreschinsky inquired about California licensees seeking reciprocity in another state and providing verification of examination scores and licensure to other jurisdictions. Ms. Rodriguez confirmed that LATC verifies licensure and has provided the dates a licensee passed the national examination to the states in which they are seeking reciprocity. Mr. Bowden asked if the proposed amendments to the regulations was to address a problem. Ms. Rodriguez explained that when updating LATC’s retention schedule issues were identified. Mr. Feng inquired on how long CLARB maintains a candidate’s record. Ms. Rodriguez explained that for CLARB to retain a candidate’s record the candidate would need to maintain their CLARB membership.

- **Andrew C.N. Bowden moved to recommend to the Board to adopt the proposed amendments to CCR sections 2611 and 2616 and addition of CCR section 2611.5.**

Jon S. Wreschinsky seconded the motion.

There were no comments from the public.

Members Bowden, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. Member Landry was absent. The motion passed 4-0.

J. DISCUSS AND POSSIBLE ACTION ON 2020 LEGISLATIVE PROPOSAL FOR FINGERPRINT REQUIREMENT

Ms. Zuniga explained that Senate Bill 608 requires the Board and LATC to begin fingerprinting candidates for licensure starting next year and it contains language that would allow the Board to require fingerprinting without adopting regulations but does not include the LATC. She added that the attached proposal will add similar language to the Landscape Architects Practice Act. Mr. Bowden inquired about the responsibility for the cost of fingerprinting. Ms. Zuniga confirmed that candidates would pay the associated costs which are estimated to be \$50-\$75. Mr. Feng questioned if each DCA board has a specific scope of investigation regarding fingerprinting. Ms. Zuniga confirmed that each board approves their own disciplinary guidelines that set the framework when reviewing fingerprint information. Mr. Bowden clarified that this requirement would apply to new licensees and would not apply to current licensees and board members. Ms. Welch asked if this item was intended to review an action that the Board has already approved. Ms. Zuniga confirmed.

K. REVIEW AND POSSIBLE ACTION ON MODIFIED PROPOSED REGULATORY LANGUAGE FOR CCR, TITLE 16, DIVISION 26, ARTICLE 1, SECTION 2655 SUBSTANTIAL RELATIONSHIP CRITERIA AND 2656 CRITERIA FOR REHABILITATION

Ms. Welch explained that the LATC reviewed proposed regulatory changes to CCR sections 2655 and 2656 a year ago in response to a new requirement under AB 2138 which becomes effective July 1, 2020 and requires boards to establish criteria to determine whether or not a criminal conviction or professional misconduct are substantially related to the practice. She explained that the 45-day public comment period for the related LATC rulemaking package has ended, however, prior to submitting the final statement of reasons package, DCA Legal Counsel is recommending that the LATC and Board consider the attached Modified Proposed Regulatory Language. She explained that another DCA board that is further along in the review process was advised by OAL that their proposed language, which the LATC's proposal was modeled after, would be disapproved for a couple clarification problems. Ms. Welch further explained that she worked with OAL to prepare the attached Modified Proposed Regulatory Language which addresses OAL's concerns. She recommended

LATC accept the language as modified because it will comply with what the legislature intended when requiring these new provisions for substantial relationship criteria and criteria for rehabilitation. Ms. Welch then clarified that she recommends amending CCR 2655 to add reference to BPC section 5675.5 and make minor technical changes.

Mr. Wreschinsky asked if violation of the Practice Act constitutes professional misconduct. Ms. Welch confirmed and clarified that subsection (c) of the proposal to amend CCR section 2655 defines professional misconduct as any violation of the Practice Act or other state or federal laws governing the practice of landscape architecture. Mr. Wreschinsky questioned if shoplifting could be considered grounds for revocation of a license. Ms. Welch confirmed that if the Board determines that shoplifting is substantially related to landscape architecture then that act could be grounds for denial or discipline.

Mr. Truscott asked if OAL would disapprove the LATC's rulemaking package if the LATC and Board do not move forward with the recommended Modified Proposed Regulatory Language. Ms. Welch clarified that not all of the recommended changes are required to meet OAL standards. She noted that adding BPC section 5675.5 is not mandatory but the addition is proposed by DCA Legal Counsel because it corresponds with BPC sections 141 and 480 which are currently referenced in the proposal. She added that the addition is not required by OAL but is recommended to further clarify the substantial relationship criteria.

Ms. Welch further explained that CCR 2656 outlines the criteria that must be reviewed by the Board when considering whether an applicant whose license is being denied, or a licensee who is subject to discipline, has demonstrated rehabilitation such that the license could be issued or put on probation or not disciplined at all. She added that the criteria would help determine whether someone was sufficiently rehabilitated or if their discipline could be less than a harsher penalty. Ms. Welch reminded the Committee that the previous proposal was formatted in four subsections including two for denial of a license and two for discipline of a license. She explained that the modified language would further clarify this distinction by organizing the first two subsections for denial of a license under new subsection (a) and those related to discipline under new subsection (b). She added that the proposal also includes minor technical corrections and non-substantive changes to remove language determined by OAL to be unclear. Ms. Welch clarified that subsection (a)(2) was rewritten to address OAL's concerns and noted that the proposal also includes additional clarifying language throughout. She added that subsection (b)(2) was also rewritten in line with the changes proposed to (a)(2) and to preserve the Board's ability to discipline a licensee for all of the grounds specified under the Practice Act.

Mr. Wreschinsky questioned if an individual who completed a criminal probation prior to applying for, or renewing, a license would be required to report their criminal history. Ms. Welch clarified that AB 2138 limited board consideration of criminal convictions to those within seven years or other crimes that are more serious. She clarified that an individual would not have to report and could not be denied for failing to report a

criminal conviction over seven years old. Mr. Wreschinsky questioned if the application clearly states the seven-year requirement. Ms. Welch confirmed that the application will be updated to conform to AB 2138.

- **Jon S. Wreschinsky moved to accept the Modified Proposed Regulatory Language as presented and recommend to the Board adoption of the proposal.**

Patricia M. Trauth seconded the motion.

There were no comments from the public.

Members Bowden, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. Member Landry was absent. The motion passed 4-0.

L. DISCUSS AND POSSIBLE ACTION ON NEW LATC LOGO

Ms. Rodriguez explained that the LATC was presented with an opportunity to consider adopting a new logo in November, as the Board had recently adopted their new logo after working with DCA. The Committee decided to consider logos designed by DCA and possibly the LATC members and landscape architecture students. She added that staff worked with legal counsel and found that there could be copyright or trademark concerns involved with accepting student submissions. Ms. Rodriguez explained that the DCA Office of Publications, Design & Editing (PDE) developed several LATC logo options which were contained in the meeting materials. Ms. Rodriguez informed the Committee that logos are presented in black and white to not distract from the design.

Ms. Trauth noted that she likes the current logo. Mr. Bowden noted that he preferred the layout of the logo presented in attachment L.2.3 and recommended changing the style of the trees. Ms. Trauth requested additional simplified logo options. Mr. Wreschinsky agreed that the logo should be a simple design that the public would identify with landscape architecture. Ms. Trauth suggested that the stylized tree symbol used in attachment L.2.2 could be used alone to convey the same type of information as the full image. Ms. Gyuro asked if there are any specific design elements that should be represented in the logo. Mr. Bowden expressed that the logo should represent landscape architecture rather than architecture, with a focus on California. Mr. Wreschinsky agreed that it should represent California landscape and suggested incorporating an oak tree in the design. Mr. Truscott asked if the members felt that the current logo should be changed. Mr. Bowden shared that he does not particularly care for the current logo. Mr. Wreschinsky expressed that he liked the foreground of the design included in attachment L.2.12 but would prefer a different species of tree. Ms. Trauth shared that she preferred the design included in L.2.8 but reiterated that it should be simplified.

Mr. Truscott recommended providing PDE with input on two or three of the preferred designs. He noted that members had identified the designs presented in attachments

L.2.3, L.2.8, and L.2.12 as possible starting points, and noted that L.2.8 includes a piece of architecture so it is slightly different from the other two. Mr. Truscott requested input on what types of trees should be considered for the logo options. Mr. Bowden recommended an oak or California redwood. Ms. Rodriguez shared input she received from Susan Landry on the presented logo designs in which she expressed that the trees do not look natural and are very regimented. Mr. Feng added that the logo could be a more elevated vision of landscape architecture with a focus on shaping the relationship between people, the built environment, and nature. He added that it could be more abstract.

Mr. Truscott recommended for the Committee to focus on developing feedback that covers the breadth of landscape architecture and to discuss the input at the next LATC meeting to be able to provide direction to PDE.

M. REVIEW OF FUTURE LATC MEETING DATES

Ms. Rodriguez announced that Ms. Landry was unable to attend the current meeting as she is now the Mayor of Campbell and had another required meeting that conflicted. She added that Ms. Landry is also unavailable on May 27, 2020 and suggested May 28 or 29 for the next LATC meeting at UC Davis.

Ms. Rodriguez announced that the Board's next meeting will be held on February 28, 2020 in Sacramento and asked if a member of the LATC would be available to attend. Ms. Rodriguez confirmed she would reach out to members before the board meeting to coordinate attendance to the board meeting.

Mr. Bowden asked if there are any travel restrictions that would prevent LATC from attending the upcoming CLARB annual meeting in New York. Ms. Zuniga confirmed that the State of California allows travel to New York. Ms. Rodriguez responded that at the beginning of the next fiscal year she will submit an out-of-state travel request for approval for the annual meeting.

Ms. Trauth asked why a legislation update was not provided at this meeting. Ms. Zuniga explained that the bill introduction deadline is at the end of February and most of the bills are not developed until the spring so an update could be on the next agenda.

Mr. Truscott added that the Committee also requested an update on the status of the current regulatory packages. Ms. Welch clarified that specific dates and actions are included in the EO report and added that perhaps it would be helpful to have an illustration of the process. She recommended checking with other DCA boards that use a simplified illustrated status report. Mr. Truscott agreed that something graphic would help communicate the process and assist members when fielding questions from licensees and candidates regarding regulatory packages.

N. ADJOURNMENT

The meeting adjourned at 1:34 p.m.

** Agenda items for this meeting were taken out of order to accommodate presenters of items. The order of business conducted herein follows the transaction of business.*

DRAFT

AGENDA ITEM F: PROGRAM MANAGER'S REPORT – UPDATE ON LATC'S ADMINISTRATIVE/MANAGEMENT, EXAMINATION, LICENSING, AND ENFORCEMENT PROGRAMS

The Program Manager, Trish Rodriguez, will provide an update on the LATC's Administration/ Management, Examination, Licensing, and Enforcement programs.

Attachment

Executive Officer's Report Dated September 1, 2020 (LATC Examination and Enforcement Statistics updated to July 31, 2020)



MEMORANDUM

DATE	August 1, 2020
TO	Board and Landscape Architects Technical Committee (LATC) Members
FROM	Laura Zuniga, Executive Officer
SUBJECT	Executive Officer Report

The following information is provided as an overview of Board activities and projects as of July 31, 2020.

Administrative/Management

Board The Board met on June 5, 2020 via teleconference. The remaining meetings for 2020 are September 18, 2020 and December 11, 2020.

Committee Meetings

Professional Qualifications Committee (PQC) The next PQC meeting will be held via teleconference, which is projected to be in October. However, no date has been set at this time. The PQC will continue its work on the assigned 2019-2021 Strategic Plan objectives.

Regulatory and Enforcement Committee (REC) The next REC meeting has not yet been scheduled.

Communications Committee The next Communications Committee meeting has not yet been scheduled.

Budget The Department of Finance (DOF) has requested that all state departments provide monthly cost estimates associated with Novel Coronavirus (COVID-19) related activities including operational-type costs such as staff time.

Business Modernization In December 2017, the Board, in collaboration with the DCA, finalized its Business Modernization Plan (Plan) to effectively facilitate the analysis, approval, and potential transition to a new licensing and enforcement platform.

The project was estimated to commence by January 2021 and be completed by July 2022. However, the funding for the project that was planned for the 2020-2021 FY was deferred from the proposed Budget, and DCA will pursue funding for the 2021-2022 FY.

The Board and LATC implemented online credit card payments for license renewal application. Online credit card payments for license renewal launched on February 5, 2019, for the Board and April 23, 2019, for LATC. As of July 31, 2020, the Board had 6,229 and the LATC 1,031 licensees renew online. with a credit card payment.

Coronavirus (COVID-19) As California continues to navigate strategies to limit the spread of COVID-19, the Department of Consumer Affairs (DCA) and the Board remain committed to supporting consumers, licensees, applicants, and other stakeholders by maintaining the delivery of services. Most staff are teleworking part-time.

Newsletter The *California Architects* Newsletter was published on the website in July.

Personnel Amy Cernicky joined the Board on June 22, 2020 as the new Examination Technician; Darren Dumas on July 1, 2020 as the new Examination Analyst; and Jane Kreidler on July 20, 2020 as the new Staff Services Manager I of the Administration Unit. Recruitment efforts are underway to fill the continuing education Staff Services Analyst position in the Examination/Licensing Unit.

Publications New outreach posters targeting community colleges and veterans will be distributed in August statewide. Community colleges and veteran's counseling centers will be also provided electronic formats of the poster to facilitate distance learning and social media posting.

Regulatory Proposals ***California Code of Regulations (CCR) Sections 110 (Substantial Relationship Criteria) and 110.1 (Criteria for Rehabilitation)*** The Board approved proposed regulatory language to amend CCR sections 110 and 110.1 at its February 27, 2019, meeting and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of the Board's regulatory proposal for CCR sections 110 and 110.1:

Date	Action Taken
February 27, 2019	Proposed regulatory language approved by the Board
March 5, 2019	Proposed regulation submitted to DCA Legal Affairs Division for pre-review
March 7, 2019	DCA Legal concluded prereview
March 8, 2019	Proposed regulation submitted to DCA Legal Affairs Division for initial analysis

September 13, 2019	Proposed regulation submitted to Agency
December 27, 2019	Notice of Proposed changes in the Regulations published by Office of Administrative Law (OAL)
February 28, 2020	Proposed modified language approved by the Board
March 24, 2020	Approved for review by the Regulations Unit – Pending Legal and Budget review of Final Phase Package
June 25, 2020	Rulemaking package approved by Agency and DCA for submission to OAL
July 2, 2020	Proposed rulemaking package submitted to OAL for approval

CCR Section 154 (Disciplinary Guidelines) The Board’s 2013 and 2014 Strategic Plans included an objective to review and update the Board’s *Disciplinary Guidelines*. The REC reviewed recommended updates to the Board’s *Disciplinary Guidelines* in 2013 and 2014. Additionally, at the request of the REC, staff consulted with a representative of the American Institute of Architects California to address a proposed modification to the “Obey All Laws” condition of probation. The Board approved the proposed regulatory language to amend CCR section 154 at its June 10, 2015 meeting and delegated the authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and to make minor technical or non-substantive changes, if needed.

At its March 1, 2018 meeting, the Board reviewed and approved the proposed regulatory changes to the *Disciplinary Guidelines* and CCR section 154 as modified, directed the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes, as modified.

As a result of guidance from DCA, staff made additional changes to the *Disciplinary Guidelines* due to the passage of Assembly Bill (AB) 2138 as well as proposed changes to CCR sections 110 (Substantial Relationship Criteria) and 110.1 (Criteria for Rehabilitation) including two options. The Board adopted the proposed recommended changes for CCR section 110 and option 1 of section 110.1 and approved the revised *Disciplinary Guidelines* at its February 27, 2019 meeting. Staff is proceeding with the regulatory proposal process and submitted it to DCA Legal for pre-review on September 19, 2019. DCA Legal reviewed the regulatory package and provided input on the Initial Statement of Reasons (ISR) on April 8, 2020. Staff is revising the ISR to address Legal Affairs Division’s issues.

CCR Section 144 (Fees) After discussing the fee associated with retiring an architectural license at its February, June and September 2019 meetings, the Board approved proposed regulatory language to amend CCR section 144 to set the fee at \$40 at its December 11, 2019 meeting. They delegated the authority to the Executive Officer (EO) to adopt the regulation, provided no adverse comments are received during the public comment period, and to make minor technical or non-substantive changes, if needed. Staff continue to work with DCA Legal Affairs Division in developing the regulatory package, which includes the ISR, Notice of Proposed Changes and Economic and Fiscal Impact Statement.

CCR Section 165 (Continuing Education) This is a regulatory proposal to establish requirements for continuing education courses and providers. Staff worked with DCA Legal Affairs Division to finalize the proposed regulatory language that was discussed at the June 5, 2020 Board meeting. The Board approved the proposed language and delegated authority to the EO for adoption of the regulation. Staff continue to work with DCA Legal Affairs Division in developing the regulatory package, which includes the ISR, Notice of Proposed Changes and Economic and Fiscal Impact Statement.

Social Media

Platform	Q1* Posts	Q2* Posts	Difference	Followers 4/30/20	Followers 7/31/20	Difference
Twitter (launched in 2014)	43	26	-39%	1332	1335	.23%
Instagram (launched in 2016)	25	14	-44%	798	890	11%
Facebook (launched in 2017)	38	29	-23%	200	206	3%
LinkedIn (launched July 2019)	1	0	100%	206	232	12%

Q1 February 2020-April 2020

Q2 May 2020—July 2020

Website The website was updated to reflect the Board’s most recent newsletter, *California Architects*, in July as well as changes in services due to the spread of the COVID-19 and appointment of a new Board member.

Examination and Licensing Programs

ARE Performance data for ARE 5.0 administrations to California candidates during FY 19/20 and comparisons of performance with NCARB data for prior FYs are shown in the following tables. There were three administered divisions (out-of-country) for April and May 2020 due to the testing restrictions implemented by Prometric related to COVID-19.

**California Performance ARE 5.0
(4th Quarter FY 2019/20: April 1 - June 30, 2020)**

ARE Division	Divisions Administered	Pass		Fail	
		Total	Rate	Total	Rate
Construction & Evaluation	11	7	64%	4	36%
Practice Management	9	4	44%	5	56%
Programming & Analysis	13	9	69%	4	31%
Project Development & Documentation	11	4	36%	7	64%
Project Management	13	9	69%	4	31%
Project Planning & Design	8	2	25%	6	75%

**Multi-Year California and NCARB ARE 5.0 Performance Comparison
(FY 2018/19 and 2019/20)**

DIVISION	FY 2018/19 ARE 5.0			FY 2019/20 ARE 5.0		
	CA Pass	National Pass	▲ %	CA Pass	National Pass	▲ %
Construction & Evaluation	64%	71%	-7%	61%	60%	+1%
Practice Management	45%	49%	-4%	45%	45%	0%
Programming & Analysis	45%	53%	-8%	43%	43%	0%
Project Development & Documentation	43%	50%	-7%	45%	43%	+2%
Project Management	57%	62%	-5%	54%	53%	+1%
Project Planning & Design	35%	43%	-8%	36%	34%	+2%

▲ % is the difference in California and NCARB performance.

CSE The current Intra-Departmental Contract (IDC) with OPES for examination development expires on June 30, 2021. OPES is currently conducting an OA on behalf of the Board that is tentatively planned to conclude in December 2020.

Performance data for the CSE during the prior FY is displayed in the following table.

**CSE Performance by Candidate Type
(FY 2019/20)**

Candidate Type	Pass		Fail		TOTAL
	Total	Rate	Total	Rate	
Instate First-time	309	76%	96	24%	405
Instate Repeat	169	63%	101	37%	270
Reciprocity First-time	94	56%	75	44%	169
Reciprocity Repeat	44	63%	26	37%	70
Relicensure First-time	4	57%	3	43%	7
Relicensure Repeat	0	0%	3	100%	3
TOTAL	620	67%	304	33%	924

Enforcement Program

Enforcement Subject Matter Expert (SME) Program Since November 2019, the Board has been using a pool of qualified SMEs to provide case review, technical evaluation, and courtroom testimony. This new process has enabled a more efficient use of the Board’s resources. To date, the Board has a pool of 18 SMEs some of which have completed eight expert opinion reports. Staff continue to assign cases on an ongoing basis as needed.

Enforcement Actions

Sebastian Rey Gonzalez (San Diego) - The Board issued a one-count citation that included a \$1,000 administrative fine to Sebastian Rey Gonzalez, dba S3DA Design, an unlicensed individual, for alleged violations of Business and Professions Code (BPC) section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged Gonzalez described himself in advertising as an “Architect” and described the company, S3DA Design, as an “architectural design firm” that provides “architectural services” on the company website. Gonzalez’s company Facebook profile categorized him as an “Architectural Designer” and listed “Architectural Design” under *Services*. Gonzalez’s company Upwork profile described the company as providing “Architectural and Interior designing- Structural engineering” and stated, “Our professional engineers and architects have years of experience in servicing many great clients. We are an

architectural design, structural engineering, and interior design company” and “Feel free to contact us if you like to know more about our architectural and structural services.” The Upwork profile also included the words “Architecture” and “Interior Architecture” to describe the company’s services. Gonzalez’s company Yelp profile was categorized under “Architects.” Gonzalez’s company ZoomInfo profile described him as an “Architectural Designer.” Gonzalez used the terms “architectural” and “architecture” in S3DA Design’s description of services without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536(a), as defined in CCR, title 16, section 134(a). The citation became final on May 14, 2020.

Karim Moradi (San Diego) - The Board issued a one-count citation that included a \$1,000 administrative fine to Karim Moradi, dba S3DA Design, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged Moradi solicited business from a California licensed architect as the “Technical Marketing Manager” of a company named “S3DA Structural & Architectural Design.” Both the company’s website and Moradi’s personal email signature included “Structural & Architectural” in the logo to describe the services offered by the company. Moradi’s personal LinkedIn profile described him as an “Architectural Designer” under *Experience* and included “Architectural Design” under *Skills & Endorsements* to describe his services. Moradi’s personal Twitter profile stated, “We provide #Architectural #Structural...#California” services. Moradi used the term “architectural” in S3DA Design’s description of services without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536(a), as defined by CCR, title 16, section 134(a). The citation became final on May 14, 2020.

Ann Y. Sullivan (Kensington) – The Board issued a one-count citation that included a \$500 administrative fine to Ann Y. Sullivan, architect license number C-6498, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Sullivan certified false or misleading information on her 2019 License Renewal Application and completed the coursework on disability access requirements after her July 31, 2019 license renewal date. Sullivan paid the fine, satisfying the citation. The citation became final on May 22, 2020.

Chiou-Yeong Wu (Rowland Heights) - The Board issued a one-count modified citation that included a \$250 administrative fine to Chiou-Yeong Wu, architect license number C-26073, for alleged violations of BPC section 5536.22(a) (Written Contract Requirements) and CCR, title 16, section 160(f)(1) (Informed Consent). The action alleged that on or about October 22, 2018, Wu prepared a written contract to provide Mr. W.C.C. (client) with schematic design, design development, and construction documents for an existing garage conversion to be permitted as an Accessory Dwelling Unit located on Hollis Street in Hacienda Heights, California, for a fixed fee of \$3,800. On or about October 22, 2018, the client signed the contract and provided Wu with an initial payment of \$1,900. The contract did not include Wu’s license number. In an invoice to

the client dated July 26, 2019, Wu billed \$1,520 for a second payment, \$200 for “Additional works for unpermitted addition to existing garage,” and \$380 for a third payment. The “Additional Services” provision in Wu’s contract stated that the additional services shall only be provided if authorized or confirmed in writing by the owner. There was no written document with the client’s permission to do this “additional” work, and this led to a dispute over the fees. Wu’s failure to include his license number in the written contract for the above-referenced project constitutes a violation of BPC section 5536.22(a). Wu also materially altered the scope of the project without obtaining the consent of his client in writing, a breach of his contract and violation of CCR, title 16, section 160(f)(1). Wu paid the fine, satisfying the citation. The citation became final on June 11, 2020.

Nancy Keenan (Pleasanton) - The Board issued a one-count citation that included a \$500 administrative fine to Nancy Keenan, architect license number C-17751, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Keenan certified false or misleading information on her 2019 License Renewal Application and completed the coursework on disability access requirements after her November 30, 2019 license renewal date. Keenan paid the fine, satisfying the citation. The citation became final on June 17, 2020.

Kyle K. Smith (Torrance) - The Board issued a one-count citation that included a \$2,000 administrative fine to Kyle K. Smith, dba West Palm Group, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect). The action alleged that a homeowner from southern California hired Smith and his company West Palm Group to perform architectural and engineering services to repair damage done to their home. The homeowner alleged that Smith misrepresented himself as an architect and an engineer. Smith’s business card for West Palm Group included the description of services “ARCHITECTURE, ENGINEERING, PLANNING.”

The action alleged that Smith submitted plans to the City of Torrance building department with a circular stamp with the following written on it. “LICENSED [sic] ARCHITECT”; the name and license number of a California licensed architect, “Exp. 12/31/2019”; and “STATE OF CALIFORNIA.” In addition, page A1.0 of the plans dated April 15, 2019, stated “DRAWN: KKS” and “APPROVED: KKS.” The license number used belongs to an architect who had no involvement with the Respondent or the project. The stamp used was deceptively similar to that required for licensed architects by BPC section 5536.1(b) and CCR, title 16, section 136. The citation became final on June 17, 2020.

John F. Hussey (El Cajon) - The Board issued a one-count citation that included a \$500 administrative fine to John F. Hussey, architect license number C-16803, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Hussey certified false or misleading information on his 2019 License Renewal Application and completed the coursework on disability access requirements after his August 31, 2019 license renewal date. The citation became final on June 19, 2020.

Agustin De Jesus Garcia Rivas (Menifee) - The Board issued a one-count modified citation that included a \$1,000 administrative fine to Agustin De Jesus Garcia Rivas, aka Agustin Garcia, dba Jenkins & Garcia Architecture, an unlicensed individual, for violations of BPC section 5536 (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect).

On or about January 27, 2017, Rivas prepared and executed a written contract to provide architectural services for a project in Lakeview, California for a fixed fee of \$4,000. The contract included "Lic# 4179," which belonged to Rivas' deceased business partner, architect Robert G. Jenkins, who had passed away on August 8, 2016. The contract used the terms "architect," "architecture," and "architectural" to describe Rivas' services. Rivas continued to use the business name "Jenkins & Garcia Architecture" in advertising until 2018.

Rivas' contract and advertising, wherein Rivas offered "architecture" and "architectural" services, are devices that might indicate to the public that Rivas is an architect or qualified to engage in the practice of architecture in California.

Rivas' use of the business name "Jenkins & Garcia Architecture" without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity violated BPC section 5536 and CCR, title 16, section 134(a). The citation became final on June 27, 2020.

Robert Alan Massetti (Rocklin) - The Board issued a one-count citation that included a \$2,500 administrative fine to Robert A. Massetti, architect license number C-12648, for violations of BPC section 5584 (Negligence) and CCR, title 16, section 160(a)(2) (Professional Misconduct).

The action alleged Massetti executed a contract with an unlicensed individual to provide consultation and working drawings with stamp and signature for a new two-story single-family residence. The architectural plans were approved by Sacramento County for a building permit but the stair dimensions were not compliant with the current California Building Code.

Massetti's failure to apply the correct building laws and codes by signing and stamping plans with non-compliant stair dimensions constituted a violation of BPC section 5584 and CCR, title 16, section 160(a)(2). Massetti paid the fine, satisfying the citation. The citation became final on July 10, 2020.

Steve Balikian (Santa Barbara) - The Board issued a two-count citation that included a \$2,000 administrative fine to Steve Balikian AKA Estabon Balikian, dba SB Builders AKA Santa Barbara Builders, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and BPC section 5536(a) as described in BPC section 5536.5 (State of Emergency; Practice Without License or Holding Self Out as Architect). The action alleged that Balikian's LinkedIn, Houzz, and Yelp profiles, as well as his business website, offered "Architecture" and "Architectural" services and stated that he had a "team of architects." Balikian's business website also had a page titled "Re-Building after the Thomas Fire," which offered

resources for victims of the fire that was declared a state of emergency by Governor Jerry Brown on or about December 5, 2017. The page also stated, "If you need help building in this stressful time...we have in-house architects," and then offered a free consultation. The citation became final on July 12, 2020.

Spencer C. Decker (San Francisco) - The Board issued a one-count modified citation that included a \$500 administrative fine to Spencer C. Decker, architect license number C-25211, for an alleged violation of BPC section 5600.05(b) (License Renewal Process; Failure to Maintain Records of Completion of Required Coursework). The action alleged that Decker failed to maintain records of his continuing education coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Decker paid the fine, satisfying the citation. The citation became final on July 20, 2020.

Sonia Ekmakji (West Hills) - The Board issued a one-count citation that included a \$2,000 administrative fine to Sonia Ekmakji, dba Archi-Tec, Archi-Tec Design and Remodling, Archi.Tec Designer, and Architec1, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Ekmakji prepared a written contract to provide architectural services for a new recreation room by preparing plans through submittal and approval of permits and Title 24 clearance at her client's home located in West Hills, California for a total "architectural fee" of \$6,597.95. The agreement was signed in the name of "ARCHI-TEC DESIGN AND REMODLING."

Ekmakji's business card included the business name "ARCHI TEC" and the email address ARCHITEC1@YAHOO.COM. Ekmakji's Yellow Pages profile included the business name "Architec1" and was categorized under "Architectural Designers" and her OpenGovUs profile was operating under the business name "Archi Tec Designer." Ekmakji used the term "Arch" in her company names or description of services, without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, a violation of BPC section 5536(a) as defined in CCR, title 16, section 134. Ekmakji paid the fine, satisfying the citation. The citation became final on July 22, 2020.

Jeffrey T. Smith (San Clemente) - The Board issued a one-count modified citation that included a \$500 administrative fine to Jeffrey T. Smith, architect license number C-19093, for an alleged violation of BPC section 5600.05(b) (License Renewal Process; Failure to Maintain Records of Completion of Required Coursework). The action alleged that Smith failed to maintain records of his continuing education coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. The citation became final on July 23, 2020.

Julio C. Gener (Costa Mesa) - The Board issued a one-count citation that included a \$500 administrative fine to Julio C. Gener, architect license number C-20599, for a violation of BPC section 5536.22(a) (Written Contract).

On or about August 18, 2017, Gener entered into a contract with a client to obtain a Conditional Use Permit (CUP) for an auto display and gun range located in the city of

Huntington Beach. This contract's scope was to create as-built plans to get the project approved for a CUP and provide production plans, which excluded any additional design or engineering. The CUP was obtained from the City of Huntington Beach on or about February 1, 2018. On or about March 2, 2018, Gener submitted construction documents for the project remodel to the city of Huntington Beach for plan check approval and feedback. These documents were dated February 7, 2018, and included a new restroom, kitchen, and parking layout.

On or about March 6, 2018, after submitting the preliminary drawings to the city, Gener emailed the client a written contract "memorializing" their oral amendment to the initial contract, but the client never signed it.

A dispute arose regarding the timeline and Gener was terminated from the project on or about March 23, 2018. Gener had worked on the project without an executed contract until his termination, a violation of BPC section 5536.22(a). Gener paid the fine, satisfying the citation. The citation became final on July 24, 2020.

Elmer Barco (Orange) - The Board issued a two-count citation that included a \$3,500 administrative fine to Elmer Barco, dba Bar International Design and Development Co., Inc. (Bar International), Bar Building Division, LLC, and The Development Bar, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that an auto and truck services company (client) hired Barco and his company, Bar International, in September 2014, to design and engineer a 1,400 square foot gas station convenience store in Bell Gardens, California. The contract between the client and Bar International dated September 29, 2014, was signed by Barco's unlicensed partner Michael Burke as "Architect for Bar International Design & Development Inc.," and promised schematic design, architectural sheets, and "plans finalized for architectural stamp." Change orders dated October 14, 2014; October 30, 2014; January 8, 2015; February 10, 2015; and April 3, 2015, included an "Architect's Project Number," specified "Not valid until signed by architect," and were signed by Michael Burke.

Barco's invoices to the client dated October 2, 2014, October 8, 2014, October 14, 2014, October 30, 2014, and November 13, 2014, itemized conceptual design, schematic design, and design development of "plans finalized for architectural stamp." The company's contract with an outside engineering firm dated March 5, 2015, designated Michael Burke of Bar International as the architect of record. Preliminary design sheets for the Bell Gardens project displayed a title block listing Commercial Design and Architecture under Bar International's description of services. A design agreement between the client and Bar Building Division, LLC dated March 24, 2016, promised "Complete architectural drawings" and "All documentation for planning commission submittal." Barco used a contract signed by Michael Burke as Architect for Bar Building Division, LLC, Project Status Reports specifying "architectural/ planning commission submittal," and an Estimated Timeline for "complete architectural" services.

As new commercial construction, the designs for a gas station convenience store, restaurant, and expansion are not exempt from licensing requirements under BPC section 5537. Barco represented his company as an architectural firm, provided architectural services, and included architecture in his company's description of services without an

architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536 and CCR, title 16, section 134.

In February 2020, Barco's business, The Development Bar, maintained a website offering project management and design services and featured the design of the client's gas station convenience store among its many commercial design accomplishments. By advertising non-exempt commercial architectural services through his company's website, Barco violated BPC section 5536(a). The citation became final on July 30, 2020.

Jon F. Edelbaum (Santa Cruz) - The Board issued a two-count citation that included a \$1,500 administrative fine to Jon F. Edelbaum, architect license number C-31763, for alleged violations of BPC sections 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements); 5584 (Willful Misconduct) and CCR, title 16, section 160(b)(2) (Failure to Respond to Board Investigation). The action alleged that Edelbaum certified false or misleading information on his 2019 License Renewal Application and failed to respond to the Board's requests for information regarding his continuing education coursework within 30 days. The citation became final on July 30, 2020.

Roland Ketelsen (Sacramento) - The Board issued a one-count citation that included a \$2,500 administrative fine to Roland Ketelsen, architect license number C-23046, for alleged violations of BPC section 5584 (Negligence) and CCR, title 16, section 160(a)(2) (Professional Misconduct). The action alleged that the Elk Grove Water District (EGWD) hired Ketelsen to provide professional architectural and engineering services for a new Information Technology Center containing offices, a meeting room, and a server room. EGWD is a department of the Florin Resource Conservation District (FRCD) and operates the City of Elk Grove's water system. The server room contained the computer servers that manage all the water district's computer systems, including the system that allows water treatment operators to monitor the public drinking water system that serves more than 39,000 people.

Ketelsen and his mechanical engineering sub-consultant Sigma Engineering specified a 1.5-ton Mitsubishi M-Series split system air conditioning unit for the server room. Based on that specification, the 1.5-ton M-series unit was purchased and installed. On December 10, 2018, the air conditioning unit stopped providing cooling air. The temperature in the server room rose to 115-degrees Fahrenheit and the computer servers shut down due to heat overload. The next morning, an independent air conditioning company (COAC) was brought in to diagnose the problem. The COAC technician determined that, according to the manufacturer's data sheet, the installed M-series unit was designed for comfort cooling, not for equipment cooling, and that the P-series Mitsubishi should have been specified. The M-series coolant, in a separate "split" unit outside the building, freezes when the outside temperature drops too low, causing the air conditioner to shut down.

Ketelsen was notified of the improper specification and took no immediate action to address the problem. On December 17, 2018, the same problem occurred with the M-series unit and temperatures in the server room again rose to dangerous levels. Due to the criticality of the computer servers to the water district's operations, the water district

had COAC remove the M-series and install a P-series unit at a cost of \$8,201. On January 14, 2019, a meeting to discuss the problem was scheduled between the Mitsubishi Sales Engineer/Area Manager, the General Manager of the water district, the FRCD General Manager, Ketelsen, and the principal of Sigma Engineering. Ketelsen and the representative from Sigma Engineering both failed to show up for the meeting. The representative from Mitsubishi confirmed that the P-series air conditioner is the proper unit for a server room, and the M-series is not recommended for that application.

Ketelsen's failure to specify and design the appropriate HVAC system, and his failure to assist the owner in resolving the problem constitute negligence in the practice of architecture, violations of BPC section 5584 and CCR, title 16, section 160(a)(2). The citation became final on July 30, 2020.

Disciplinary Actions

Ethan Wilson Clifton (Santa Rosa) - Effective July 6, 2020, Ethan Wilson Clifton's architect license number C-11466 was revoked. The action came after a Default Decision was issued by the Board.

An Accusation filed against Clifton alleged six causes for discipline for violations of: (1) BPC (BPC) section 5585 and CCR (CCR), title 16, section 160(a)(2) (Incompetency); (2) BPC sections 5536.4(b), 5578, and 5584 (Willful Misconduct, Failure to Release Instruments of Service); (3) BPC sections 5584 and 5585 (Willful Misconduct and Recklessness); (4) BPC section 5584 (Willful Misconduct); (5) BPC sections 5536.22(a)(3) and (4) and 5578 (Failure to Comply with Contract Requirements); and (6) BPC section 5584 and CCR, title 16, section 160(b)(2) (Willful Misconduct, Failure to Respond to Request for Evidence).

The Accusation alleged that on or about April 15, 2015, Clifton executed a contract to design a new residence to replace his clients' existing home in Redwood City, California. The contract did not contain Clifton's architect license number or a description of the procedure to accommodate additional services.

Clifton initially told his clients that construction drawings would be completed by May 2015; however, after several delays and revised completion dates, Clifton indicated that his final drawings would be submitted to the building department on September 22, 2015. Based on this anticipated submission date, Clifton then recommended that the clients demolish their existing home in preparation for the construction of their new home. Acting on his advice, the clients demolished their home in September 2015. For over three years, the clients then rented another home awaiting completion of construction.

On or about January 14, 2016, Clifton suggested the clients obtain a partial permit for foundation and slab construction, but they were unable to do so because Clifton had not finished the construction drawings. The clients had paid all of Clifton's invoices to that date, approximately \$52,000, but never received completed construction drawings from him and had to engage another architect to complete the project.

Cliffton then refused to release his drawings to the new architect unless the clients paid him an additional \$35,000. He later increased this amount to \$65,000. Additionally, Cliffton told the clients' structural and mechanical engineers and Title 24 consultant, who were under contract with the clients, to cease work and destroy all their documents.

On July 1, 2016, the Board requested a written response to the allegations and supporting documents from Cliffton. In response, he provided only a brief statement, copies of his correspondence to the Better Business Bureau, and the clients' draft lawsuit against him.

The Board's Default Decision and Order was issued on June 5, 2020, and became effective on July 6, 2020.

<u>Enforcement Statistics</u>	<u>FY 20/21</u> <i>(as of 7/31/20)</i>	<u>FY19/20</u>	<u>FY18/19</u>
Complaints			
Received/Opened (Reopened):	25 (0)	428 (2)	310 (2)
Closed:	15	428	314
Average Days to Close:	147 days	132 days	188 days
Pending:	162	153*	150*
Average Age of Pending:	155 days*	230 days*	230 days*
Citations			
Issued:	6	96	48
Pending:		20	32*
Pending AG: †		3	3*
Final:		84	55
Disciplinary Actions			
Pending AG:	6	6*	6*
Pending DA:	0	0	1*
Final:	0	2	1
Continuing Education (\$5600.05)**			
Received/Opened:	0	37	35
Closed:	0	30	24
Pending:	0	7	11*
Settlement Reports (\$5588)**			
Received/Opened:	3	34	24
Closed:	1	25	15
Pending:	2	9	9*

*Calculated as a monthly average of pending cases.

**Also included within "Complaints" information.

†Also included within "Pending Citations."

Types of Complaints Received FY 2020/21 (as of 7/31/20)

Type of Complaint Received	FY 2020/21 (as of 7/31/20)	FY 2019/20
Advertising	33.3%	33.4%
Continuing Education	0.0%	6.5%
Licensee	12.5%	29.6%
Settlement	12.5%	8.4%
Unlicensed	41.7%	22.1%

Closure of Complaints by FY

Type of Closure	FY 2020/21 (as of 7/31/20)	FY 2019/20	FY 2018/19
Cease/Desist Compliance	1	21	10
Citation Issued	3	94	43
Complaint Withdrawn	0	8	10
Insufficient Evidence	1	14	16
Letter of Advisement	5	123	120
No Jurisdiction	1	27	13
No Violation	3	95	74
Referred for Disciplinary Action	0	3	4
Other (i.e., Duplicate, Mediated, etc.)	4	99	30

Most Common Violations The majority of complaints received are filed by consumers for allegations such as unlicensed practice, professional misconduct, negligence, and contract violations, or initiated by the Board upon the failure of a coursework audit.

In FY 2019/20, 84 citations with administrative fines became final with 71 violations of the Architects Practice Act and/or Board regulations. The most common violations that resulted in citation or discipline during the current and previous two fiscal years are listed below.

BPC or CCR Section	FY 2020/21 (as of 7/31/20)	FY 2019/20
BPC § 5536(a), (b), and/or CCR § 134 – Advertising and Unlicensed Practice	44.4%	45.5%
BPC § 5536.1(c) – Unauthorized Use of Stamp/License number	0.0%	1.8%
BPC § 5536.22(a) – Written Contract	11.1%	5.5%
BPC § 5584 – Negligence or Willful Misconduct	33.3%	5.5%
BPC § 5600.05(a)(1) and/or (b) – Failure to Complete CE and/or Misleading Information on License Renewal	11.1%	54.5%
CCR § 160(b)(2) – Failure to Respond to Board Investigation	0.0%	7.3%

Landscape Architects Technical Committee

LATC ADMINISTRATIVE/MANAGEMENT

Business Modernization Refer to section under Board's Administrative/Management.

Committee The next LATC meeting is scheduled for September 4, 2020 via teleconference.

Personnel On August 17, 2020, Harmony Navarro filled the Licensing Coordinator position.

Social Media The LATC maintains a Twitter account that currently has 200 followers. This account largely permits the LATC to have active social media participation with the public and professionals.

Website LATC staff have been working with the DCA Public Information Office (PIO) to produce a web-based tutorial for the LATC homepage, schools, and other outreach efforts to assist candidates with navigating through the process of becoming a licensed landscape architect. A set of preliminary videos were presented to the LATC at their meeting on February 5, 2020. Staff are currently coordinating with PIO to incorporate Committee member feedback and finalize the videos for an upcoming LATC meeting.

Regulatory Proposals CCR Sections 2611 (Abandonment of Application), 2611.5 (Retention of Candidate Files), and 2616 (Application for Licensure Following Examination) The LATC's retention schedule was updated and approved in January 2020. While updating the retention schedule it was discovered that the abandonment of an application required definition within CCR 2611. Staff worked with DCA legal counsel and prepared proposed changes. Additionally, it was advised by legal counsel to add a new section 2611.5 to provide LATC authority for the retention and purging of candidate files. Lastly, it was advised to provide additional language to CCR section 2616 providing for the abandonment of a candidate's application for licensure. The proposed language was presented to the LATC on February 5, 2020, where the Committee made a recommendation to the Board to adopt the proposed regulatory language.

Following is a chronology, to date, of the processing of the regulatory proposal for CCR sections 2611, 2611.5 and 2616:

Date	Action Taken
February 28, 2020	Proposed regulatory language approved by Board
April 10, 2020	Proposed regulation submitted to DCA Legal Affairs Division for pre-review

LATC EXAMINATION PROGRAM

California Supplemental Examination (CSE). The IDC with OPES for examination development for FY 2019/20 expired on June 30, 2020. Staff coordinated with OPES on a new IDC for FY 20/21 and an IDC for the 2020 review of Landscape Architect Registration Examination and linkage study that commenced in July and runs through December.

Performance data for the CSE during the current and prior FYs is displayed in the following tables.

CSE Performance by Candidate Type (July 1, 2020 to July 31, 2020)

Candidate Type	Pass		Fail		TOTAL
	Total	Rate	Total	Rate	
First-time	7	78%	2	22%	9
Repeat	1	100%	0	0%	1
TOTAL	8	80%	2	20%	10

**CSE Performance by Candidate Type
(FY 2019/20)**

Candidate Type	Pass		Fail		TOTAL
	Total	Rate	Total	Rate	
First-time	61	73%	22	27%	83
Repeat	14	70%	6	30%	20
TOTAL	75	73%	28	27%	103

Landscape Architect Registration Examination (LARE). A LARE administration was held May 23-June 14, 2020. Examination results for all LARE administrations are released by the Council of Landscape Architectural Registration Boards (CLARB) within six weeks of the last day of administration. The next LARE administration will be held August 1-September 19, 2020.

The pass rates for LARE sections taken by California candidates during the May 23-June 14, 2020 administration are shown below:

SECTION	NUMBER OF SECTIONS	TOTAL PASSED		TOTAL FAILED	
		No. of Sections	Passed	No. of Sections	Failed
Project and Construction Management	0	N/A	N/A	N/A	N/A
Inventory and Analysis	0	N/A	N/A	N/A	N/A
Design	2	2	100%	0	0%
Grading, Drainage and Construction	1	0	0%	1	100%

National pass rates for LARE sections taken during the May 23-June 14, 2020 administration are shown below:

SECTION	CALIFORNIA		NATIONAL		▲ %
	Total	Passed	Total	Passed	
Project and Construction Management	0	N/A	53	75%	N/A
Inventory and Analysis	0	N/A	50	72%	N/A
Design	2	100%	63	83%	17%
Grading, Drainage and Construction	1	0%	49	65%	-65%

▲ % is the difference in the California and national (CLARB) pass rates.

National pass rates for LARE sections taken in 2019 are shown in the following table:

SECTION	CALIFORNIA		NATIONAL		▲ %
	Total	Passed	Total	Passed	
Project and Construction Management	176	66%	1,019	68%	-2%
Inventory and Analysis	208	54%	1,154	70%	-16%
Design	182	60%	1,149	65%	-5%
Grading, Drainage and Construction	156	60%	1,123	65%	-5%

▲ % is the difference in the California and national (CLARB) pass rates.

Regulatory Proposals. **CCR Sections 2615 (Form of Examinations) and 2620 (Education and Training Credits)** At its meeting on February 10, 2015, LATC directed staff to draft proposed regulatory language to specifically state that California allows reciprocity to individuals who are licensed in another jurisdiction, have 10 years of practice experience, and have passed the CSE. At the LATC meeting on November 17, 2015, the Committee approved proposed amendments to CCR section 2615(c)(1) and the Board approved the regulatory changes at its meeting on December 10, 2015.

The LATC received extensive input during the public comment period expressing concern about the proposed length of post-licensure experience (at least 10 years, within the past 15 years) to be required of reciprocity candidates who do not meet California's educational requirements (specifically, a degree in landscape architecture). At its November 4, 2016 meeting, LATC reviewed and discussed the public comments, heard from several members of the audience, and directed staff to provide additional research and possible options for its next meeting in January 2017. At its January 17, 2017 meeting, the Committee directed staff to draft proposed regulatory language allowing

reciprocity licensure to applicants licensed to practice landscape architecture by any US jurisdiction, Canadian province, or Puerto Rico, upon passing the CSE. Staff consulted with legal counsel to draft new, proposed regulatory language in accordance with the Committee's direction. Staff was also advised that it would be more efficient to begin a new regulatory proposal for this new language in lieu of continuing with the existing proposal. Pursuant to Government (Gov.) Code section 11346.4, the one-year deadline to finalize the existing regulatory proposal was August 12, 2017, which did not allow sufficient time to complete the required review/approval process through the control agencies.

At its April 18, 2017 meeting, the Committee approved the new proposed regulatory language to amend CCR section 2615(c)(1) and recommended that the Board authorize LATC to proceed with the regulatory change. The LATC's recommendation was considered by the Board at its June 15, 2017, meeting. Following discussion, the Board voted to reject the proposed regulatory language. The Board directed staff to prepare a proposal that addresses both the LATC's initial and reciprocal licensure requirements, and that closely aligns with the Board's current licensure requirements. The Board requested that the LATC's proposal should be presented to the Board at its next meeting.

At the July 13, 2017 meeting, the LATC reviewed proposed language to amend CCR section 2620 (Education and Training Credits) composed by staff and DCA Legal. This proposed language reflects the Board's licensing provisions by granting credit for related and non-related degrees while also adding an experience-only pathway. The LATC voted to recommend to the Board the approval of amendments to CCR section 2620. Upon the Board's review of amendments for CCR section 2620 during its meeting on December 7, 2017, the Board voted to approve the language. As initial licensing provisions and reciprocity provisions are closely tied, the LATC voted on July 13, 2017, to recommend to the Board that reciprocity requirements align with the final, amended provisions to CCR section 2620.

It was found that minor changes are necessary for consistency with the proposed amendments to CCR section 2620. Specifically, these changes will replace the term "Board approved degree" with "degree from an accredited program" and update a reference to CCR section 2620(a)(7). This new language was presented to the LATC for review and possible approval at their meeting on May 4, 2018. During this meeting, the Committee expressed concern that the Certification of Experience form may not adequately structure the experience a candidate gains, especially as it would pertain to the proposed experience-only pathway. Following discussion, the Committee directed staff to conduct further research regarding experience credit allocation of other licensing jurisdictions and present the findings at the next Committee meeting.

Subsequent to the Committee meeting on May 4, 2018, staff gathered research from other licensing jurisdictions who have detailed experience criteria on their experience verification forms as well as gathered data for California licensees and active candidates who qualify for licensure with one-year of education credit and five years of experience inclusive of examination pass rates, the types of experience gained, and whether enforcement actions were taken. The findings were presented to the LATC during its meeting on July 20, 2018; at which time the Committee granted approval to staff to move forward with the combined rulemaking file for CCR sections 2615 and 2620. The Board

approved the LATC's proposed regulatory language at its meeting on September 12, 2018.

Following is a chronology, to date, of the processing of LATC's regulatory proposal for CCR sections 2615 and 2620:

Date	Action Taken
December 10, 2015	Proposed regulatory language approved by the Board
August 2, 2016	Notice of Proposed Changes in the Regulations submitted to OAL
August 12, 2016	Notice of Proposed Changes in the Regulations published by OAL
September 27, 2016	Public hearing, public comments received during 45-day period
April 18, 2017	LATC voted to withdraw regulatory proposal and approved new proposed regulatory language
June 15, 2017	Board requested LATC prepare an alternate proposal that refines both initial and reciprocal licensure requirements to be more closely related to those of the Board's
July 13, 2017	LATC voted to recommend to the Board that reciprocity requirements align with initial licensure requirements once they are determined by the Education/Experience Subcommittee and approved by the LATC and the Board at subsequent meetings
October 3, 2017	The Education/Experience Subcommittee met and recommended expanded initial licensure pathways (and their respective education/ experience credit allocations) as amendments to section 2620 for the LATC's consideration
November 2, 2017	LATC met to review the Education/Experience Subcommittee's recommendations and voted to recommend that the Board approve proposed amendments to section 2620 to expand initial licensure pathways
December 7, 2017	Board reviewed and approved the LATC's proposed amendments to section 2620
May 4, 2018	LATC reviewed revised proposed regulatory language, to amend sections 2615 and 2620, and directed staff to conduct further research regarding experience credit allocation of other licensing jurisdictions and present findings at a future Committee meeting
July 20, 2018	LATC voted to recommend to the Board to proceed with the combined rulemaking file for sections 2615 and 2620
September 12, 2018	Proposed regulatory language approved by Board
November 1, 2018	Staff preparing regulatory package for DCA Legal Affairs Division's review
February 7, 2019	Proposed regulation submitted to DCA Legal Affairs Division for pre-review
March 21, 2019	DCA Legal Affairs Division concluded first round of prereview and returned regulation to staff

April 16, 2019	Proposed regulation returned to DCA Legal Affairs Division for additional prereview
June 5, 2019	DCA Legal Affairs Division concluded prereview
June 6, 2019	Proposed regulation submitted to DCA Legal Affairs Division for initial analysis
June 14, 2019	Proposed regulation submitted for Budget Office review
February 6, 2020	Budget approved Economic and Fiscal Impact Statement (Std. 399). Pending Legal Review of Initial Analysis.

CCR Section 2620.5 (Requirements for an Approved Extension Certificate Program)

At the December 6, 2018 LATC meeting, the LATC discussed opportunities to address the following in regulation: 1) extension certificate program approval, expiration, reauthorization, and extensions of said approval; 2) possible provisions for site reviews; and 3) the information that shall be provided by the extension certificate program to evaluate the program's compliance with the regulation. Following discussion, the Committee directed staff to form a subcommittee to work with staff to recommend regulatory changes for LATC's consideration at a later meeting date.

On January 17, 2019, staff held a conference call with the subcommittee where together they developed recommended changes to section 2620.5 and the review/approval procedures for LATC's consideration. At the February 8, 2019 LATC meeting, the Committee reviewed the subcommittee's recommendations and directed staff to prepare a regulatory proposal to amend CCR section 2620.5 for the LATC's consideration at its next meeting. At its May 29, 2019 meeting, the LATC voted to recommend to the Board approval of the proposed regulatory language to amend CCR section 2620.5. The Board approved the proposal at its meeting on June 12, 2019 and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of LATC's regulatory proposal for CCR section 2620.5:

Date	Action Taken
January 17, 2019	LATC staff held a conference call with the subcommittee where together they developed recommended changes for LATC's consideration at its February 8, 2019 meeting
February 8, 2019	LATC directed staff to prepare a regulatory proposal to amend section 2620.5 for the LATC's consideration at its May 23, 2019 meeting
May 29, 2019	LATC reviewed proposed regulatory language and voted to recommend approval by the Board
June 12, 2019	Proposed regulatory language approved by Board
July 31, 2019	Proposed regulation submitted to DCA Legal Affairs Division for pre-review
October 22, 2019	Proposed regulation submitted to DCA Legal Affairs Division for additional pre-review
November 25, 2019	Proposed regulation submitted to DCA Legal Affairs Division for initial analysis
February 5, 2020	Proposed regulation submitted to Budget Office for review

CCR Sections 2655 (Substantial Relationship Criteria) and 2656 (Criteria for Rehabilitation) At its meeting on February 8, 2019, LATC recommended to the Board approval of proposed regulatory language to amend CCR sections 2655 and 2656. The Board approved the proposed regulatory language at its February 27, 2019, meeting and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of LATC’s regulatory proposal for CCR sections 2655 and 2656:

Date	Action Taken
February 27, 2019	Proposed regulatory language approved by the Board
March 7, 2019	Proposed regulation submitted to DCA Legal Affairs Division for pre-review
March 8, 2019	DCA Legal Affairs Division concluded prereview
March 12, 2019	Proposed regulation submitted to DCA Legal for initial analysis
September 24, 2019	Proposed regulatory language approved by Agency
October 11, 2019	Notice of Proposed Regulatory Action published by OAL
November 25, 2019	End of 45-day public comment period, no comments received
February 5, 2020	LATC reviewed modified proposed regulatory language and voted to recommend approval by the Board
February 28, 2020	Proposed modified regulatory language approved by the Board
March 20, 2020	End of 15-day public comment period, no comments received
March 24, 2020	Final rulemaking submitted to DCA Regulatory Unit for review
April 2, 2020	Final rulemaking package approved by DCA Regulatory Unit and submitted to DCA Director for review
April 29, 2020	Final rulemaking package approved by DCA Director and submitted to Agency for review
June 12, 2020	Final rulemaking file submitted to DOF
June 24, 2020	Final rulemaking file submitted to OAL

LATC ENFORCEMENT PROGRAM

Regulatory Proposal. **CCR Section 2680 (Disciplinary Guidelines)** As part of the Strategic Plan established by LATC at the January 2013 meeting, LATC set an objective of collaborating with the Board in order to review and update LATC’s *Disciplinary Guidelines*. Staff worked closely with Board staff to update their respective guidelines to mirror each other wherever appropriate.

At its June 13, 2018 meeting, the Board reviewed and approved the proposed changes to the LATC’s *Disciplinary Guidelines* and CCR section 2680 as modified, directed the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes, as modified.

As a result of guidance from DCA, staff made additional changes to the *Disciplinary Guidelines* due to the passage of AB 2138 as well as proposed changes to CCR sections 2655 (Substantial Relationship Criteria) and 2656 (Criteria for Rehabilitation) including two options. On February 8, 2019, the Committee made a recommendation to the Board to adopt the proposed regulatory language for section 2655 and option 1 for section 2656 and approve the revised *Disciplinary Guidelines*.

Date	Action Taken
August 6, 2015	Amended proposed regulatory language to LATC's Disciplinary Guidelines approved by LATC
September 10, 2015	Proposed regulatory language to LATC's Disciplinary Guidelines approved by Board
October 21, 2015	Board staff provided suggested edits to the Board's Disciplinary Guidelines to DCA Legal Affairs Division for review
November 12, 2015	DCA Legal Affairs Division notified Board staff that the edits to their Disciplinary Guidelines were sufficient and substantive, and would require re-approval by the Board
December 10, 2015	Amended proposed regulatory language to Board's Disciplinary Guidelines approved by Board
March 15, 2016	Board staff prepared their regulatory package for DCA Legal Affairs Division's review and approval
April 8, 2016	DCA Legal Affairs Division advised Board staff that further substantive changes to their Disciplinary Guidelines were necessary prior to submission to OAL
December 15, 2016	Amended proposed regulatory language of the Board's Disciplinary Guidelines approved by Board
July 13, 2017	Amended proposed regulatory language to LATC's Disciplinary Guidelines based on the Board's Disciplinary Guidelines approved by LATC
September 5, 2017	DCA Legal Affairs Division informed staff that additional substantive changes were necessary for both LATC's and Board's Disciplinary Guidelines
September 7, 2017	Amended proposed regulatory language of LATC's Disciplinary Guidelines, with additional substantive changes approved by Board
December 7, 2017	Amended proposed regulatory language for the Board's Disciplinary Guidelines approved by Board; however, the Board requested additional research on its statutory authority to impose fines
May 4, 2018	LATC reviewed proposed regulatory language to LATC's Disciplinary Guidelines, including language on statutory authority to impose fines, and voted to recommend approval by the Board
June 13, 2018	Proposed regulatory language to LATC's Disciplinary Guidelines approved by Board
February 8, 2019	Revised proposed regulatory language to LATC's Disciplinary Guidelines, due to the passing of AB 2138, approved by LATC

February 27, 2019	Revised proposed regulatory language to both LATC's and Board's Disciplinary Guidelines approved by Board
July 30, 2019	Proposed regulation of LATC's Disciplinary Guidelines submitted to DCA Legal for prereview
October 8, 2019	DCA Legal Affairs Division concluded pre-review of LATC's Disciplinary Guideline's regulatory package
October 15, 2019	Proposed regulation for LATC's Disciplinary Guidelines submitted to DCA Legal for initial analysis
April 17, 2020	DCA Budget Office approved Economic and Fiscal Impact Statement (Std. 399)

Regulatory Proposal **CCR Section 2671 (Public Presentments and Advertising Requirements)** As part of the Strategic Plan established by LATC at the December 2018 meeting, LATC set an objective of researching the feasibility of requiring a license number on all correspondence and advertisement platforms to inform and protect consumers.

Currently, CCR section 2671 requires that a landscape architect only include their name and the words "landscape architect" in all forms of advertising or public presentments. In an effort to better inform and protect California consumers, the proposed changes of the LATC's current advertising requirements will expand to include license numbers in all forms of advertising.

Proposed language to amend CCR section 2671 was presented to the Committee on May 29, 2019, where the Committee made a recommendation to the Board to adopt the proposed regulatory language. The Board approved the Committee's recommendation at its June 12, 2019 meeting. Staff proceeded with the regulatory proposal process and DCA Legal completed the prereview of the regulatory change package. On August 12, 2019 the regulatory change package was submitted to DCA for Initial Analysis.

Date	Action Taken
June 12, 2019	Amended proposed regulatory language approved by the Board
June 27, 2019	Proposed regulation submitted to DCA Legal for prereview
August 6, 2019	DCA Legal concluded prereview
August 12, 2019	Proposed regulation submitted to DCA Legal for initial analysis
September 3, 2019	Proposed regulation submitted to Budget Office for review
February 5, 2020	Budget approved Economic and Fiscal Impact Statement (Std. 399). Pending Legal review of Initial Analysis.

Legislative Proposal **BPC section 5659 (Inclusion of License Number – Requirement)** As part of the Strategic Plan established by LATC at the December 2018 meeting, LATC set an objective to educate the different jurisdictional agencies about landscape architecture licensure and its regulatory scope of practice to allow licensees to perform duties prescribed within the regulations. Staff reviewed the Landscape Architects Practice Act and BPC section 460 (Local Government Entities – Powers), which prevents local government entities from prohibiting a licensed professional from engaging in the practice for which they are licensed while also allowing those entities to adopt or enforce local ordinances. Staff worked with DCA legal counsel to add language to section 5659 to coincide with section 460 specifically referencing landscape architects. The proposed additional language would prohibit local jurisdictions from rejecting plans solely based on

the grounds that they are stamped by a licensed landscape architect; however, they could still reject plans based on defects or public protection from the licensee.

Proposed language to amend BPC section 5659 was presented to the LATC on February 5, 2020, where the Committee made the recommendation to the Board to adopt the proposed language. The Board approved the Committee’s recommendation at its February 28, 2020 meeting. Staff proceeded with the proposal process and the proposal was submitted to legislative staff in mid-March 2020.

Date	Action Taken
February 28, 2020	Proposed language approved by Board
March 18, 2020	Bill proposal provided to EO for review and submittal
Mid-March 2020	Bill proposal submitted to legislative staff

Enforcement Actions

Michele Garzon (Woodland Hills) - The Board issued a one-count citation that included a \$1,000 administrative fine to Michele Garzon, an unlicensed individual, for alleged violations of BPC section 5640 (Unlicensed Person Engaging in Practice - Sanctions). The action alleged that Garzon provided services for a project in Glendale, which is not an exempt project as described in BPC section 5641 (Chapter Exceptions, Exemptions). Garzon paid the fine, satisfying the citation. The citation became final on July 13, 2020.

Scott Martin (Venice) - The Board issued a two-count citation that included a \$1,000 administrative fine to Scott Martin, landscape architect license number LA 6061, for alleged violations of BPC section 5616 (Landscape Architecture Contract—Contents, Notice Requirements) and CCR section 2670, subsection (a)(2) (Rules of Professional Conduct -Competence). The action alleged that Martin failed to execute a contract prior to commencing work on a project and knowingly provided and submitted plans with incorrect measurements. Martin paid the fine, satisfying the citation. The citation became final on December 23, 2019.

<u>Enforcement Statistics</u>	<u>Current Quarter</u> May-July 2020	<u>Prior Quarter</u> Feb 2019-Apr 2020	<u>FYTD</u> 2020/21	<u>5-FY Avg</u> 2015/16-2019/20
Complaints				
Received/Opened (Reopened):	9 (1)	11 (0)	3 (0)	33 (0)
Closed:	10	6	4	35
Average Days to Close:	61 days	40 days	48 days	152 days
Pending:	9*	5*	8*	11
Average Age (Pending):	51 days*	25 days*	59 days	106 days
Citations				
Issued:	1	0	0*	3
Pending:	0*	0*	0*	0
Pending AG: †	0*	0*	0*	0
Final:	1	0	1	3
Disciplinary Actions				
Pending AG:	0*	0*	0*	1
Pending DA:	0*	0*	0*	0

Final:	0	0	0	1
Settlement Reports (§5678)**				
Received/Opened:	1	1	1	2
Closed:	1	0	0	2
Pending:	1*	1*	1*	0

* Calculated as a quarterly average of pending cases.

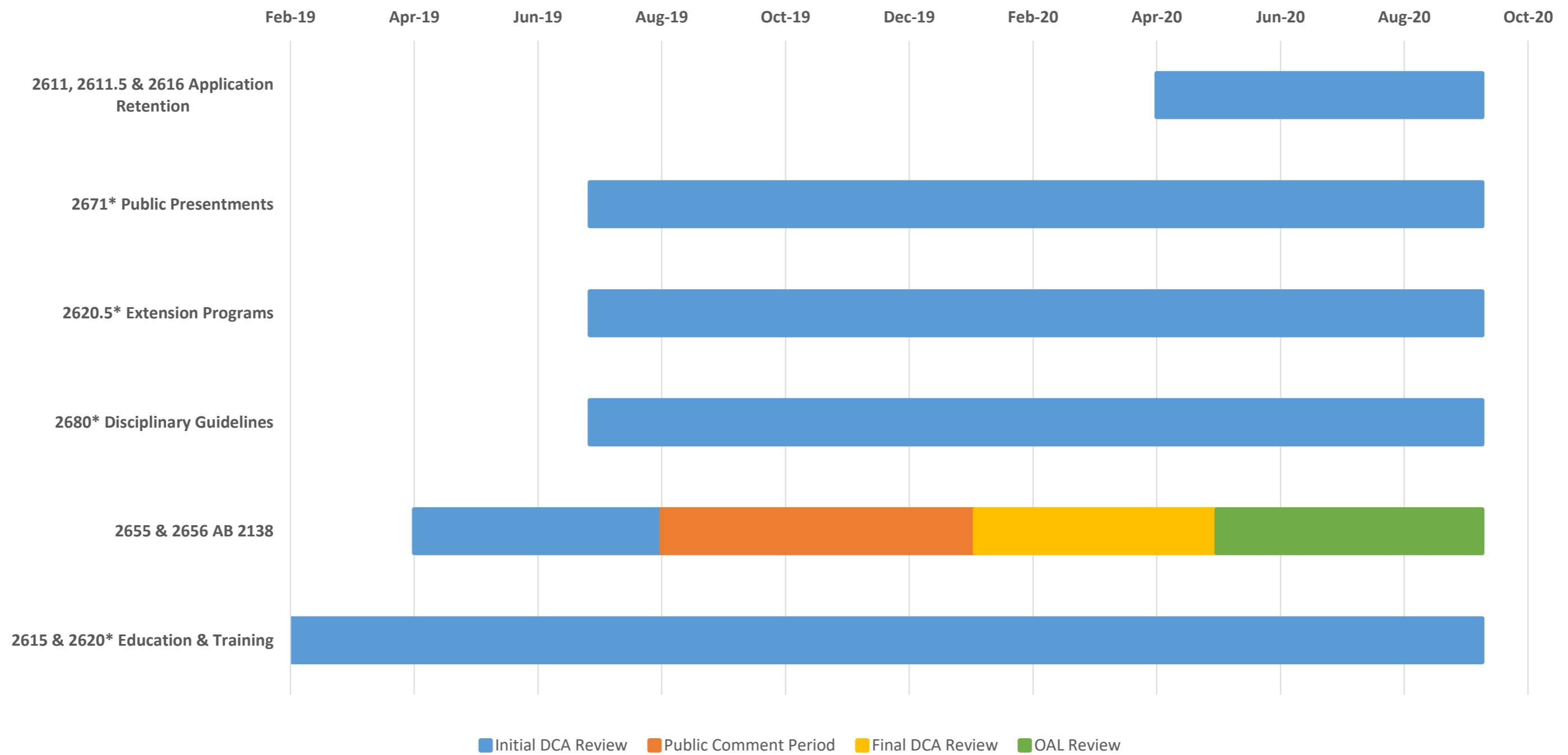
** Also included within "Complaints" information.

† Also included within "Pending Citations."

Landscape Architects Technical Committee Status of Pending Regulations

Regulatory Proposals	Initial DCA Review			Public Comment Period			Final DCA Review			OAL Review		
	Start Date	Current/End Date	Days	Start Date	Current/End Date	Days	Start Date	Current/End Date	Days	Start Date	Current/End Date	Days
2611, 2611.5 & 2616 Application Retention	Apr-20	Sep-20	163			0			0			0
2671* Public Presentments	Jul-19	Sep-20	447			0			0			0
2620.5* Extension Programs	Jul-19	Sep-20	447			0			0			0
2680* Disciplinary Guidelines	Jul-19	Sep-20	447			0			0			0
2655 & 2656 AB 2138	Apr-19	Aug-19	124	Aug-19	Jan-20	157	Jan-20	May-20	121	May-20	Sep-20	133
2615 & 2620* Education & Training	Feb-19	Sep-20	597			0			0			0

Tracking of Pending LATC Regulatory Proposals



***Note: Initial DCA review delayed to allow processing of priority rulemakings (AB 2138-related and others)**

AGENDA ITEM F.2: DISCUSS AND POSSIBLE ACTION ON ANNUAL ENFORCEMENT REPORT

Summary

The Landscape Architects Technical Committee (LATC) maintains an ongoing goal of reducing its average enforcement case completion timeline and seeking greater efficiencies in the handling of all enforcement cases. As part of the Department of Consumer Affairs' Consumer Protection Enforcement Initiative, the LATC's enforcement completion goal for cases not referred to the Attorney General's Office is 270 days. At the end of Fiscal Year (FY) 19/20, the LATC had 9 pending enforcement cases. The average time to complete an internal investigation in FY 19/20 was 70 days.

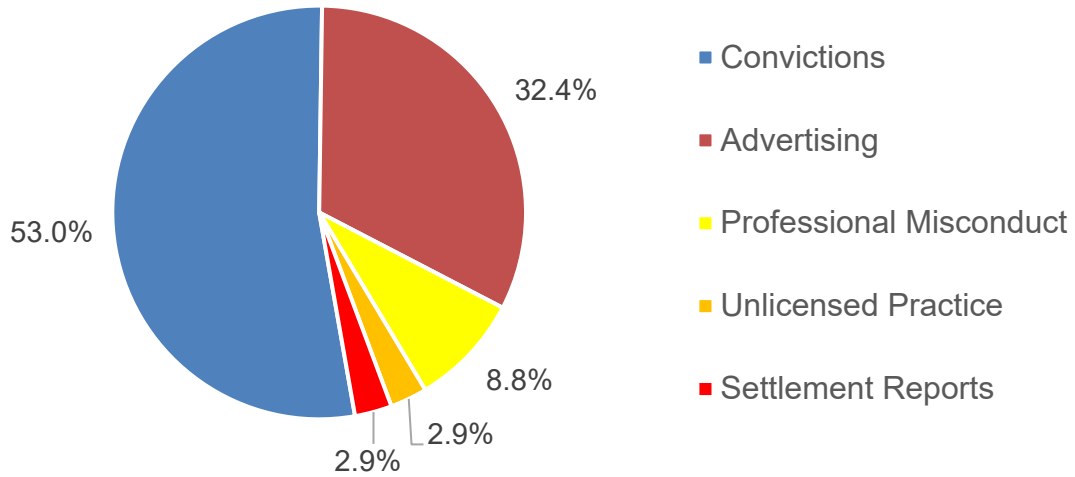
The attached Enforcement Program Report includes tables and graphs with the following information: 1) types of complaints received by the LATC during FY 19/20; 2) comparison of complaints received, closed, and pending by FY; 3) comparison of age of pending complaints by FY; 4) summary of closed complaints by FY; 5) summary of disciplinary and enforcement actions by FY; and 6) most common violations of the Landscape Architects Practice Act and regulations that resulted in enforcement action during FYs 17/18-19/20.

Attachment

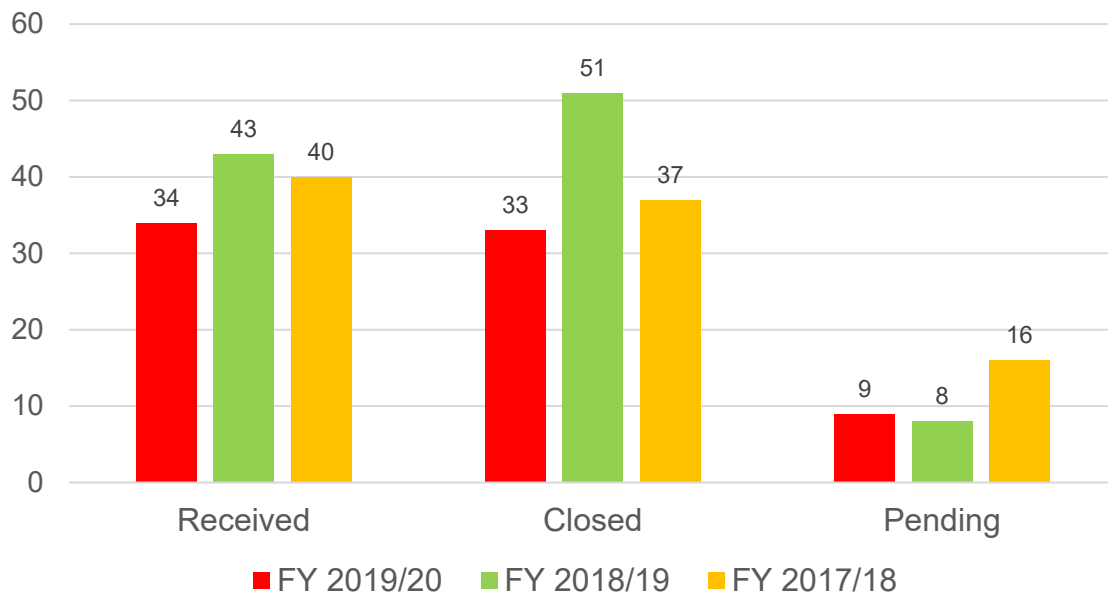
Enforcement Program Report

ENFORCEMENT PROGRAM REPORT

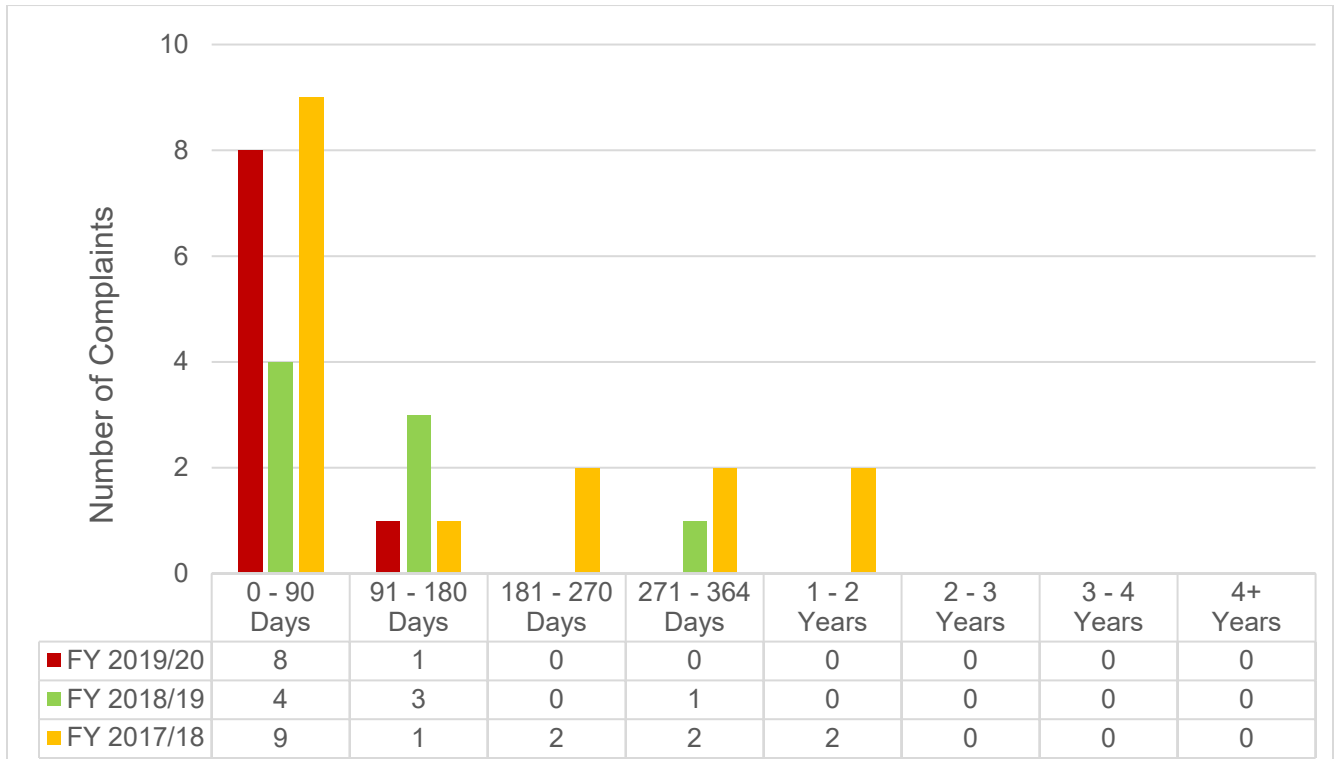
Types of Complaints Received Fiscal Year (FY) 2019/20



Complaints Received, Closed, and Pending by FY



Comparison of Age of Pending Complaints by FY



Closure of Complaints by FY

Type of Closure	FY 2019/20	FY 2018/19	FY 2017/18
Cease/Desist Compliance	0	0	5
Citation Issued	2	3	0
Complaint Withdrawn	0	0	2
Insufficient Evidence	0	2	0
Letter of Advisement	19	17	8
No Jurisdiction	0	4	1
No Violation	12	24	19
Referred for Disciplinary Action	0	0	1
Other (i.e., Deceased, Error, etc.)	0	1	1

Disciplinary and Enforcement Actions by FY

Action	FY 2019/20	FY 2018/19	FY 2017/18
Disciplinary Cases Initiated	0	0	1
Pending Disciplinary Cases	0	0	1
Final Disciplinary Orders	0	1	1
Final Citations	1	3	0
Administrative Fines Assessed	\$2,000	\$2,250	\$0

Most Common Violations by FY

The most common violations that resulted in enforcement action during the last three fiscal years are listed below.

Business and Professions Code (BPC) Section	FY 2019/20	FY 2018/19	FY 2017/18
BPC § 5616 – Landscape Architecture Contract - Contents, Notice Requirements	1 (50%)	1(25%)	0 (0%)
BPC § 5640 – Unlicensed Person Engaging in Practice - Sanctions	1 (50%)	2 (50%)	0 (0%)
BPC § 5675 – Felony Conviction - Disciplinary Action	0 (0%)	1 (25%)	0 (0%)

AGENDA ITEM G.1: PRESENTATION BY CLARB ON UNIFORM STANDARD (POLICY), LANDSCAPE ARCHITECT REGISTRATION EXAMINATION (LARE) UNIFORM APPLICATION (PROCESS), AND TIME TO LICENSURE (PROCEDURE)

Summary

In exploring application efficiencies, CLARB initiated a Rethink Regulation Initiative which has an overarching goal to reduce friction in the licensure process. The initiative identifies three main areas of focus including 1) the standardization of education and experience requirements across member boards, 2) a uniform application analyzing the collection of data among different jurisdictions, and 3) a procedural change for candidates to initiate the licensure process through CLARB.

CLARB Chief Executive Officer, Matt Miller and Senior Director of Strategy, Veronica Meadows have been invited to present an overview of the proposed standardization recommendations to policies, processes, and procedures. A prototype of the uniform application was introduced at the CLARB Regional Meeting on August 13, 2020, which will be presented at the virtual Annual Meeting on September 10, 2020, along with further discussion on uniform standards and policies.

Action Requested

Discuss and possible action on CLARB presentation.

Attachments

1. CLARB Model Law (September 2017)
2. CLARB Proposed Uniform Application

Model Law

Council of Landscape Architectural Registration Boards

September 2017

CLARB

Introduction

What Landscape Architects Do

Since the 1800s, landscape architecture has encompassed analysis, planning, design, management, and stewardship of the natural and built environment through science and design. Landscape architects create well-planned, livable communities, leading the way by creating neighborhood master plans, designing green streets, managing storm-water runoff, and planning high-utility transportation corridors.

Landscape architecture includes iconic and neighborhood places, local parks, residential communities, commercial developments, and downtown streetscapes. Larger well-known examples include Central Park and the Highline in New York City, the U.S. Capitol grounds in Washington, D.C., the Oklahoma City National Memorial, and Chicago's Millennium Park.

Why Landscape Architects Must Be Licensed

The practice of landscape architecture includes keeping the public safe from hazards, protecting natural resources, and sustainably managing the natural and built environment surrounding our homes and communities. It requires a breadth of knowledge and training in many substantive areas of science, engineering, and aesthetics. The adverse risks and consequences of negligent, unqualified, unethical, or incompetent persons engaging in landscape architectural design services without the requisite education and training are significant—sometimes irreparable—economically, environmentally, and in terms of public safety, health, and welfare.

At stake are hundreds of millions of dollars' worth of infrastructure and site improvements every year, and the safety of persons and property these improvements affect. Licensure of landscape architects permits consumers to manage these risks, and reduce exposure for liability from hazardous and defective design.

To properly serve and protect the public these risks and consequences and the potential for harm must be minimized and prevented. The public interest is best served when qualified, licensed professionals carry out these responsibilities safely in accordance with rigorous and essential professional standards, and when other non-qualified individuals are prevented from providing such services to the public. Moreover, licensing is necessary and appropriate given landscape architecture's technical nature—and consumer/public inability to accurately and reliably assess the competence of such providers.

Without regulatory standards, consumers have no mechanism to ensure they can rely on a professional to produce design and technical documentation meeting minimum standards of competence.

How the CLARB Model Law Promotes Public Protection

The CLARB Model is a resource for legislatures and licensing boards addressing issues related to the public-protection mission of regulation.

This Model Law promotes uniformity in licensing laws (affording predictability, commercial efficiency, and enhanced trust in the profession), establishes minimal standards of competence for those practicing landscape architecture, and facilitates professional mobility and portability through a licensure transfer process.

How CLARB Member Boards Benefit from the Model Law

Member Boards should review and use the Model Law in the context of regulatory and language issues unique to each jurisdiction.

The Model Law includes the following sections:

- Article I – Title, Purpose and Definitions
- Article II – Board of (Profession)
- Article III – Licensing
- Article IV – Discipline
- Article V – Mandatory Reporting
- Article VI – Other

The Model Law is intended to be fluid, subject to regular review and periodic changes, when necessary. Revisions are generally stimulated by societal shifts, evolution of practice and technological advancements. Proposed revisions will be presented to CLARB members for consideration.

The language included in this Model Law version is framed with a single, stand-alone board structure in mind—i.e., for circumstances in which the promulgating Board's role is limited to serving/regulating one design discipline, not multiple related design disciplines. When this Model Law is used by Boards serving or regulating more than one professional discipline, its language will require adaptation/modification to accommodate that composite board structure/approach and the specific design professions governed.

Article I - Title, Purpose, and Definitions

Section 101. Title of Act.

This Act is called the “[State] Landscape Architecture Practice Act.”

Section 102. Legislative Declaration.

- A. The practice of Landscape Architecture in [State] is declared a professional practice affecting public health, safety, and welfare and subject to regulation and control in the public interest. The public interest requires that Landscape Architecture merit and receive public confidence and that only qualified persons practice Landscape Architecture in [State]. This Act will be liberally construed to carry out these objectives and purposes.
- B. This legislation regulates the Landscape Architecture profession. Any restriction on competition is outweighed by protecting the public interest. The regulatory structure calls for Licensees and Public Members to serve on the Board, recognizing the need for practitioners’ professional expertise in serving the public interest.

This Act provides active State oversight and Supervision through its enactment, promulgation of enabling regulations, appointment and removal of Board members by the (Governor), legal representation of the Board by the [State] Attorney General, legislative appropriation of monies to support the Board, periodic legislative sunset review, application to the Board of ethics laws, mandatory Board-member training, and judicial review.

Section 103. Statement of Purpose.

This Act’s purpose is to promote, preserve, and protect public health, safety, and welfare by licensing and regulating persons, whether in or outside [State], who practice Landscape Architecture in [State]. This Act creates the Board of Landscape Architecture whose members, functions, and procedures will be established in accordance with the Act.

Section 104. Practice of Landscape Architecture.

The practice of Landscape Architecture means the application of mathematical, physical and social-sciences principles in Landscape Architectural consultation, evaluation, planning, and design; it includes preparing, filing, and administering plans, drawings, specifications, permits, and other contract documents involving projects that direct, inform or advise on the functional use and preservation of natural and built environments.

Sections 102 and 103

One of the most important sections of a practice act is the legislative declaration and statement of purpose. These essential sections express the foundation and need for regulation of the profession with affirmative statements of the Act’s legislative intent. The “liberal construction” directive provides guidance to the judiciary when addressing language ambiguities in the statutes and regulations.

The guiding principles of legislation to regulate a profession include delegation of authority from the legislative to the executive branch through board appointments and authorization to regulate.

To provide an efficient and effective regulatory process, boards are populated with persons with knowledge of and expertise in the profession. For balance, boards also include members of the public with no direct connection to the profession regulated.

Section 104

The definition of the scope of practice provides the basis for the regulatory system and is used to identify work for which a license is necessary.

Those operating within the scope of practice must be licensed under the eligibility criteria. Eligibility criteria are provided in the regulations.

The scope of practice is purposefully defined using broad terms to allow interpretative opportunities and to recognize the interplay among the related design professions. When necessary, and using Board-member expertise, specificity can be clarified in regulations.

Section 105. Activities Not Subject to the Act .

This Act does not apply to:

- A. Persons licensed to practice Landscape Architecture in another State while serving in the U. S. military; provided services occur during military service.
- B. Persons licensed to practice Landscape Architecture in another State while performing official duties as a federal government employee.
- C. Persons training for the practice of Landscape Architecture under a Licensee's direct Supervision.

Section 106. Definitions.

Words and phrases used in this Act have the meanings stated below, unless the context otherwise requires:

- A. **Adjudicatory Proceeding or Hearing** — formal processes of an administrative determination in which the Board adjudicates allegations of violations of law and, if appropriate, renders sanctions, all in accord with applicable procedural and substantive standards to protect rights.
- B. **Applicant** — a Person who submits an application to the Board for licensure to practice Landscape Architecture in [State] under this Act.
- C. **Approved Educational Program** — an educational program for Landscape Architects approved by the Board.
- D. **Approved Program of Continuing Education** — an educational program offered by an Approved Provider of Continuing Education.
- E. **Approved Provider of Continuing Education** — any professional association or society, university, college, corporation, or other entity approved by the Board to provide educational programs designed to ensure continued Competence in the practice of Landscape Architecture.
- F. **Board** — the legislatively created Board granted the authority to enforce the [State] Landscape Architects Practice Act.
- G. **Business Entity** — any firm, partnership, sole proprietorship, association, limited liability company, or corporation organized by and registered in [State] to provide or offer Landscape Architectural services.

Section 105

CLARB understands there exists significant overlap in scopes of practice of the design professions. This section statutorily recognizes that certain activities are not subject to the Act.

The Model Law purposefully avoids use of the term "exemptions," the concept of activities being included within the scope of practice, but not subject to licensure, undermines the need for regulation.

Section 106(C), (D), (E), and (P)

Specific references to programs and other standards of practice and ethics are not referenced in the Model Law. Such specifics are instead included in regulations created using Board members' expertise.

The legal reasons specific references are included in regulations instead of in the Model Law are related to delegation of authority and prohibitions of recognizing private-sector programs as a prerequisite to licensure in the statute.

Section 106

Definitions identify terms used consistently throughout the Model Law. Note that capitalized words or phrases can be found in the Model Law's definition section.

Throughout the document defined terms are capitalized.

- H. **Certificate of Authorization** — a certificate issued by the Board to a Business Entity permitting it to offer or provide Landscape Architectural services.
- I. **CLARB** — the Council of Landscape Architectural Registration Boards.
- J. **Client** — a Person, group, or corporation that enters into an agreement with a licensed Landscape Architect or Business Entity to obtain Landscape Architectural services.
- K. **Competence** —applying knowledge and using affective, cognitive, and psychomotor skills required by Landscape Architects to deliver safe Landscape Architectural care in accord with accepted practice standards.
- L. **Consultation** —providing advice to or receiving advice from another professional, or both, related to the practice of Landscape Architecture, to assist a Licensee.
- M. **Continuing Education** — training designed to ensure continued Competence in the practice of Landscape Architecture.
- N. **Continuing Education Contact Hour** — a 50-minute clock-hour of instruction, not including breaks or meals.
- O. **Conviction** — conviction of a crime by a court with jurisdiction, including a finding or verdict of guilt—regardless of whether adjudication of guilt is withheld, not entered on admission of guilt, or involves deferred conviction, deferred prosecution, deferred sentence, a no consent plea, a plea of *nolo contendere*, or a guilty plea.
- P. **Examination** — an examination approved by the Board.
- Q. **Felony** — a criminal act defined by [State] laws, the laws of any other State, province, or federal law.
- R. **Good Standing** — a License not restricted in any manner and that grants Licensee full practice privileges.
- S. **Inactive License** — an inactive category of licensure affirmatively elected by a Licensee in Good Standing who is not engaged in the active practice of Landscape Architecture, to maintain such License in a nonpractice status.
- T. **Landscape Architect** — a Person licensed by the Board under this Act.

- U. **Landscape Architecture** — the practice of the profession as defined under this act.
- V. **License** — an authorization granted by the Board to practice Landscape Architecture.
- W. **Licensee** — a Person licensed by the Board under this Act.
- X. **Person** — any individual, firm, Business Entity, partnership, association, joint venture, cooperative, corporation, or other combination acting in concert, or as a Principal, trustee, fiduciary, receiver, or a representative, or as successor in interest, assignee, agent, factor, servant, employee, director, or officer of another Person.
- Y. **Principal** — an individual who is a Landscape Architect and is in Responsible Charge of a Business Entity’s Landscape Architectural practice.
- Z. **Public Member** — a Person that is not and has never been a Licensee, or the spouse of a current or former Licensee, or a Person with material financial interest in providing Landscape Architectural services, or engaged in activity directly related to Landscape Architecture.
- AA. **Responsible Charge** — the direct control and personal Supervision of the practice of Landscape Architecture.
- BB. **Seal** — a symbol, image, or information in the form of a rubber stamp, embossed seal, computer-generated data, or other form acceptable to the Board applied or attached to a document to verify document authenticity and origin.
- CC. **State** — any State, commonwealth, the District of Columbia, other insular U.S. territories, and Canadian provinces.
- DD. **Supervision** and Supervision-related terms are defined as follows:
 - (i) Supervising (Professional) — a Licensee who assumes responsibility for professional Client care given by a Person working under Licensee’s direction.
 - (ii) Direct control and personal Supervision — Supervision by a Landscape Architect of another’s work in which supervisor is directly involved in all practice-related judgments affecting public health, safety and welfare.

Section 106(Z)

The definition of Public Member is intended to preclude those involved with or related to persons in the profession of Landscape Architecture from serving in this role.

When a composite board approach is considered, the definition of public member will be reassessed and expanded to preclude other design professionals from serving as public members.

Section 201

This section recognizes and legislatively affirms that certain authority is delegated from the legislative branch to the board. A clear articulation authorizing the board to enforce the practice act in the interest of public protection provides added emphasis of legislative intent. This designation is important in times of added judicial and political scrutiny and in light of the recent U.S. Supreme Court ruling regarding antitrust liability and state action defense.

Article II - Board of Landscape Architecture

Section 201. Delegation of Authority.

Enforcing this Act is the Board of Landscape Architecture's ("the Board") responsibility. Under the State's active oversight and Supervision, the Board has all duties, powers, and authority granted by, or necessary to enforce, this Act, and other duties, powers, and authority it is granted by law.

Section 202. Board Composition.

Landscape Architect Board Option

- A. The Board will consist of [Number] members; at least [Number] will be public representative(s), and the remainder will be Licensees qualified under Section 203 of this Act. This Board member composition ensures the necessary expertise to efficiently and effectively regulate the profession, using professionals acting on the public's behalf and bound by applicable ethics and public-service laws.

Composite Board Option

- B. The Board will consist of [Number] members appointed under Section 204 and comprised of the following:
- (i) Two (2) Public Members as defined by this act.
 - (ii) Two (2) Landscape Architects as defined in Section 203.
 - (iii) Two (2) [Profession] as defined in...*[citation to relevant practice act referencing resident, licensed in Good Standing, other licenses in Good Standing, licensed for a specified period of time]*.
 - (iv) Two (2) [Profession] as defined in...*[citation to relevant practice act referencing resident, licensed in Good Standing, other licenses in Good Standing, licensed for a specified period of time]*.
 - (v) Two (2) [Profession] as defined in...*[citation to relevant practice act referencing resident, licensed in Good Standing, other licenses in Good Standing, licensed for a specified period of time]*.
 - (vi) Two (2) [Profession] as defined in...*[citation to relevant practice act referencing resident, licensed in Good Standing, other licenses in Good Standing, licensed for a specified period of time]*.
 - (vii) *[Intended to include two (2) members from each professions under the Board's jurisdiction.]*
- C. In addition to these qualifications, each Board member shall during the appointed period comply with Section 203(b), (c), (d), and (e).

Section 202

With respect to states' rights and differing current regulatory structures, CLARB provides two board models in this Model Law. The language included in this version of the Model Law works with a single, stand-alone board structure.

Language in various parts of the Model Law require modification if a different board structure is used.

The remaining portions of the Model Act do not include the multiple scopes and licensure eligibility criteria factors. Regardless of the type of board structure, the board composition includes persons with expertise of the represented design professions and public members.

Section 202(A) identifies a stand-alone board option with Landscape Architects and public members involved in regulation of the profession.

Section 202(B) identifies a composite board option and includes equal representation of the design professions regulated by the board. Public members are also included on the composite board.

Related design professions on a composite board may include, but are not limited to, architects, engineers, landscape architects, land surveyors, geologists, and interior designers.

- D. This Board member composition ensures the necessary expertise to efficiently and effectively regulate the professions using professionals acting on the public's behalf and bound by applicable ethics and public-service laws.

Section 203. Qualifications for Board Membership.

- A. Each Landscape Architect Board member must during their Board tenure:
 - i) Be a resident of [State] for at least one (1) year.
 - ii) Be a Licensee in Good Standing.
 - iii) Maintain in Good Standing any other professional License they hold.
 - iv) Have been licensed as a Landscape Architect for at least three (3) years.
- B. Each Public Member of the Board must be a resident of [State] and at least 21 years of age.
- C. Each Board member shall maintain eligibility to serve on the Board by avoiding relationships that may interfere with the Board's public-protection mission. Board members shall be especially cognizant of conflict-of-interest issues including, for example, participation in [State] or national professional associations.
- D. Board members are barred from being an officer of or holding any leadership position (being a voting member of the governing Board) in a State or national professional association_during the Board member's appointed term. .
- E. Each Board member shall annually attest to completing coursework or training hours and content approved by Board policy. Coursework or training must address relevant regulatory issues such as the Board's role, Board members' roles, conflicts of interest, administrative procedures, enforcement, and immunity.

Section 203

Expertise of board members is essential to effective and efficient decision-making.

This section identifies eligibility criteria to serve on the board.

All board members serve the public interest when undertaking and acting within the scope of board duties and responsibilities.

Section 204

Government oversight is intended in the regulatory structure. Legislative enactment creating and delegating authority, Governor appointments, and removal authority assists in providing necessary governmental oversight.

Section 204. Board Member Appointment and Oversight by Governor.

The Governor shall appoint members of the Board in accordance with Article II of this Act and the [State] constitution. In addition, the Governor can remove Board members with or without cause.

Section 205. Terms.

- A. Except as provided in subsection B below, Board members are appointed for four-year terms. Board members appointed to fill vacancies occurring before a former member's full term expires shall serve the remaining portion of that unexpired term.
- B. Board-member terms must be staggered so no more than [Number/Percentage] member terms expire in any year. Each member shall serve until a qualified successor is appointed, unless such member resigns or is removed from the Board under Article II Section 207 of this Act.
- C. Board members can serve for up to three (3) consecutive full terms. Completing the remainder of an unexpired term is not a "full term".

Section 205

This section identifies a four-year term of appointment and limits service to three consecutive full terms. CLARB understands and appreciates the institutional knowledge and continuity of volunteers and attempts to balance longevity with the need for an infusion of new representation.

Section 206. Board Member Vacancies.

- A. Any vacancy in Board membership for any reason, including expiration of term, removal, resignation, death, disability, or disqualification, must be filled by the Governor or appointing authority as prescribed in Article II Section 204 of this Act as soon as practicable.
- B. If a vacancy is not filled within six (6) months, the Board may appoint an individual qualified under Section 203 to temporarily fill the vacancy until the Governor (or appointing authority) approves the temporary Board member or appoints a new member.

Section 206

This section addresses how a vacancy is filled by Governor appointment. CLARB identified and understands the value of a fully constituted board, but recognizes that vacancies may exist for months and years. To provide an incentive for the appointing authority to fill vacancies and keep boards fully populated, this section authorizes the board to fill a position that remains vacant for over six (6) months.

Section 207. Removal of Board Member.

The Board may remove a Board member on an affirmative vote of three quarters ($\frac{3}{4}$) of members otherwise eligible to vote, and based on one or more of the following grounds:

- A. Board member's refusal or inability to perform required duties efficiently, responsibly, and professionally.
- B. Misuse of a Board-member position to obtain, or attempt to obtain, any financial or material gain, or any advantage personally or for another, through the office.
- C. A final adjudication (by a court or other body with jurisdiction) that the Board member violated laws governing the practice of Landscape Architecture.
- D. Conviction of a crime other than a minor traffic offense.

Section 207

This section authorizes the Board to remove Board members under specified conditions following identified procedures.

Section 208. Organization of the Board.

- A. The Board shall elect from its members a Chairperson, Vice-Chairperson, and such other officers appropriate and necessary to conduct its business. The Chairperson shall preside at all Board meetings and perform customary duties of the position and other duties assigned by the Board.

The Chairperson may establish Board committees to further Board business, and may designate Board members as committee members.

- B. Officers elected by the Board serve terms of one (1) year starting the day of their election and ending when their successors are elected. Officers may serve no more than [Number] consecutive one-year terms in each elected office.

Section 209. Executive Director and Employees of Board.

- A. The Board shall employ an Executive Director who is responsible for performing administrative functions and such other duties the Board directs, under its oversight.
- B. The Board may employ persons (in addition to the Executive Director) in positions or capacities necessary to properly conduct Board business and fulfill Board responsibilities under this Act.

Section 210. Compensation of Board Members.

Each Board member is paid a *per diem* amount for each day the member performs official Board duties, and is reimbursed for reasonable and necessary expenses of discharging such official duties.

Section 211. Meetings of Board.

- A. Frequency. The Board shall meet at least once every three months to transact its business, and at such additional times as the Board's Chairperson or two-thirds (2/3) of the Board's voting members determine.
- B. Location. The Board shall determine the location and format for each meeting and provide notice to the public as required by [citation to open meetings laws].
- C. Remote Participation. The Board, consistent with [State] law and related regulations, may provide for remote participation in Board meetings by members not present at the meeting location.

Section 211

This section specifies that the Board shall meet a minimum number of times annually. CLARB recognizes that boards must meet often enough to transact business on a regular basis and to ensure that applicants' and respondents' issues are timely addressed. Technology provides a means for boards to meet regularly if it is difficult for a board to meet face-to-face on a frequent basis.

- D. Notice. Notice of all Board meetings will be given in the manner prescribed by [State]'s applicable open-meetings laws.
- E. Quorum. A majority of Board members is a quorum for convening and conducting a Board meeting and all Board actions will be by a majority of a quorum, unless more are required under this Act or Board regulation.
- F. Access by Public. All Board meetings must be conducted in accordance with [State]'s open-meeting law.
- G. Record of Meetings of the Board. A record of all Board meetings must be maintained in accordance with [State]'s open-records law.

Section 212. Regulations Governing Licensure and Practice.

The Board shall make, adopt, amend, and repeal regulations necessary for the proper administration and enforcement of this Act. Such regulations must be promulgated in accordance with [State]'s Administrative Procedures Act.

Section 213. Powers and Duties Delegated to Board.

- A. Under active State oversight and Supervision, the Board shall regulate the practice of Landscape Architecture in [State] and is responsible for conducting all of its activities in connection therewith. The powers and duties of this Section 213 are in addition to other powers and duties delegated to the Board under this Act. Once licensed by the Board, Licensees cannot divest the Board of jurisdiction by changing their licensure status or relinquishing licensure. Moreover, persons never licensed by the Board who engage in the unlawful practice of Landscape Architecture in [State] are subject to the Board's jurisdiction.
- B. Licensure. The Board is authorized to issue licenses to, and renew licenses for:
 - (i) Persons qualified to engage in the practice of Landscape Architecture under this Act.
 - (ii) Businesses qualified to engage in the practice of Landscape Architecture under this Act.
- C. Standards. The Board is authorized to establish and enforce:
 - (i) Minimum standards of practice and conduct for Landscape Architects.
 - (ii) Standards for recognizing and approving programs for Landscape Architect education and training.

Section 212

One of the most important authorities delegated from the legislature to the Board is rulemaking by regulation. Statutes are intended to be general in nature while regulations add specifics.

Using its expertise and public representation perspectives, boards create regulations that add specificity to the statute. Expertise is needed to provide practice-specific details to the regulations.

As practice evolves, regulations are more flexible and easier to amend than are statutes.

Section 213

This section is the heart of the authority delegated by the legislature to the Board. CLARB determined that this section must be robust and specify the breadth of the authority of the Board to engage in all actions necessary to effectively and efficiently regulate the profession in the interest of public protection.

Additional commentary is provided throughout this section to highlight some of the important authority delegated to the Board.

- (iii) Standards, educational program criteria, or other mechanisms to ensure the continuing Competence of Landscape Architects.

D. Enforcement. The Board is authorized to enforce this Act and its regulations relating to:

- (i) The conduct or Competence of licensed Landscape Architects practicing in [State], and the suspension, revocation, other restriction of, or action against, any License issued by the Board.
- (ii) The assessment and collection of fines, costs, and attorneys' fees:
 - a. Against Persons licensed by the Board (irrespective of their licensure status, whether active, inactive, expired, lapsed, surrendered or disciplined) relative to acts, omissions, complaints, and investigations that occurred during the licensure period.
 - b. Against Persons who engage in the unlawful practice of Landscape Architecture as defined under this Act.
- (iii) With probable cause that an Applicant or Licensee has engaged in conduct prohibited under this Act or its regulations, the Board may issue an order directing Applicant or Licensee to submit to a mental or physical examination or chemical dependency evaluation. Every Applicant or Licensee is deemed to consent to undergo mental, physical, or chemical-dependency examinations, when ordered by the Board to do so in writing, and to waive all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that such testimony or reports constitute a privileged or confidential communication.
- (iv) The Board may investigate and inspect any Licensee, whether Licensee is a Person or a Business Entity, at all reasonable hours to determine a violation of the laws or regulations governing the practice of Landscape Architecture.

The Board, its officers, investigators, inspectors, and representatives shall cooperate with all agencies charged with enforcement of laws of the United States, [State], and all other States relating to the practice of Landscape Architecture.

- (v) The Board can subpoena persons and documents in connection with its complaint investigations before commencing, and during, any formal Adjudicatory Proceeding to take depositions and testimony as in civil cases in [State]

courts. Any Board member, Hearing officer, or administrative law judge has power to administer oaths to witnesses at any Hearing the Board conducts, and any other oath the Board is authorized by law to administer.

- (vi) The Board may conduct its authorized investigations, inquiries, or Hearings before any Board member(s). The findings and orders of such member(s) are deemed to be the findings and orders of the Board when approved and confirmed as set forth in Section 211(e) of Article II of this Act.
- (vii) The Board may report any violation of this Act or its regulations that implicates criminal law to the Attorney General or State's Attorney who shall without delay institute appropriate proceedings and investigations in the proper court for prosecution as required by law. This does not require the Board to so report the potential application of criminal law if the Board reasonably believes the public interest is adequately served by a suitable written notice or warning. Any decision by the Board to issue a written notice or warning must be made in Consultation with legal counsel, the State's Attorney or other appropriate law enforcement entity.
- (viii) The Board may seek declaratory, injunctive, and other appropriate remedies from a court with jurisdiction.

E. Recovery of Costs and Assessment of Fines.

- (i) The Board may assess against a respondent reasonable costs (e.g., attorneys' fees, investigation and prosecution costs) of any Adjudicatory Proceeding through which respondent is found to have violated any law or regulation governing the practice of Landscape Architecture. The assessment of reasonable costs must be formalized in a Board order directing payment of the costs to the Board, and issued together with the Board's final decision.

This authorization to assess costs exists so long as the Board operates in good faith and succeeds on any portion of the administrative prosecution, and even if some counts are not substantiated.

- (ii) In the case of a Person or Business Entity, the Board may issue an order for recovery of reasonable costs authorized under this Section 213 to the corporate owner, if any, and to any Licensee, officer, owner, or partner of the practice or Business Entity:

Section 213(E)

This section authorizes the board to assess fines and costs as administrative sanctions of disciplined respondents. Differentiating costs (reimbursement of out-of-pocket expenses related to administrative prosecution of respondents) and fines (monetary assessments intended to deter future conduct) is important. Both cost assessments and fines are important tools used when negotiating resolution of complaints.

- a. found to have knowledge of, or
 - b. who should have reasonably known of, or
 - c. who knowingly participated in, a violation of any provision of this Act or any regulation issued hereunder.
- (iii) When the Board issues an order to pay costs, and timely payment of the costs is not made to the Board as directed in its final decision and order, the Board may enforce the order in the [State] Courts in the county where the Adjudicatory Proceeding occurred. The Board's right of enforcement is in addition to other rights the Board has concerning Persons directed to pay costs, including denial of licensure.
- (iv) In any action for recovery of costs, the Board's final decision and order is conclusive proof of the validity of the order and terms of payment.
- (v) The Board may assess administrative fines against a respondent not exceeding \$[dollars] for each count adjudicated a violation of law or regulation governing the practice of Landscape Architecture. Assessment of fines must be formalized in a Board order directing payment of such fines to the Board, and issued together with the Board's final decision. The Board is authorized to assess additional fines for continued violation(s) of any Board order.

This authorization to assess fines exists so long as the Board operates in good faith and succeeds on any portion of the administrative prosecution, even if some counts are not substantiated.

F. Expenditure of Funds. The Board may receive and expend funds from parties other than [State], in addition to its (Annual/Biennial) appropriation, provided:

- (i) Such funds are awarded to pursue a specific objective the Board is authorized to accomplish under this Act, or is qualified to accomplish by reason of its jurisdiction or professional expertise.
- (ii) Such funds are expended to pursue the specific objective for which they were awarded.
- (iii) Activities connected with, or occasioned by, spending the funds do not interfere with the Board's performance of its duties and responsibilities and do not conflict with the Board's exercise of its powers under this Act.
- (iv) Funds are segregated in a separate account.

- (v) The Board provides periodic written reports to [state]'s Governor detailing its receipt and use of the funds, provides sufficient information for governmental oversight, and notes that such reports are deemed a public record under applicable law.

G. Fees for Services. In addition to fees specifically provided for under this Act, the Board shall establish nonrefundable fees, including (but not limited to) the following:

- i) Applications.
- ii) Examination administration.
- iii) Renewals.
- iv) Board publications.
- v) Data maintained by the Board, which may include mailing lists, Licensee lists, or other information requested under applicable open-records laws.
- vi) Copies of audiotapes, videotapes, computer discs, or other media used for recording sounds, images or information.
- vii) Temporary, duplicate or replacement licenses or certificates.
- viii) Notices of meetings.
- ix) Returned checks.
- x) Other fees deemed necessary by the Board.

The Board shall publish a list of established fees and deposit and expend the fees it collects in accord with [State] statutes.

H. Other Powers and Duties of the Board. The Board is granted other powers and duties necessary to enforce regulations issued under this Act including, but not limited to, the following:

- (i) The Board may belong to professional organizations, societies, and associations that promote improvement of Landscape Architecture practice standards for protection of public health, safety, and welfare, or whose activities support the Board's mission.
- (ii) The Board may establish a Bill of Rights concerning the landscape-architectural services Client's may expect to receive.
- (iii) The Board may collect, and participate in collecting, professional demographic data.

I. Oversight of Board through Annual Report. To provide continued oversight, the Board shall file with the Governor an annual report on the Board's activities, including reference to the Board's effectiveness and efficiencies. The annual report shall, through statistics, at minimum, identify the number of Licensees, Applicants, renewals, complaints, and disposition of such complaints, the number of Board meetings, and all financial data relevant to Board operations.

Section 213(G)

This section identifies that the board is able to charge fees for various services and documents to offset expenses of board operations.

Section 213(H)(ii)

This section authorizes the board to establish a Code of Conduct intended to provide clients and licensees with what to expect of the relationship. Information that may be included: how the practitioner is regulated and by whom, how a complaint can be filed, how billing and payment occur; expected work product, time period to completion, and other contractual details.

Section 213(I)

This section identifies the oversight intended through the statute by setting expectations regarding reporting. It references an annual report filed by the Board including its contents.

Section 214 Source of Data

When making determinations under this Act, and to promote uniformity and administrative efficiencies, the Board may rely on the expertise of, and documentation and verified data gathered and stored by, not-for-profit organizations sharing the Board's public-protection mission.

Article III. - Licensing.

Section 301. Unlawful Practice.

- A. Unless this Act provides otherwise, it is unlawful to engage or offer to engage in the practice of Landscape Architecture unless the acting party is licensed as a Landscape Architect under this Act.
- B. No Person offering services may use the designation *Professional Landscape Architect*, *Registered Landscape Architect* or *Licensed Landscape Architect*, or any other designation, words, or letters indicating licensure as a Landscape Architect, including abbreviations, or hold himself or herself out as a Landscape Architect unless licensed by the Board.
- C. Providing any service defined under this Act as the practice of Landscape Architecture to a Client in [State] through digital, telephonic, electronic, or other means, regardless of the service provider's location, constitutes the practice of Landscape Architecture in [State] and requires the service provider's licensure under this Act.
- D. Providing any service defined under this Act as the practice of Landscape Architecture by a service provider located in [State] through digital, telephonic, electronic, or other means, regardless of the location of the Client receiving such services, constitutes the practice of Landscape Architecture in [State] and requires the service provider's licensure under this Act.
- E. Any Person who, after Hearing, is found by the Board to have unlawfully engaged in the practice of Landscape Architecture is, in addition to any other authorized remedies, subject to a fine imposed by the Board not exceeding \$[dollars] for each offense, and the imposition of costs described in this Act.
- F. Nothing in this Act prevents members of other professions from engaging in the practice for which they are licensed by the State. However, such other professionals shall not hold themselves out as licensed Landscape Architects or refer to themselves by any title, designation, words, abbreviations, or other description stating or implying they are engaged in, or licensed to engage in, the practice of Landscape Architecture.

Section 214

This section authorizes the Board to rely on the private sector for certain services to promote efficiencies and uniformity. It recognizes the existence of CLARB-like organizations and that such associations can provide a wealth of services and products consistent with the Board's public-protection mission.

Section 301

This section addresses the fact that practice and use of titles are limited to licensees and that unlicensed persons are prohibited from practicing landscape architecture or using titles that confuse the public.

Section 301(C) and (D)

These sections recognize that electronic practice and other means of technology affect professional practice and need regulation through statute. Sections (C) and (D) establish where practice occurs and that the Board has authority over such modalities of practice.

Section 301(E)

This section establishes jurisdiction/authority of the Board to administratively prosecute unlicensed persons. This authority is essential to the Board's ability to protect the public and not rely solely on criminal prosecutions.

Section 302. Qualifications for Licensure.

- A. Initial Licensure: To obtain an initial License to practice Landscape Architecture an Applicant must substantiate each item below to the Board's satisfaction:
- (i) Submission of a completed and signed application in the form determined by the Board.
 - (ii) Possession of good moral character as determined by the Board.
 - (iii) Payment of all fees specified by the Board.
 - (iv) Documentation of United States citizenship or other recognized/permitted immigration status as required under [State] law or, in the absence of [State] law, applicable federal law.
 - (v) Completion of an Approved Education Program.
 - (vi) Completion of experience under Supervision requirements established by the Board.
 - (vii) Successful completion of the licensure Examination, as administered and graded in accordance with the Council of Landscape Architectural Registration Boards (CLARB) standards at that time.
- B. Licensure Transfer / Licensure by Endorsement: To obtain a License to practice Landscape Architecture, an Applicant licensed in another jurisdiction must substantiate each item below to the Board's satisfaction:
- i) Submission of a completed and signed application in the form determined by the Board.
 - ii) Possession of good moral character as determined by the Board. and
 - iii) Payment of all fees specified by the Board.
 - iv) Documentation of United States citizenship or other recognized/permitted immigration status as required under [State] law or, in the absence of [State] law, applicable federal law.
 - v) Possession—when initially licensed as a Landscape Architect—of all qualifications necessary to have been eligible for licensure in this State at that time.
 - vi) Demonstration that Applicant's professional licenses, in any State, are in Good Standing, or demonstration of Applicant's CLARB Certification.

Section 302

This section sets forth the eligibility criteria for licensure, both initial licensure (section (A)) and licensure through transfer program (section (B)). CLARB elected to include the licensure eligibility criteria for both applicants under the same section for ease of reference. All persons previously licensed by another jurisdiction must proceed under subsection (B).

Section 302(A)(B)

This section recognizes the important need for reasonable mobility and portability of programs in times of increased scrutiny of regulatory systems and requirements.

The CLARB Certificate program can be used to provide most of the required information for Initial Licensure or reciprocal licensure. Licensure eligibility criteria have been vetted through this program, thus alleviating the need to undertake duplicate assessments. Program requirements are designed to meet the licensure eligibility criteria required by most member boards.

C. Examinations and Examination Attempts

- i) Consistent with Article II section 214, the Board is authorized to use and rely on any Examination determined by the Board to assess necessary entry-level Competence. Such Examinations must be administered often enough to meet the Applicant population's needs, as determined by the Board.
- ii) The Board can limit the number of examination attempts by issuing a rule addressing such limits based on industry standards for high-stakes licensure Examination.

Section 303. Qualifications for Certificate of Authorization

A. Business Entities organized to practice Landscape Architecture must obtain a Certificate of Authorization before doing business in [State]. No Business Entity may provide Landscape Architectural services, hold itself out to the public as providing Landscape Architectural services, or use a name including the terms *Landscape Architect*, *professional Landscape Architect*, or *registered Landscape Architect*, or confusingly similar terms, unless the Business Entity first obtains a Certificate of Authorization from the Board. To obtain a Certificate of Authorization a Business Entity must meet the following criteria:

- (i) At least one Principal is designated as in Responsible Charge for the activities and decisions relating to the practice of Landscape Architecture, is licensed to practice Landscape Architecture by the Board, and is a regular employee of, and active participant in, the Business Entity.
- (ii) Each Person engaged in the practice of Landscape Architecture is licensed to practice Landscape Architecture by the Board.
- (iii) Each separate office or place of business established in this State by the Business Entity has a licensed Landscape Architect regularly supervising and responsible for the work done and activities conducted there.

This requirement does not apply to offices or places of business established to provide construction-administration services only.

B. Business Entities shall apply to the Board for a Certificate of Authorization on a Board-prescribed form, providing Principals' names and addresses and other information the Board requires. The application must be accompanied by an application fee fixed by the Board, and must be renewed per the Board's renewal requirements.

Section 302(C)

This section authorizes the Board to determine what examination is necessary to assess entry-level competence as part of the licensure application process. Under Article II section 214, the Board is already authorized to rely on outside private entities for certain services so long as they share the Board's public-protection mission.

This section also authorizes the Board to promulgate rules related to limits on examination attempts.

The Applicant shall notify the Board in writing within 30 days of any change in the status of registered principals, the firm's name or address, or a branch office address or designated Licensee. If a Principal changes, the Applicant shall provide details of the change to the Board within 30 days after the effective change date.

- C. If the Board finds the Business Entity is in compliance with this section's requirements, it shall issue a Certificate of Authorization to such Business Entity designating the Business Entity as authorized to provide Landscape Architectural services.
- D. No Business Entity issued a Certificate of Authorization under this section is relieved of responsibility for the conduct or acts of its agents, employees or principals by reason of its compliance with this section, nor is any individual practicing Landscape Architecture relieved of responsibility and liability for services performed by reason of employment or relationship with such Business Entity. This section does not affect a Business Entity and its employees performing services solely for the benefit of the Business Entity, or a subsidiary or affiliated business entity. Nothing in this section exempts Business Entities from other applicable law.

Section 304. Qualifications for Practice under Disaster Declaration

Disaster Declaration. Any Person licensed to practice Landscape Architecture in another State or Province who provides services within the scope of their License and in response to a disaster declared by the governor or other appropriate authority of [State] may, on prior written notice to the Board, provide such services in [State] without a License issued by the Board for the duration of the declared emergency. Any practitioner providing services under this Section 304 submits to the Board's jurisdiction and is bound by [State] law. The Board retains authority to remove, revoke, rescind, or restrict this disaster-declaration practice privilege without Hearing by majority vote of its members.

Section 305. Requirement of Continuing Competence.

The Board shall by regulation establish requirements for continuing Competence, including determination of acceptable Continuing Education program content. The Board shall issue regulations necessary to the stated objectives and purposes of Continuing Education and to enforce this Section 305 to ensure Licensees' continuing Competence.

Section 304

This section addresses the temporary practice privileges of licensees in other states to come into the state and practice for a limited time corresponding with a declared disaster. This language is consistent with the EMAC legislation that allows temporary practice under declared emergencies.

Section 306. Requirements for Licensure Renewal.

- A. To maintain licensure, each Licensee shall renew such License when and in the manner established by the Board.
- B. To renew licensure, each Licensee shall provide documentation satisfactory to the Board of successful completion of at least 12 Continuing Education Contact Hours of an Approved Program of Continuing Education per year.
- C. To maintain licensure, each Business Entity shall renew its License when and in the manner established by the Board.

Section 307. Nonrenewal of Licensure; Requirements for Reinstatement of Expired License.

- A. Failure to renew a License by the designated renewal date as prescribed under applicable law, this Act, and its regulations will result in License expiration, which terminates authority to practice Landscape Architecture in [State].

Applicants for reinstatement of an expired License must substantiate by documentation satisfactory to the Board that Applicant meets the following criteria:

- i) When no more than 120 days have passed since the License expiration date, an Applicant for License reinstatement shall submit to the Board:
 - (1) A written petition for License reinstatement addressed to the Board.
 - (2) A completed and signed application for License reinstatement.
 - (3) Documentation of successful completion of all applicable licensure-renewal requirements.
 - (4) A written and signed attestation by Applicant that Applicant has not practiced Landscape Architecture at any time during the period of License expiration.
 - (5) All applicable fees, including a late fee determined by the Board that does not exceed three times the Board's initial licensure application fee.
 - ii) When more than 120) days have passed since the License expiration date, an Applicant for License reinstatement shall meet the requirements set forth in this Section 307(A)(i) and Section 302 of Article III of this Act. However, any application under this Section 307 is deemed an application for License reinstatement.
- B. The Board may impose additional reasonable License-reinstatement requirements necessary to fulfill its public-protection mission.

- C. The Board may also consider relevant extenuating circumstances submitted with any petition and application for License reinstatement in which Applicant demonstrates hardship, so long as the Board maintains its public-protection mission in considering the petition and application.

Section 310. Inactive License.

The Board shall by regulation establish procedures for issuing an Inactive License to a Licensee in Good Standing, under which the Applicant is exempted from licensure renewal requirements, but is not authorized to engage in the practice of Landscape Architecture while inactive.

Reinstatement of an Inactive License to active status will occur under procedures established by the Board and include an application for License reinstatement, payment of a reinstatement fee not to exceed two (2) times the initial licensure fee, and an attestation by Applicant that Applicant has not practiced Landscape Architecture while inactive.

Article IV Discipline.

Section 401. Grounds; Penalties; Reinstatement of License Following Board Discipline.

- A. The Board may refuse to issue or renew, or may suspend, revoke, reprimand, restrict or otherwise limit the License of, or fine, any Person or Business Entity, whether or not licensed, under the [State] Administrative Procedures Act or the procedures in Article IV, Section 402 of this Act, on one or more of the following grounds as determined by the Board:
 - (i) Unprofessional conduct as determined by the Board.
 - (ii) Unethical conduct as determined by the Board.
 - (iii) Practice outside the scope of practice authorized under this Act or its regulations.
 - (iv) Conduct in violation of this Act or its regulations, including failure to cooperate with the Board's inspection or investigative processes within a reasonable time.
 - (v) Incapacity or impairment, for whatever reason, that prevents a Licensee from engaging in the practice of Landscape Architecture with reasonable skill, Competence, and safety to the public.

Section 401

This section delineates the grounds for administrative discipline of respondents found to have violated the Act. CLARB has elected to specify the grounds to ensure adequate scope of authority for the Board to protect the public through enforcement proceedings.

- (vi) Adjudication resulting in a finding of mental incompetence by regularly constituted authorities.
- (vii) Conviction of a Felony as defined under [State/Province] or federal law.
- (viii) Violation of any law, rule, or regulation of [State], any other State, or the federal government, pertaining to any aspect of the practice of Landscape Architecture.
- (ix) Misrepresentation of a fact by an Applicant or Licensee:
 - a) In securing or attempting to secure the issuance or renewal of a License.
 - b) In any statement regarding the Landscape Architect's skills or value of any service/treatment provided, or to be provided.
 - c) Using any false, fraudulent, or deceptive statement in connection with the practice of Landscape Architecture including, but not limited to, false or misleading advertising.
- (x) Licensee Fraud related to the practice of Landscape Architecture, including engaging in improper or fraudulent billing practices.
- (xi) Engaging in, or aiding and abetting any Person engaging in, the practice of Landscape Architecture without a License, or falsely using the title Landscape Architect, or a confusingly similar title.
- (xii) Failing to conform to accepted minimum standards of practice or failing to maintain a Landscape Architectural Business Entity at accepted minimum standards.
- (xiii) Attempting to use the License of another.
- (xiv) Failing to pay costs assessed in connection with a Board Adjudicatory Proceeding, or failing to comply with any stipulation or agreement involving probation or settlement of such Proceeding, or any order entered by the Board in such Proceeding.

- (xv) Conduct that violates the security of any Examination or Examination materials including, but not limited to:
 - (a) Removing from the Examination setting any Examination material without appropriate authorization.
 - (b) Unauthorized reproduction by any means of any portion of the actual Examination.
 - (c) Aiding by any means the unauthorized reproduction of any portion of the actual Examination.
 - (d) Paying, or using professional or paid examination-takers, for the purpose of reconstructing any portion of the Examination.
 - (e) Obtaining Examination questions or other Examination material, except by appropriate authorization before, during, or after an Examination administration.
 - (f) Using or purporting to use any Examination question or material that was improperly removed, or taken from, any Examination.
 - (g) Selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered Examination.
 - (h) Communicating in any manner with any other examinee during the administration of an Examination.
 - (i) Copying answers from any other examinee or permitting one's answers to be copied by any other examinee.
 - (j) Examinee's possession during the administration of any Examination any books, equipment, notes, written or printed materials, or data of any kind, other than the Examination materials provided, or otherwise authorized to be in the examinee's possession during any Examination.
 - (k) Impersonating any examinee or having any Person take any Examination on the examinee's behalf.

- (xvii) Failure of a Licensee or Applicant to report to the Board any information required under Article VI of this Act.

- (xviii) Having had any right, credential, or license to practice a profession in this or another State subjected to adverse action or denial of right to practice. In such case, a certified copy of the record of the adverse action or denial of right to practice is conclusive evidence of such disciplinary action or denial.

Section 401(A)(xvi)

This section ensures that violations of examination agreements, including examination breaches and security protocols, constitute grounds for discipline. For the benefit of the public, and the integrity of licensure and examination processes, this authority is essential.

- B. The Board may defer discipline or other action regarding any impaired Licensee who enters into a binding agreement, in a form satisfactory to the Board, under which Licensee agrees not to practice Landscape Architecture and to enter into, and comply with, a Board-approved treatment and monitoring program in accordance with Board regulations.

This Section 310(B) does not apply to any Licensee convicted of, or who pleads guilty or *nolo contendere* to, a Felony, or to Licensee Convictions in another State or federal court relating to controlled substances or sexual misconduct.

- C. Subject to a Board order, any Person whose License to practice Landscape Architecture in [State] is suspended or restricted under this Act (whether by formal agreement with or by action of the Board), has the right, at reasonable intervals, to petition the Board for License reinstatement. The petition must be in writing and in the form prescribed by the Board.

After investigation and Hearing, the Board may grant or deny the petition, or modify its original findings to reflect circumstances changed sufficiently to warrant granting or denying the petition or modifying the findings and order. The Board may require petitioner to pass one or more Examination(s) or complete Continuing Education in addition to that required for licensure renewal, or impose any other sanction, condition, or action appropriate for reentering into the practice of Landscape Architecture and public protection.

- D. The Board, after Consultation and concurrence with the [(County) District Attorney or [State] Attorney General], may issue a cease-and-desist order to stop any Person from engaging in the unlawful practice of Landscape Architecture or from violating any statute, regulation, or Board order. The cease-and-desist order must state the reason for its issuance and explain the Person's right to request a Hearing under the [State] Administrative Procedures Act. This provision does not bar criminal prosecutions by appropriate authorities for violations of this Act.
- E. Final Board decisions and orders after a Hearing are subject to judicial review under the [State] Administrative Procedures Act, unless otherwise provided by law.

Section 402. Summary Suspension.

The Board may, without a Hearing, temporarily suspend a License for up to 60 days when the Board concludes a Landscape Architect violated any law or regulation the Board is authorized to enforce, and if continued practice by the Landscape Architect portends imminent risk of harm to the public (notwithstanding [State]'s Administrative Procedures Act). The suspension takes effect on written notice to the Landscape Architect specifying the law or regulation allegedly violated. When the Board issues the suspension notice, it shall schedule and notify the Licensee of an Adjudicatory Proceeding to be held under the [State] Administrative Procedures Act within [number] days after the notice is issued.

Article V. - Mandatory Reporting.

Section 501. Requirement to Report.

Any Applicant, Licensee or Person with knowledge of conduct by any Person that may be grounds for disciplinary action under this Act or its regulations, or of any unlicensed practice under this Act, shall report such conduct to the Board.

Section 504. Reporting Other Licensed Professionals.

Any Applicant, Licensee or Person shall report to applicable licensing Boards conduct by a Licensee that is, or may be, grounds for disciplinary action under applicable law, if the conduct must by law be reported to such licensing boards.

Section 505. Reporting by Courts.

The administrator of any court with jurisdiction shall report to the Board any court judgment or other determination that an Applicant for licensure by the Board or a Licensee is mentally ill, mentally incompetent, guilty of a Felony, guilty of violating federal or State narcotics laws or controlled substances act, or guilty of crimes reasonably related to the practice of Landscape Architecture, or that appoints a guardian of Applicant or Licensee, or commits Applicant or Licensee under applicable law.

Section 506. Self-Reporting by Applicant for Licensure and Licensee.

An Applicant for licensure by the Board or a Licensee shall self-report to the Board any personal conduct or action that requires a report be filed under Article IV of this Act.

Section 402

This section authorizes the Board to suspend a license immediately without a hearing under identified circumstances that create imminent harm to the public. Such respondents are provided with a hearing within an identified period of time under administrative procedures.

Section 507. Reporting Deadlines; Forms.

All reports required by this Act must be submitted to the Board no later than 30 days after the reportable conduct or action occurs. The Board may provide forms for reports required by Article VI of this Act and may require that reports be submitted on the forms. The Board may issue regulations to ensure prompt and accurate reporting as required by Article VI of this Act.

Section 508. Immunity for Reporters.

Any Person who in good faith submits a report required under Article VI of this Act, or who otherwise reports, provides information, or testifies in connection with alleged violations of this Act, is immune from liability or prosecution. Notwithstanding laws to the contrary, the identity of Persons submitting mandated reports is not disclosable, except as required in connection with an Adjudicatory Proceeding initiated by the Board or other proceeding in courts with jurisdiction.

Article VI Other.

Section 701. Severability.

If any provision of this Act is declared unconstitutional or illegal, or the applicability of this Act to any Person or circumstance is held invalid by a court with jurisdiction, the constitutionality or legality of the Act's other provisions and the Act's application to other persons and circumstances, is not affected, and those provisions remain in full force and effect, without the invalid provision or application.

Section 702. Effective Date.

This Act is effective on [date].

Model Regulations

Council of Landscape Architectural Registration Boards

September 2017

CLARB

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PREFACE

Duly enacted statutes provide the basis for establishing a regulatory structure by legislatively creating and delegating authority to the regulatory board. Such statutes (practice act) establish the basis for and authority of the Board. The Board is also delegated with the authority to promulgate regulations/rules that are intended to provide specificity to the statutes using the expertise of the Board, generally populated with subject matter experts (licensees) and members of the public. (see *CLARB Model Law Article II, Section 212*)

For purposes of this document, the Council of Landscape Architectural Registration Board (CLARB) will use the term “regulations”. For the most part, rules and regulations are terms that can be used interchangeably. Duly promulgated regulations have the force of law and can be used as a basis for board action(s). This is why the process for proposing, discussing, seeking public comment and modifying proposed regulations must follow strict adherence to administrative procedures before becoming effective. Such administrative procedures can vary from jurisdiction to jurisdiction.

The CLARB Model Law authorizes the Board to promulgate regulations. While the CLARB Model Law represents a complete document, the Model Regulations are not intended to provide a complete set of regulations, but to provide guidance on where regulations are needed. The Model is a fluid document that will be subjected to regular review and, where necessary, change. Of course, CLARB Member Boards are encouraged to use this model as a resource when necessary to address or suggest proposed legislative language in both statutes and regulations.

INTRODUCTION

The purpose of adopting regulations is to safeguard the health, safety and welfare of the public by ensuring the proper performance of the duties of the Board and the regulation of its procedures, meetings, records, examinations and the conduct thereof. The adopted regulations may not be inconsistent with the constitution and laws of this jurisdiction. They must be approved by appropriate legislative authority of the jurisdiction. Regulations adopted by the Board shall be binding upon individuals licensed or recognized under the licensure act and on non-licensees found by the Board to be in violation of provisions of the licensure act and shall be applicable to firms that hold or should hold a Certificate of Authorization.

103.10 PURPOSE.

These regulations are promulgated by the Board of Landscape Architects under [cite statutes] for the purpose of protecting the public health, safety and welfare. These regulations contain the information necessary to become licensed as a Landscape Architect, or offer landscape architectural services as a Business Entity.

104.10 PRACTICE OF LANDSCAPE ARCHITECTURE.

The practice of Landscape Architecture is defined as any service where landscape architectural education, training, experience and the application of mathematical, physical and social science principles are applied in consultation, evaluation, planning, design (including, but not limited to, the preparation and filing of plans, drawings, specifications and other contract documents) and

administration of contracts relative to projects principally directed at the functional and aesthetic use and preservation of land.

Services included in the licensed scope of Landscape Architecture include, but are not limited to the following:

- Investigation, selection and allocation of land and water resources for appropriate uses;
- Formulation of feasibility studies, and graphic and written criteria to govern the planning, design and management of land and water resources;
- Preparation, review and analysis of land use master plans, subdivision plans and preliminary plats;
- Determining the location and siting of improvements, including buildings and other features, as well as the access and environs for those improvements;
- Design of land forms and land form elements, storm water drainage, soil conservation and erosion control methods, pedestrian and vehicular circulation systems and related construction details;
- Consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement;
- Design of non-habitable structures for aesthetic and functional purposes, such as pools, walls and structures for outdoor living spaces, for public and private use;
- Determination of proper land use as it pertains to natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; and the development of outdoor space in accordance with ideals of human use and enjoyment;
- Design with a priority to ensure equal access to all public goods and services through the use of barrier-free design in compliance with the Americans with Disabilities Act (ADA);
- Consideration of the health, safety and welfare of the public. Public welfare is defined through: environmental sustainability; contribution to economic sustainability and benefits; promotes public health and well-being; builds communities; encourages landscape awareness/stewardship; offers aesthetic and creative experiences; and enables people and communities to function more effectively.

105.10 ACTIVITIES NOT SUBJECT TO THE ACT.

Effective regulation is targeted to address the specific risks of harm to consumers and not to restrict competition or be a barrier to incentives for innovation in products and services.

The activities to engage in the practice of Landscape Architecture shall not be construed to prevent or to affect the right of any individual licensed in related design profession practicing within their licensed scope. In addition, nothing shall be construed to prevent or affect the right of any individual to engage in any occupation related to growing, marketing and the design of landscaping material.

106.10 DEFINITIONS.

The [CLARB Model Law Section 106 Definitions] provides definitions applicable to the [CLARB Model Regulations].

213.10 POWERS AND DUTIES DELEGATED TO BOARD.

Authority is delegated to the Board by the [STATE] legislature to effectively and efficiently regulate the profession of Landscape Architecture in the interest of public protection.

213.11 PROFESSIONAL PRACTICE.

Pursuant to [CLARB Model Law Section 213(C)(i)], the Board is authorized to establish and enforce minimum standards of practice and conduct for Landscape Architects and to provide Licensees and Clients with expectations regarding professional conduct.

A. Competence.

- (i) In engaging in the practice of Landscape Architecture, a Licensee shall act with reasonable care and competence, and shall apply the technical knowledge and skill which are ordinarily applied by Landscape Architects of good standing, practicing in the same locality.
- (ii) In designing a project, a Landscape Architect shall abide by all applicable federal state, county, regional and municipal laws and regulations. While a Landscape Architect may rely on the advice of other professionals, (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, a Landscape Architect shall not knowingly design a project in violation of such laws and regulations.
- (iii) A Landscape Architect shall undertake to perform professional services only when he or she, together with those whom the Landscape Architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.
- (iv) No individual shall be permitted to engage in the practice of Landscape Architecture if, in the Board's judgment, such individual's professional competence is substantially impaired by physical or mental disabilities.

B. Conflict of Interest.

- (i) A Landscape Architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by (such disclosure and agreement to be in writing) all interested parties.
- (ii) If a Landscape Architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with his or her performance of professional services, the Landscape Architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and, if the client or employer objects to such association or financial interest, the Landscape Architect will either terminate such association or interest or offer to give up the commission or employment.
- (iii) A Landscape Architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.
- (iv) When acting as the interpreter of construction contract documents and the judge of contract performance, a Landscape Architect shall render decisions impartially, favoring neither party to the contract.

C. Full Disclosure.

- (i) A Landscape Architect, making public statements on landscape architectural questions, shall disclose when he or she is being compensated for making such statements.
- (ii) A Landscape Architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.
- (iii) If, in the course of his or her work on a project, a Landscape Architect becomes aware of a decision taken by his or her employer or client, against such Landscape Architect's advice, which violates applicable federal, state, county, regional or municipal laws and regulations and which will, in the Landscape Architect's judgment, materially and adversely affect the health, safety or welfare of the public, the Landscape Architect shall:
 - i. report the decision to the applicable public official charged with the enforcement of the applicable laws and regulations;
 - ii. refuse to consent to the decision; and
 - iii. in circumstances where the Landscape Architect reasonably believes that other such decisions will be taken, notwithstanding his or her objections, terminate his or her services with respect to the project. In the case of a termination in accordance with this clause (3), the Landscape Architect shall have no liability to his or her client or employer on account of such termination.
- (iv) A Landscape Architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for a registration or renewal thereof.
- (v) A Landscape Architect shall not assist the application for a registration of an individual known by the Landscape Architect to be unqualified in respect to education, training, experience or character.
- (vi) A Landscape Architect possessing knowledge of a violation of the provisions set forth in these rules by another Landscape Architect shall report such knowledge to the Board.

D. Compliance with Laws.

- (i) A Landscape Architect shall not, while engaging in the practice of Landscape Architecture, knowingly violate any state or federal criminal law.
- (ii) A Landscape Architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the Landscape Architect is interested.
- (iii) A Landscape Architect shall not solicit a contract from a governmental body on which a principal or officer of the licensee's organization serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of the appropriate public authority.
- (iv) A Landscape Architect shall not offer, directly or indirectly, to pay a commission or other consideration or to make a political contribution or other gift in order to secure work, except for payment made to an employment agency for its services.
- (v) A Landscape Architect shall comply with the registration laws and regulations governing his or her professional practice in any jurisdiction.
- (vi) Each Landscape Architect shall cooperate with the Board in its investigation of complaints or possible violations of the [STATE] Statutes or Regulations of the Board.

This cooperation shall include responding timely to written communications from the Board, providing any information or documents requested within 30 days of the date on which the communication was mailed, and appearing before the Board or its designee upon request.

(vii) Landscape Architect shall not violate any order of the Board.

E. Professional Conduct.

- (i) Each office in [STATE] maintained for the preparation of drawings, specifications, reports or other professional landscape architectural work shall have a licensed Landscape Architect resident and regularly employed in that office having direct supervision of such work.
- (ii) A Landscape Architect shall not sign or seal drawings, specifications, reports or other professional work for which he or she does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of such professional work prepared by the Landscape Architect's consultants, registered under this or another professional registration of [STATE], the Landscape Architect may sign or seal that portion of the professional work if the Landscape Architect has reviewed such portion, has coordinated its preparation and intends to be responsible for its adequacy.
- (iii) A Landscape Architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the Landscape Architect is interested.
- (iv) A Landscape Architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.
- (v) In all professional reports, statements and testimony, each Landscape Architect shall be completely objective and truthful and include all relevant and pertinent information.
- (vi) Conviction of a felony or the revocation or suspension of a professional license by another jurisdiction, if for a cause the State of [STATE] would constitute a violation of [STATE] law or of these regulations, or both, shall constitute unprofessional conduct.

213.12 FEES FOR SERVICES.

[Insert schedule of fees, with cross-references to [CLARB Model Law Section 213(G)] permitting the Board to establish fees, or any fees set by statute. This list should identify all categories of fees, including those to be established from time to time by the Board, and it should require the Board to maintain and provide to all individuals upon request a current and complete list of its fees.]

213.13 OTHER POWERS AND DUTIES OF THE BOARD.

In addition to the Statutes of [STATE], other powers and duties of the Board shall include, but are not limited to, the following:

- A. All members of the Board, including the chairperson, are entitled to vote and to make or to second motions. A majority vote of those present is required to pass a motion. The chairperson shall vote as a member of the Board.
- B. The latest edition of Roberts Rules of Order, Revised shall govern the normal proceedings of the Board. Exceptions include hearings that may be disciplinary in nature.

- C. All applications and requests for which the Board has prescribed a form must be presented on these forms.
- D. A roster of all Licensees and firms holding a Certificate of Authorization will be updated annually and shall be accessible to the public.

213.14 SEALS.

Each licensed Landscape Architect shall procure a Seal, which shall contain the name of the Landscape Architect; his or her license number and the state or territory; and the words LANDSCAPE ARCHITECT—[NAME OF STATE]. The Seal may be a rubber stamp, an embossed Seal, or a computer-generated Seal. After the Licensee's Seal has been applied to the original or record copy, the Licensee shall place the Licensee's signature and date across the Seal. This Seal shall comply in all respects, including size and format, which the specimen shown below:

[INSERT SPECIMEN SEAL IMPRINT]

- A. The Seal shall be imprinted on all technical submissions, as follows: On each design and each drawing; on the cover and index pages identifying each set of specifications; and on the cover page (and index, if applicable) of all other technical submissions. The original signature of the individual named on the Seal shall appear across the face of each original Seal imprint.

The Seal appearing on any technical submission shall be prima facie evidence that said technical submission was prepared by or under the direct supervision of the individual named on said Seal.

- B. All technical submissions prepared by a licensed Landscape Architect shall contain the following legend wherever the Landscape Architect's Seal appears: "The professional services of the Landscape Architect are undertaken for and are performed in the interest of [name of person employing Landscape Architect]. No contractual obligation is assumed by the Landscape Architect for the benefit of any other person involved in the project."
- C. Any Licensee may use a digital signature if the signature meets all of the following requirements: (1) Is unique to the person using it; (2) is able to be verified; (3) is under the sole control of the person using it; and (4) is linked to an electronic document bearing the digital signature in such a manner that the signature is invalidated if any data in the document is altered.

214.10 SOURCE OF DATA.

The Board may rely on the expertise of, and documentation and verified data gathered and stored by CLARB and other not-for-profit organizations as determined by the Board. This data shall include but is not limited to: CLARB Council Record; professional exam scores; verified educational transcripts; verified employment references; professional references; licensure history; disciplinary history; and other information gathered by third parties sharing the Board's public-protection mission.

The Board shall recognize all applicable Open Records Laws in [STATE] for data as it shall pertain to Records of the Board.

302.10 QUALIFICATIONS FOR LICENSURE.

Pursuant to [CLARB Model Law Section 302] an applicant for licensure must substantiate each item listed in this referenced Section to the Board's satisfaction.

302.11 APPROVED EDUCATION PROGRAMS.

An Approved Education Program means a first professional degree in Landscape Architecture from a program which has been accredited by the Landscape Architectural Accreditation Board (LAAB) or the Canadian Society of Landscape Architects Accreditation Council (CSLAAC). In lieu of this degree, satisfaction of 5 (five) years of combined education and experience credit may be substituted as follows:

Education Equivalency	Maximum Education Credit	Additional Experience Credit Needed
Non-accredited B.L.A. or M.L.A.	4 years	1 year under the direct supervision of a Landscape Architect
NAAB-accredited B.Arch. or M. Arch.	4 years	1 year under the direct supervision of a Landscape Architect
ABET-accredited degree in Civil Engineering	4 years	1 year under the direct supervision of a Landscape Architect
Any Bachelor's degree	2 years	3 years under the direct supervision of a Landscape Architect

Other landscape architectural curriculum which has not been accredited by LAAB but has been evaluated and found to be of an equivalent standard, may be reviewed and accepted by the Board.

302.12 EXPERIENCE SUPERVISION REQUIREMENTS.

The work experience required of each applicant shall expose the applicant to all phases of work integral to the practice of Landscape Architecture, and shall be performed under the direct supervision of a Licensee. Landscape architectural work experience shall fall within the definition of "the practice of Landscape Architecture" under [CLARB Model Law Section 104] and amendments thereto.

Experience supervision shall be verified by references which are those individuals who should have personal knowledge of an applicant and who can issue judgments concerning an applicant's experience, ability, character or reputation. Relatives may not be used as references. No current Board member shall be used as a reference. Replies received from references regarding the qualifications of an applicant shall be placed in files that are considered nonpublic records. The source and character of the information will not be divulged except in special cases when required by law.

302.13 EXAMINATIONS.

Applicants shall substantiate successful completion of CLARB's examinations where the examination administration and grading were conducted in accordance with CLARB's standards in effect at the time. CLARB examination administration requirements will be enforced as listed, but not limited to:

- A. examinations are offered on dates set by CLARB;
- B. locations at which the examinations are given are designated by CLARB;
- C. language of the examination will be English;
- D. results will be released in accordance with established CLARB policy;
- E. there shall be no post-administration access to, or review of, examination questions;
- F. re-examination limits shall be imposed by CLARB as necessary for the integrity of each exam;
- G. any applicant's examination results may be rejected by the Board and permission to retake an examination may be withheld by the Board upon a report by the testing administrator of any possible violation by the applicant of the provisions of any candidate testing agreement regarding examination irregularities.

303.10 QUALIFICATIONS FOR CERTIFICATE OF AUTHORIZATION.

Pursuant to [CLARB Model Law Section 303] an applicant for a Certificate of Authorization must substantiate each item in this referenced Section to the Board's satisfaction.

305.10 REQUIREMENTS OF CONTINUING COMPETENCE.

The purpose of the continuing professional competency requirement is to demonstrate a continuing level of competency of Landscape Architects. Every Licensee shall meet the continuing professional competency requirements of these regulations for professional development as a condition for licensure renewal.

- A. Each Licensee shall have completed 12 (twelve) Continuing Education Contact Hours during the one-year period immediately preceding the renewal date established by the Board;
- B. Continuing Education Contact Hours shall be related to the practice of Landscape Architecture and address subjects in the protection of public Health/Safety/Welfare (HSW).
- C. Other activities may be accepted for Continuing Education credit upon approval by the Board;
- D. If Licensee is licensed to practice Landscape Architecture in another jurisdiction in which the Licensee resides, the Licensee may meet the Continuing Education requirements of the jurisdiction in which the Licensee resides. If such jurisdiction requires no Continuing Education, the Licensee shall meet the Continuing Education requirements of [STATE];
- E. Each dual Licensee shall earn at least [8] of the required Continuing Education credits for each renewal period in each profession;
- F. Excess Continuing Education Contact Hours may not be credited to a future calendar year;
- G. Each Licensee shall provide proof of satisfying the Continuing Education requirements as required by the Board. If the Licensee fails to furnish the information as required by the Board, the License shall not be renewed. If the Board does not approve of submitted Continuing Education, Licensee shall have a period of 120 days after notification to provide further information or additional Continuing Education.

305.11 APPROVED PROVIDERS OF CONTINUING EDUCATION.

The following providers of Continuing Education programs have been approved by the Board and courses provided by approved providers are acceptable for meeting the mandatory Continuing Education requirements for licensure renewal:

- Landscape Architects Continuing Education System (LA CES)
- American Society of Landscape Architects (ASLA)
- Council of Landscape Architect Registration Boards (CLARB)
- [State/Provincial] Board name
- National Society of Professional Engineers (NSPE)
- American Institute of Architects (AIA)
- Agencies of the state or federal government offering training programs in landscape architecture
- Accredited colleges and universities offering training programs in landscape architecture

306.10 REQUIREMENTS FOR LICENSURE RENEWAL.

- A. Each Licensee shall renew the License by [DATE] each year. A written or electronic notice shall be issued by the Board to each Licensee no later than 30 days before this renewal date. An expired License shall be terminated if not renewed by the renewal date. A late fee may be charged for renewals up to 60 days past this renewal date. A reinstatement will be necessary for licenses 120 days past the renewal date.
- B. Each Business Entity shall renew its Certificate of Authorization by [DATE] each year. A written or electronic notice shall be issued by the Board to each Licensee not later than 30 days before this renewal date. An expired Certificate of Authorization shall be terminated if not renewed by the renewal date. A late fee may be charged for renewals up to 60 days past the renewal date. A reinstatement will be necessary for Certificates of Authorization 120 days past the renewal date.
- C. A Licensee or Business Entity shall not practice Landscape Architecture after the expiration date until the License or Certificate of Authorization has been renewed or reinstated.

307.10 NON RENEWAL OF LICENSURE; REQUIREMENTS FOR REINSTATEMENT OF EXPIRED LICENSE.

An individual may reinstate a terminated License from inactive, temporary or emeritus status, or a terminated status by obtaining all delinquent required Continuing Education. Upon completion of a reinstatement application and proof that the individual has complied with the requirements for obtaining Continuing Education, the individual shall meet the Board's other requirements for reinstatement before reinstatement shall be granted.

Reinstatement of a Certificate of Authorization shall occur upon completion of a reinstatement application and requirements stated therein.

310.10 LICENSE STATUSES.

- A. The following License statuses shall apply:

- (i) Active status shall require successful renewal every 2 (two) years with the appropriate fee and verification of continuing competency requirements.
- (ii) Inactive status shall require successful renewal every 2 (two) years with the appropriate fee. No continuing competency verification is required. The individual shall have no pending disciplinary action before the Board. The individual shall not practice Landscape Architecture in [State].
- (iii) Temporary status shall require a Disaster Declaration by the governor or other appropriate authority of [State]. Services by a Landscape Architecture must be provided within the scope of their License, on prior written notice to the Board and only provided for the duration of the declared emergency. [CLARB Model Law Section 304]
- (iv) Emeritus status shall require the individual to be at least 60 years of age. The individual shall submit a one-time application, with no fee and no verification of continuing competency required. The individual shall have no disciplinary action before the Board. Any individual who chooses this license status may use that individual's professional title in conjunction with the word "emeritus". The individual shall not practice Landscape Architecture in [State].

501.10 MANDATORY REPORTING.

Any Applicant, Licensee or Person with knowledge of conduct by any Person that may be grounds for disciplinary action under this Act or its regulations, or of any unlicensed practice under this Act, shall report such conduct to the Board on a form provided by the Board.

The form shall include but not be limited to information regarding the explanation of complaint, contact information of person making complaint, contact information of person who is the subject of complaint and other information as necessary for investigative purposes.

701.10 SEVERABILITY.

If any provision or application of these regulations is found to be invalid for any reason, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and therefore, the provisions of these regulations are declared to be severable.

Disclaimer

This document is a draft of the Uniform Application for Licensure, and the information contained in this document is for review and feedback by CLARB members ONLY.

UNIFORM APPLICATION

The enclosed application packet includes:

- **Evaluation Summary**
- **Supporting Details**
- **Applicant Transcript**

EVALUATION SUMMARY

**This is a summary of the applicant's history and is not an evaluation of the record against CLARB's Standards of Eligibility for Council Certification.

APPLICATION INFORMATION

Name: Mariela Wagner

Council Record #: 12001

Email: mcadima@clarb.org

Phone: 703-123-5678

REGISTRATION SUMMARY

Jurisdiction	Date of Initial Licensure	Expiration Date
California	07/16/2018	07/30/2021

The Applicant Mariela Wagner has completed the examination for Licensure.

EDUCATION SUMMARY

Institution	Type	Category	Graduation Date
West Virginia University		Accredited LA	05/09/2016

WORK EXPERIENCE

Employer	Experience Evaluation Category	Duration
CLARB 12/01/2016-6/16/2020 Full Time	Landscape Architecture	4 yr(s), 6 mth(s)

DISCIPLINARY ACTION SUMMARY

Below are the comprehensive details of the applicant's history as verified by CLARB. The information is not an evaluation of the record against CLARB's Standard of Eligibility for Council Certification.

Name: Mariela Wagner **Other/Previous Names:** Mariela Cadima
Address: 1840 Michael Faraday Dr **Military Status:** N/A
Suite 200
Reston, VA 20190 **DOB:** 01/15/1989
Phone: 571-432-0332 **Candidate ID:** CADI01234
Email: mcadima@clarb.org
Council Record #: 12001 **Council Record Status:** Certified 2/4/2015

EDUCATION INFORMATION

Degree Type: Bachelor **Category:** Accredited LA
Institution Name: West Virginia University
Graduation Date: 05/09/2016 **Verified By:** Alison Swagner **Date Verified:** 06/08/2020

EXAMINATION DETAILS

Examination Section	Score	Date Pass/Credit Achieved
Score received 05/2020		
Exam 1	Pass	01/15/2020
Exam 2	Pass	01/15/2020
Exam 3	Pass	01/28/2020
Exam 4	Pass	01/28/2020

**The word "Credit" indicates a transition credit for the current section of the L.A.R.E.

REGISTRATION DETAILS

Jurisdiction	Initial Registration Date	Expiration Date	Registration Number
CA- California	07/16/2018	07/30/2021	012345

Applicant has derogatory information on file with Board of license has ever been suspended, revoked, or denied: No

Explanation:

Verified By: Sam Thompson **Title:** Executive **Date Verified :** 02/08/2020

SELF-REPORTED REGISTRATION INFORMATION

Disciplinary History Any time lapsed or withdrawal of license: N/A

List State and Timeframe: N/A

Description of the Incident(s): N/A

WORK EXPERIENCE DETAILS

Company Name: CLARB

Nature of Work: Landscape Architecture

Dates of Employment: 12/01/2016 to 06/16/2020

Employment Type: Full Time

Hours: 40

Supervisors Name: Rebecca Moden

Direct Supervisor: Yes

Supervisors License: Landscape Architect

Supervisor's Licensure Information:

Self-employed? Yes No

Jurisdiction
CA- California

Initial Registration Date
01/10/2018

Expiration Date
01/30/2021

Registration Number
01111

Skills:

Project and Construction
Administration Inventory, Analysis and
Program Development

Technical Competence: Excellent

Technical Competence Explanation:

Professional Conduct: Excellent

Professional Conduct Explanation:

Verified By: Morgan Parker

Date Verified: 05/04/2020

Company Name: Surrounds Landscape Design

Nature of Work: Landscape Architecture

Date of Employment: 12/02/2014 to 11/26/2016

Employment Type: Full Time

Hours: 40

Supervisors Name: Veronica Meadows

Direct Supervisor: Yes

Supervisors License: Landscape Architect

Supervisor's Licensure Information:

Self-Employed? Yes No

Jurisdiction
AR- Arkansas

Initial Registration Date
05/14/2017

Expiration Date
05/30/2019

Registration Number
00123

Skills:

Project and Construction Administration
Inventory, Analysis and Program
Development

Technical Competence: Excellent

Technical Competence Explanation:

Professional Conduct: Excellent

Professional Conduct Explanation:

Verified By: Emily Parker

Date Verified: 05/07/2020

PROFESSIONAL REFERENCES DETAILS

Reference Name: Daniel Peterson

Reference Type: Landscape Architect

Reference's Licensure Information:

Current Jurisdiction
UT-Utah

Expiration Date
01/31/2021

Registration Number
14789

Licensure Type: Landscape Architect

Technical Competence: Excellent

Technical Competence Explanation:

Professional Conduct: Excellent

Professional Conduct Explanation:

Verified By: Daniel Peterson

Date Verified: 07/24/2020

Reference Name: James Hamilton

Reference Type: Landscape Architect

Reference's Licensure Information:

Current Jurisdiction
UT- Utah

Expiration Date
05/31/2022

Registration Number
23698

Licensure Type: Landscape Architect

Technical Competence: Excellent

Technical Competence Explanation:

Professional Conduct: Excellent

Professional Conduct Explanation:

Verified By: James Hamilton

Date Verified: 07/10/2020

Reference Name: Sofia Rowley

Reference Type: Landscape Architect

Reference's Licensure Information:

Current Jurisdiction
CA- California

Expiration Date
03/25/2022

Registration Number
02587

Licensure Type: Landscape Architect

Technical Competence: Excellent

Technical Competence Explanation:

Professional Conduct: Excellent

Professional Conduct Explanation:

Verified By: Sofia Rowley

Date Verified: 07/13/2020

BACKGROUND INFORMATION

Self-reported Background Information.

Criminal History Other legal actions N/A

List ALL cases: N/A

Description of Incident(s): N/A

DRAFT

Copy of official transcripts will be included.

DRAFT

CLARB

LATC Board Meeting

September 4, 2020

Agenda

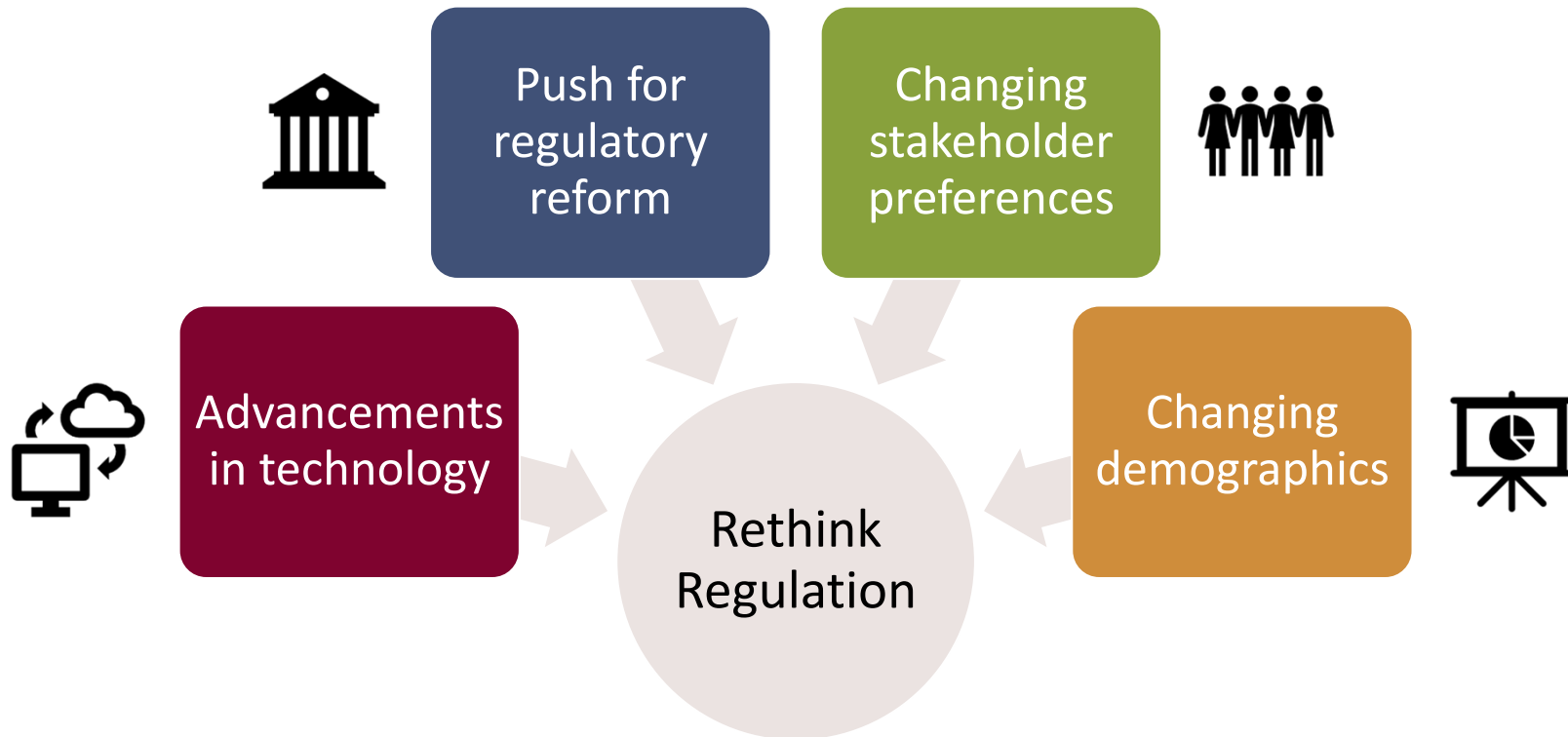
Rethink Regulation overview

Considerations for exam pre-approval

Annual Meeting review

Open discussion

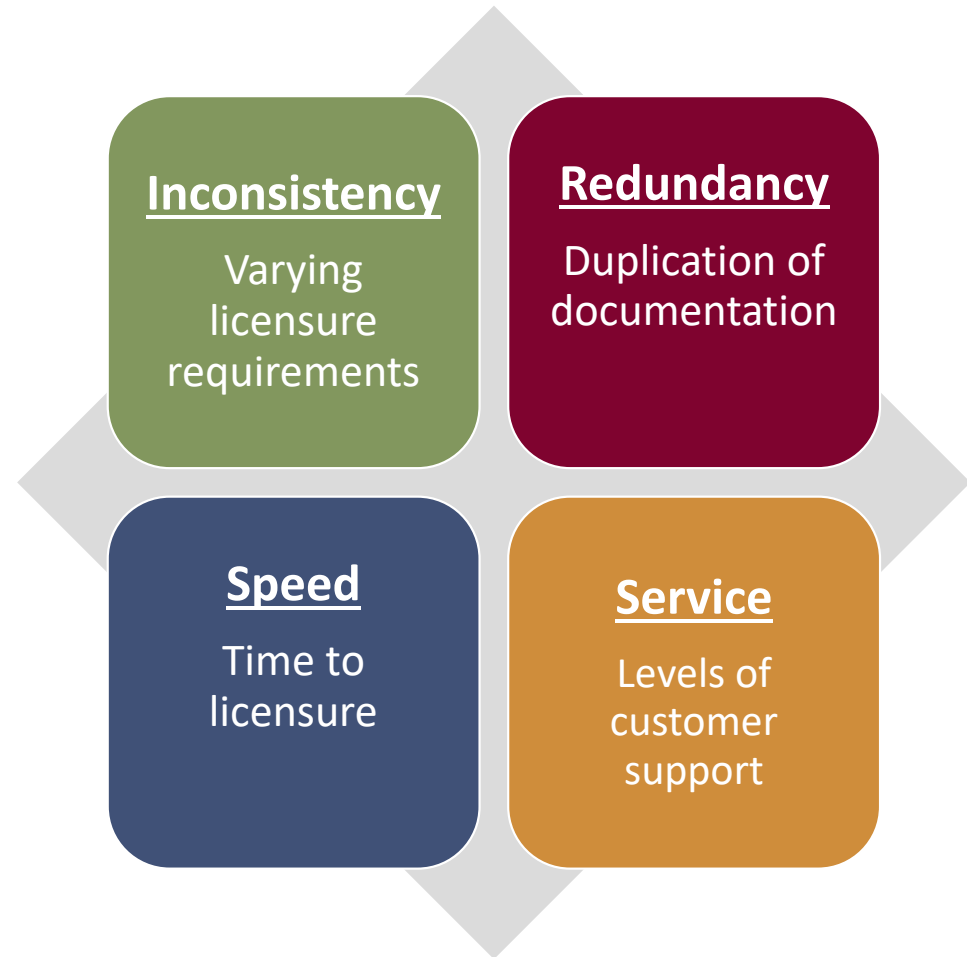
Why should CLARB and member boards
rethink landscape architecture regulation?



Reduce
friction in the
licensure
process

Friction = steps, complications, and processes that do not have a direct impact on public protection.

Where does friction currently exist in the licensure process?



How do we address that friction?

Policy changes that facilitate uniform standards for licensure.

Varying
licensure
requirements

Duplication of
documentation

Process changes that eliminates the duplication of documentation candidates and licensees must provide.

Procedural changes that reduce the time it takes to get licensed.

Time to
licensure

Levels of
customer
service/support

Service enhancements that better assist candidates and licensees in navigating the path to licensure.

Terminology

- **uniform standard:** common criteria for licensure against which all candidates are evaluated and is implemented in all jurisdictions
- **uniform application:** a single tool used to collect and share applicant data with licensure boards
- **administrative approval:** ability for board staff to approve licensure applications for those candidates that meet the standard requirements for education, examination, and experience
- **direct L.A.R.E. registration:** qualified candidates may register for and take the L.A.R.E. directly with CLARB without waiting for board approval

Policy changes address Inconsistency

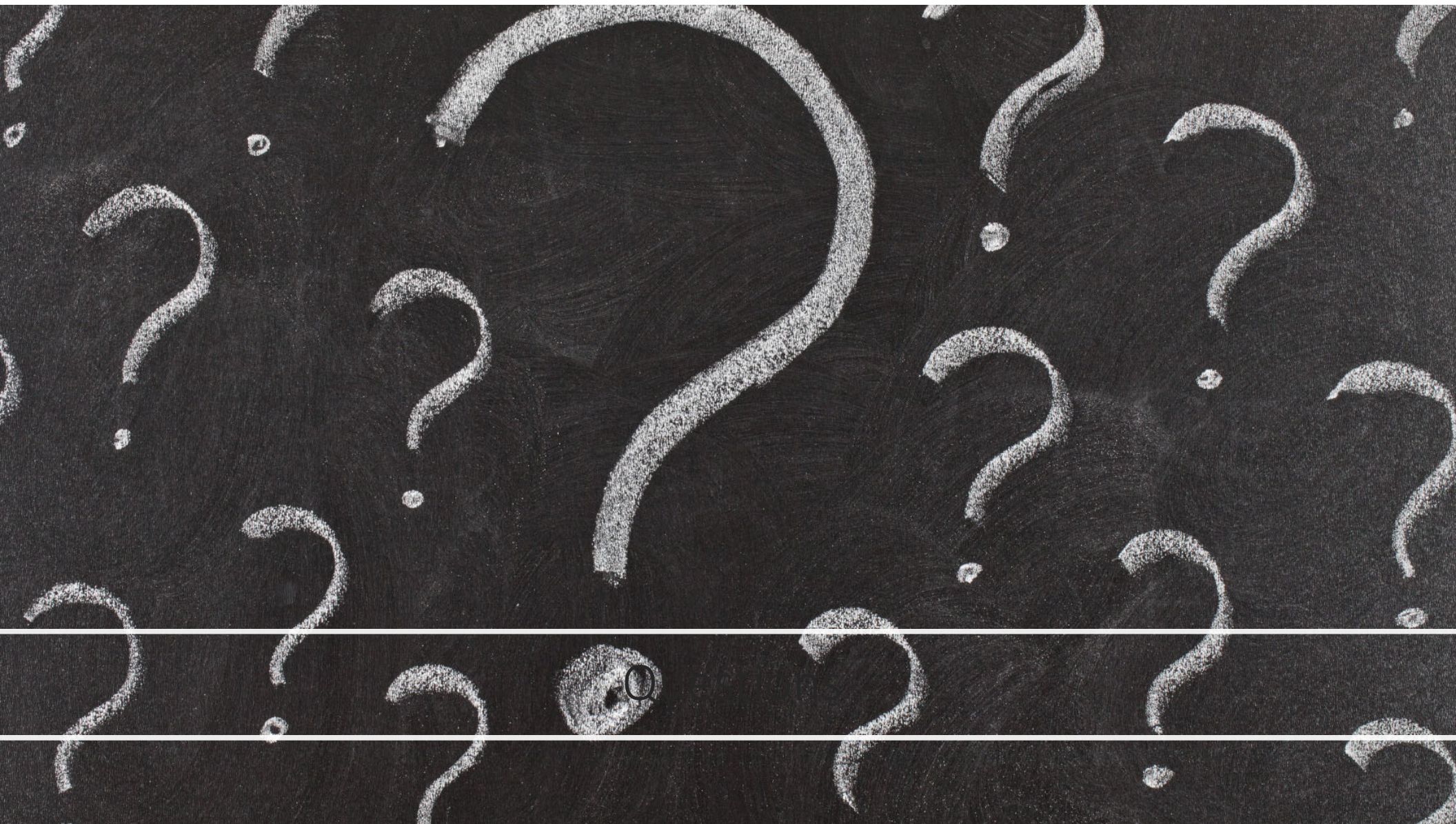
- CLARB is working with members to develop a uniform standard for licensure that all candidates are evaluated against and is implemented in all jurisdictions.
- Education, experience and the exam are KEY components of the standard.
- Education and exam standards have been established and are defensible.
- Experience requirements vary greatly which creates vulnerabilities for landscape architecture licensure

Process changes address Redundancy

- Development of a tool – a uniform application - that can be used to collect and share applicant data with licensure boards.
- The uniform application will contain the core information all boards need to evaluate a candidate for licensure.
- This will be implemented in phases, first by modifying the Council Record, then ultimately to a two-way electronic transfer of data.

Procedural changes address Speed

- Empowering board staff to administratively approve a candidate for licensure.
- Enabling all candidates to register directly with CLARB for the L.A.R.E. without prior approval.

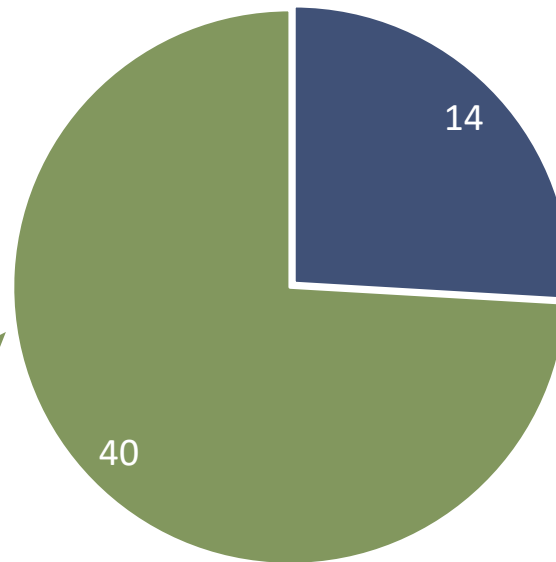


Considerations for Direct L.A.R.E. Registration

Direct Exam Registration

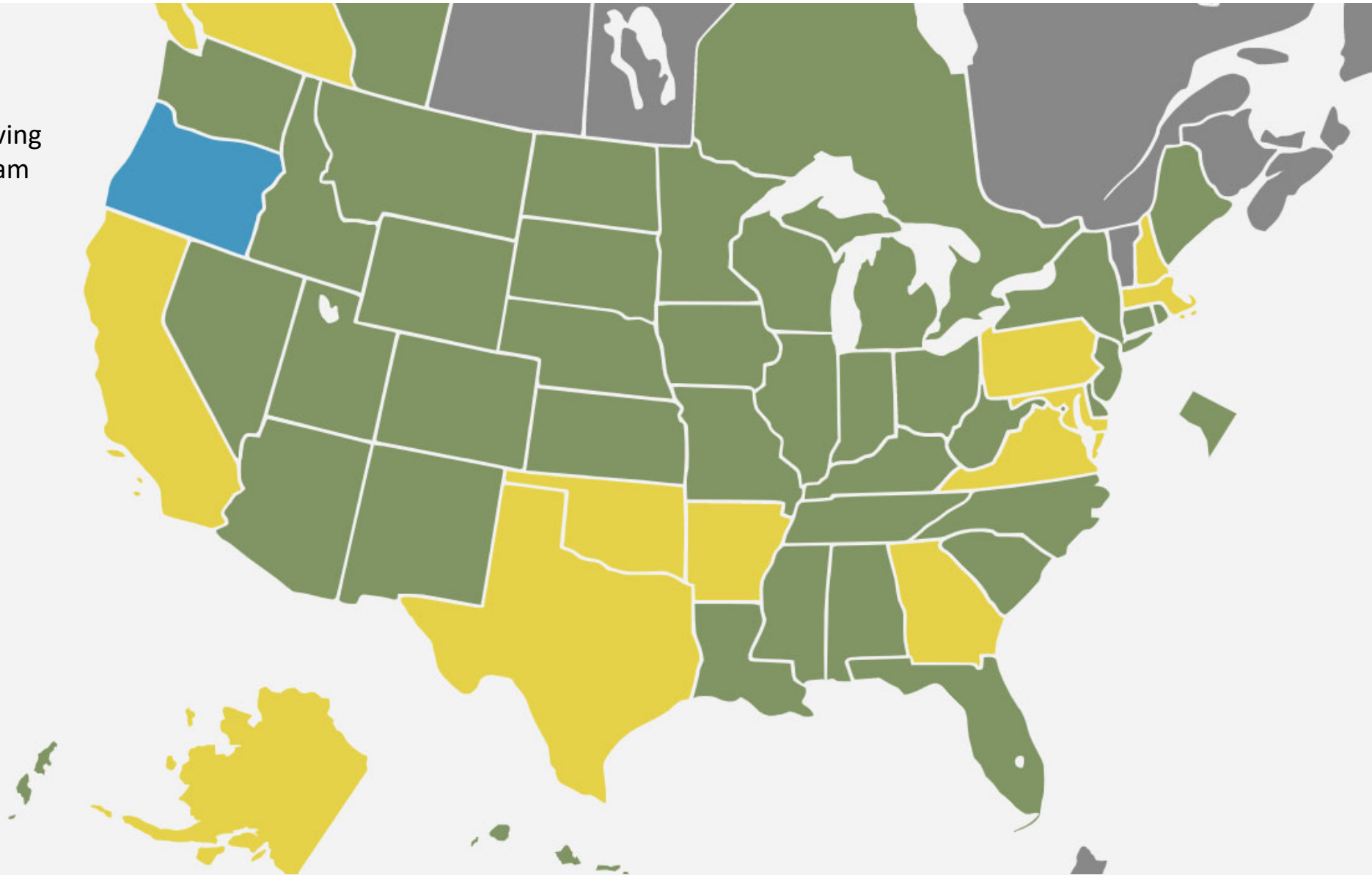
Alabama
 Arizona
 Colorado
 Connecticut
 DC
 Delaware
 Florida
 Hawaii
 Idaho
 Illinois
 Indiana
 Iowa
 Kansas
 Kentucky
 Louisiana
 Maine
 Michigan
 Minnesota
 Mississippi
 Missouri
 Montana
 New Jersey
 New Mexico
 New York
 Nebraska
 Nevada
 North Carolina
 North Dakota
 Ohio
 Ontario
 Puerto Rico
 Rhode Island
 South Carolina
 South Dakota
 Tennessee
 Utah
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 California
 Georgia
Maryland
 Massachusetts
 New Hampshire
 Oklahoma
Oregon
 Pennsylvania
Texas
Virginia

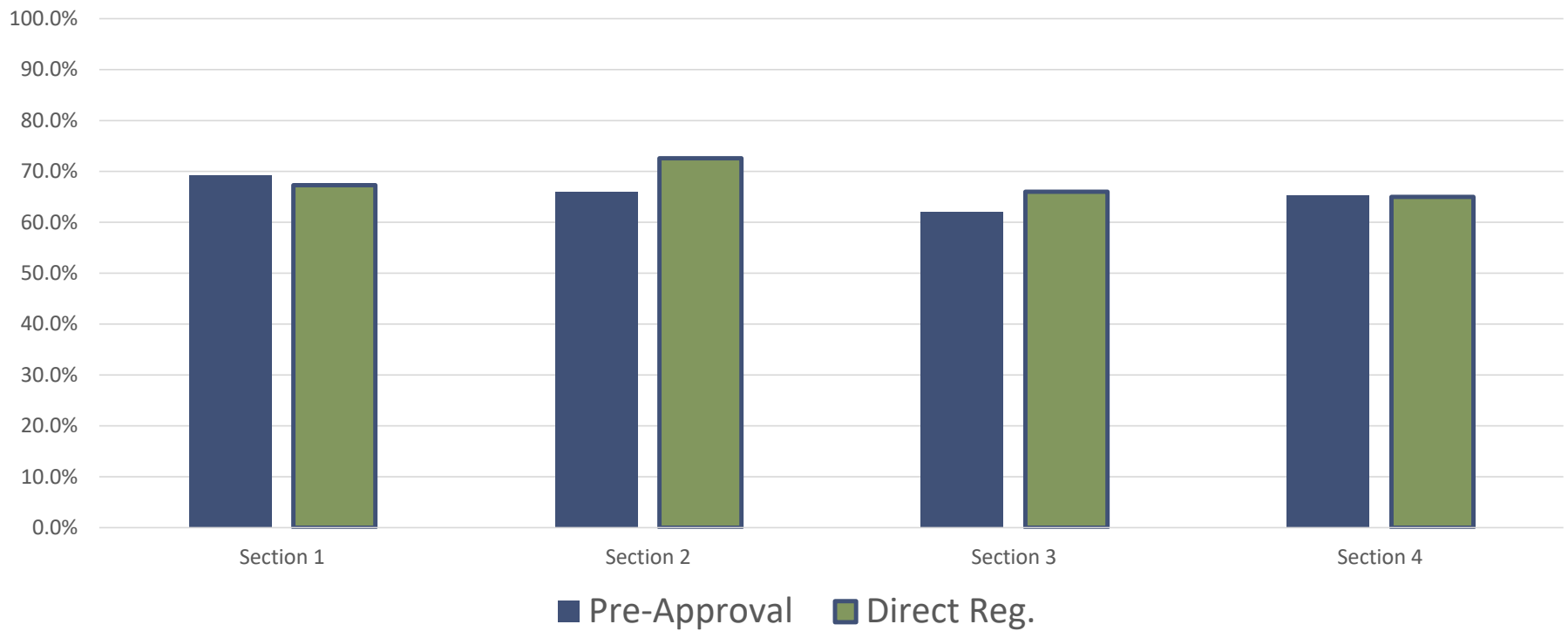


■ Pre-approval ■ Direct registration

Oregon moving
to direct exam
registration

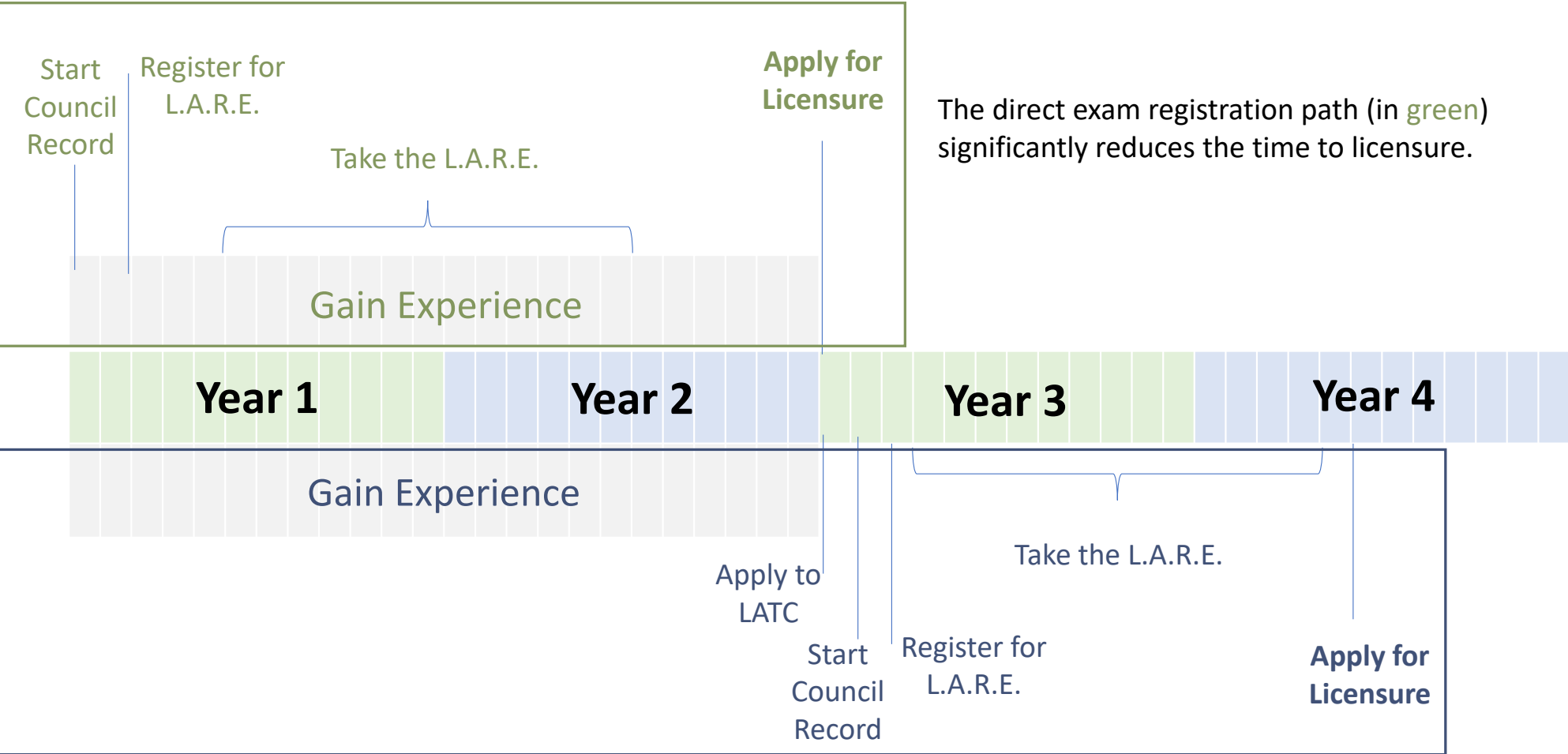


Pass Rates by Board Requirements

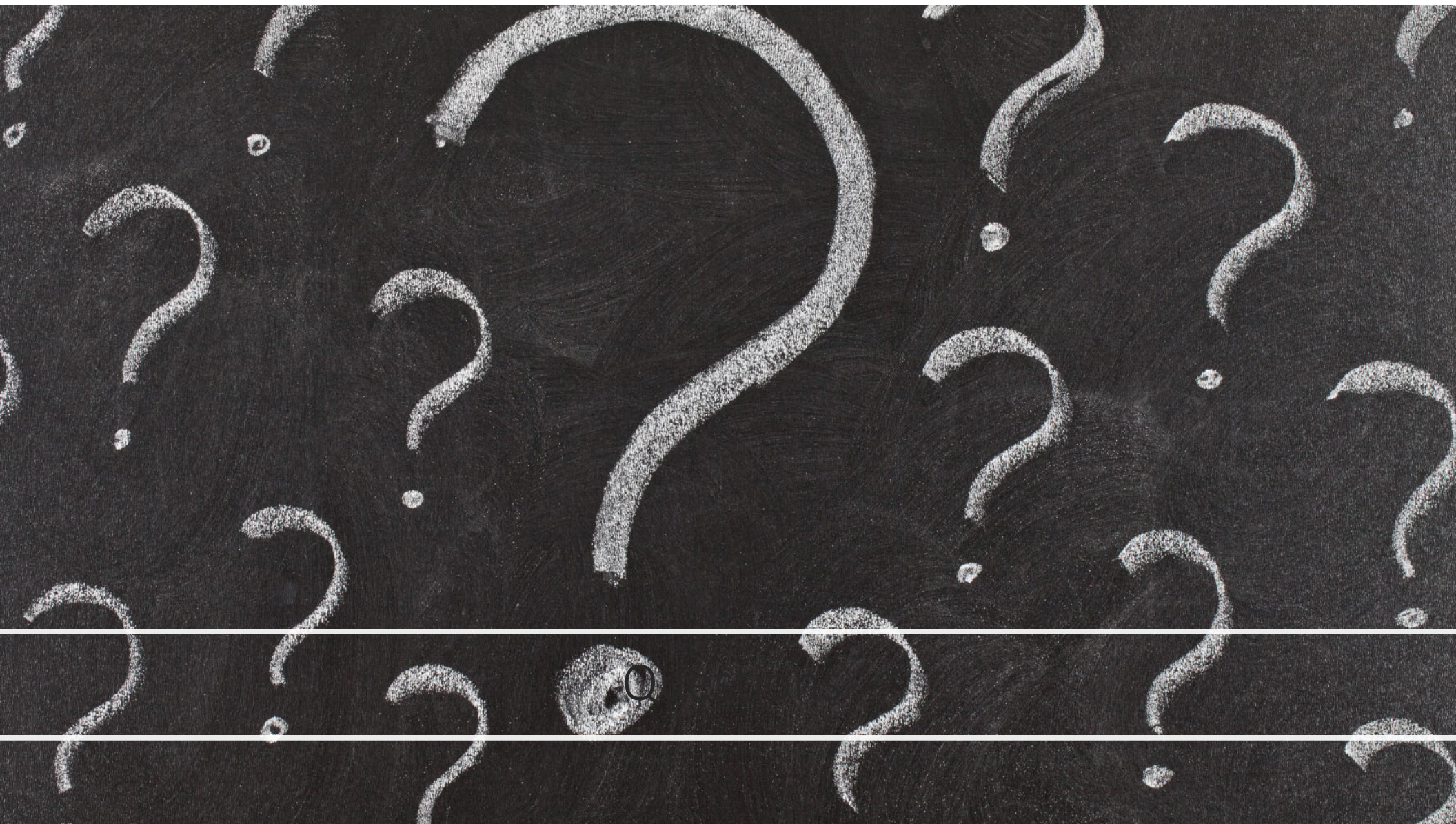


2013-2019 Data

Candidate Process – Direct vs. Pre-Approval



The direct exam registration path (in green) significantly reduces the time to licensure.



CLARB 2020 Annual Meeting

Thursday, September 10 – Virtual Meeting

11:30 – 12:30 Pre-meeting session – Thriving during COVID-19

1:00 – 4:30 CLARB Annual Meeting
Remote Proctoring Pilot update
2021 Task Analysis
Diversity, Equity and Inclusion
CLARB 2.0 – Re-envisioning for the Future
Elections
Outgoing Volunteer Recognition

5:00 – 6:00 Social Activities

Elections Reminder

- Ballots and credentials letter due September 7
- Credentials letter is completed by staff or non-voting board member
- Board members or staff may be voting delegate
- Any tie will be voted on at the Annual Meeting via email ballot (must be completed by credentialed delegate in attendance)

CLARB

LATC Board Meeting

September 4, 2020

AGENDA ITEM G.2: REVIEW CLARB SEPTEMBER 10, 2020 VIRTUAL ANNUAL MEETING AGENDA

Summary

The 2020 Council of Landscape Architectural Registration Boards (CLARB) Annual Meeting will be held virtually on September 10, 2020. During the meeting, Member Boards will elect new CLARB leadership, meet with regional representatives, and join together to hear updates on CLARB activities.

Action Requested

None. A copy of the CLARB virtual meeting agenda will be distributed at the LATC meeting.

CLARB

2020 Virtual Annual Meeting

Agenda - Thursday, September 10

Not registered? [Click here!](#)

- 11:30 a.m. – 12:30 p.m.** **Surviving and Thriving During COVID-19: How is your Board adapting?**
*Optional pre-Annual Meeting discussion facilitated by CLARB’s MBE Committee.
[Click here](#) to register for this optional session.
- 1:00 p.m.** **Annual Meeting Kickoff: Opening Remarks**
- 1:10 p.m.** **First Year Observations from CLARB’s CEO**
- 1:30 p.m.** **2021 Job Task Analysis**
- 2:00 p.m.** **Remote Proctoring Update**
- 2:30 p.m.** **Meeting Break**
- 3:00 p.m.** **Creating a More Diverse, Equitable, and Inclusive CLARB**
- 3:15 p.m.** **Reframing Landscape Architecture**
- 3:30 p.m.** **CLARB 2.0**
- 3:45 p.m.** **Elections Announcement and Leadership Nominations**
- 4:00 p.m.** **Closing Session**
- 5:00 p.m.** **Social Activities**
*Optional post-Annual Meeting social activities in separate Zoom rooms.
Select your choice from the options below and click on the name to register:
[Happy Hour](#) – [Charades](#) - [Family Feud](#) - [Two Truths and a Lie](#)

AGENDA ITEM G.3: REVIEW AND POSSIBLE ACTION ON 2020 CLARB BOARD OF DIRECTORS AND LEADERSHIP ADVISORY COUNCIL ELECTIONS BALLOT

Summary

On June 11, 2020, CLARB released the final slate of candidates for the 2020 Board of Directors, and Leadership Advisory Council elections. Attached for the Committee's reference are the final slate of candidates and each candidate's respective biography (Attachment G3.1). Also attached is the CLARB memorandum regarding Letter of Delegate Credentials for 2020 CLARB Annual Meeting along with the template credentials letter, which provides voting representatives (Attachment G.3.2), and the 2020 Elections Ballot (Attachment G.3.3) which staff will complete and submit to CLARB.

With regard to the Board of Directors and Leadership Advisory Council elections, the Landscape Architects Technical Committee's (LATC) completed ballot and credentials letter must be submitted to CLARB by September 7, 2020. Elections results will be announced during the business session at the virtual 2020 Annual Meeting.

Action Requested

The Committee is asked to review the final slate of candidates for the 2020 Board of Directors and Leadership Advisory Council, and take possible action in determining how the LATC will vote in the elections.

Attachments

1. CLARB 2020 Board of Directors and Leadership Advisory Council Final Slate Candidate Biographies
2. CLARB 2020 Memo and Template Letter of Delegate Credentials
3. CLARB 2020 Election Ballot

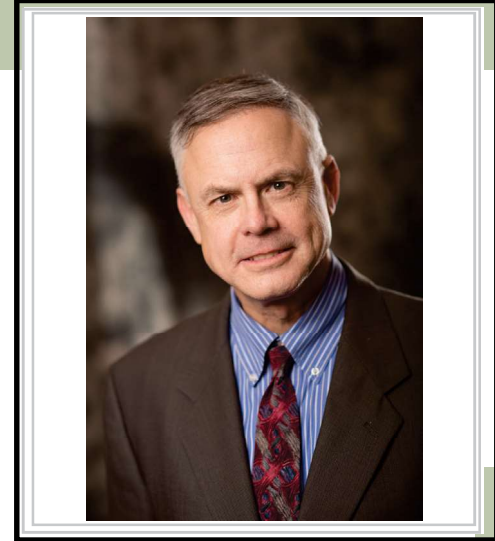
Robert (Bob) Gunderson

2020 Candidate Interest Form

President-Elect

General Information

Jurisdiction: Minnesota
 Company Name: SGA Group, Inc.
 Position: President
 Education: MLA - University of Pennsylvania
 BSLA - Iowa State University
 Warrant Officer Staff Course (Strategic-level studies) - U.S. Army
 Licenses: Minnesota, South Dakota



Leadership Competencies

Please rank these **leadership competencies** from the list below (1 being where you feel the strongest, 9 your weakest). Please explain, giving examples as appropriate, your first and last choices.

- | | | | | | |
|---|--------------------------------|---|-----------------------------------|---|----------------------------------|
| 4 | Be willing to learn and grow | 6 | Demonstrate personal integrity | 7 | Think strategically/analytically |
| 2 | Communicate effectively | 9 | Exercise oversight vs supervision | 1 | Work collaboratively |
| 5 | Demonstrate emotional maturity | 8 | Practice the duty of foresight | 3 | Work with an open mind |

I feel I am very capable in all of the listed leadership competencies, except the "Duty of Foresight" - which I am actively learning. I view these competencies as more of a "continuum process" that one goes through when addressing issues, problems, and controversies. The first three competencies deal with whether one should be on the Board in the first place—if they do not have these traits. Competencies 4, 5, and 6 address the interpersonal relationships needed between board members, and, once people are working together, competencies 7, 8, and 9 refer to the success – or failure – of any organization.

Questions from the Leadership Advisory Council

What unique qualifications or experiences will you bring to CLARB leadership that we might not otherwise know about?

- 1.) I understand the hierarchical "large scale-small scale" nature of problem solving.
- 2.) From my military experience of leading soldiers in active-duty situations, I do not get flustered very easily. All problems are small problems, if you know how to address them correctly.
- 3.) I enjoy meeting leaders from CLARB's allied professions.

When thinking about your role in CLARB leadership, what would success look like to you?

- 1.) Learning from my last 2 years of Board service as Secretary and Director-at-Large, and projecting that experience into future CLARB roles.
- 2.) That I created an effective working relationship with other board members, so we, as a whole, can rise to all challenges.
- 3.) Going "above and beyond" the minimum requirements of President-Elect.

Service Information

Board Service

Board Member-MN: 2012-present
-7 disciplines, 21 members

- Board Secretary: 2017-2019
- Vice President: 2015-2017
- Complaint Committee: 2015-2019
- Ad Hoc Liason-MN ASLA Chapter: 2013-present
- Credentialing/Rules Committee: 2012-present
- Invited speaker. Univ. of MN Dept. of Landscape Architecture: 2014-present
- Invited speaker. ASLA/MN Chapter: 2017

CLARB Service

- CLARB Director-at-Large: 2019-2020
- CLARB Board Secretary: 2018-2019
- CLARB Committee on Nominations: 2015-2017
- Attended 2017 CLARB special Governance Changes Meeting, Minneapolis, MN
- Invited speaker, CLARB 2016 Annual Meeting, Philadelphia, PA
- Gave "Opening Remarks" and tours at CLARB 2013 Annual Meeting, in Minneapolis, MN, as part of host board responsibilities

Other Service

- ASLA member (36 years)
- Former ASLA/MN Chapter President-Elect, President, Past President
- Adjunct professor-Univ. of Minnesota: 1991-present
- Contributed to "green" rating system (B3), used for all new public building construction in State of Minnesota.
- Chief Warrant Officer 4, U.S. Army (Ret). Awarded Bronze Star Medal, Meritorious Service Medal, Combat Action Badge.

2020 Candidate Interest Form

General Information

Jurisdiction: North Carolina
Company Name: Preston Development Company
Position: VP, Planning and Development
Education: BEDLA, NC State University
Master of Landscape Architecture, NC State University
Licenses: North Carolina



Leadership Competencies

Please rank these **leadership competencies** from the list below (1 being where you feel the strongest, 9 your weakest). Please explain, giving examples as appropriate, your first and last choices.

- | | | | | | |
|---|--------------------------------|---|-----------------------------------|---|----------------------------------|
| 2 | Be willing to learn and grow | 3 | Demonstrate personal integrity | 8 | Think strategically/analytically |
| 1 | Communicate effectively | 9 | Exercise oversight vs supervision | 4 | Work collaboratively |
| 6 | Demonstrate emotional maturity | 7 | Practice the duty of foresight | 5 | Work with an open mind |

I have grown to be an effective communicator and good team player through, first, being an active listener, helping me to understand and value the viewpoints of others as I try to consistently learn, grow and question. My last choice is not necessarily a weakness but is the one I feel is less important when compared to the others listed.

Questions from the Leadership Advisory Council

What unique qualifications or experiences will you bring to CLARB leadership that we might not otherwise know about?

I have served in a variety of leadership roles: 1) 35 years with high school kids as a volunteer Young Life leader regularly receiving servant based leadership training; 2) led project teams in contentious rezoning cases where developing relationships and building trust with elected officials and neighborhood opposition leaders was key to success.

When thinking about your role in CLARB leadership, what would success look like to you?

Going through the process of questioning, challenging and working with each other as a team to reach our common identified goals while, at the same time, all becoming better people for having experienced the process together.

Service Information

Board Service

- NC Board of Landscape Architects: 2008 - present
- Chairman: 2012-2014
- Vice-Chair: 2010-2012, 2016- present
- Disciplinary Review Committee: 2012-2020
- Rules Committee: 2012-2014
- NC Board of Landscape Contractors: 1984-1989
- Vice-Chairman: 1988-1989

CLARB Service

- Vice President: 2019-present
- Foresight First Certificate: Jan 2020
- CEO Selection Committee: 2019
- Region 3 Director: 2017-2019
- Comm on Nominations: 2013-2015
- Member Board Member: 2008-present
- Annual Meeting Attendee: 2008-present
- L.A.R.E. Grader: 2009-2012
- LARE Red Line Comm: 2010-2012
- LARE Master Grader: 2012

Other Service

- ULI Master Planned Community Council Member: 2016-present
- Town of Cary, NC, Committee for the Future: 2013-2016
- ASLA Licensure Comm: 2011-2015
- ASLA LARE Prep Comm: 2011-2012
- LAAB Rove Team: 2009-2010
- NC ASLA Past President: 1994-1995
- ASLA President's Council: 1993-1994
- NC ASLA President: 1993-1994
- NC ASLA Treasurer: 1990-1992
- NC ASLA Secretary: 1988-1990
- ASLA Member: 1981-present

2020 Candidate Interest Form

General Information

Jurisdiction: Texas
 Company Name: Texas Board of Architectural Examiners
 Position: Executive Director
 Education: Law Degree
 Licenses: Law License



Leadership Competencies

Please rank these **leadership competencies** from the list below (1 being where you feel the strongest, 9 your weakest). Please explain, giving examples as appropriate, your first and last choices.

- | | | | | | |
|---|--------------------------------|---|-----------------------------------|---|----------------------------------|
| 4 | Be willing to learn and grow | 5 | Demonstrate personal integrity | 1 | Think strategically/analytically |
| 8 | Communicate effectively | 9 | Exercise oversight vs supervision | 6 | Work collaboratively |
| 2 | Demonstrate emotional maturity | 7 | Practice the duty of foresight | 3 | Work with an open mind |

My strongest leadership competency is my ability to think critically. I understand issues from different perspectives and challenge opinions in delicate conversations. In my role as a Director-at-Large for CLARB and Chair of the MBE Committee, I have analyzed various challenges facing the practice of landscape architecture, including the Rethink Regulation initiative, and have worked to help find solutions. As a member of the LAC, it will be very important for me to synthesize multiple viewpoints and incorporate them into sound decisions for the appointment of future CLARB leadership. The LAC has great responsibility and must instill trust and confidence in the appointment process. I can help the LAC in reaching that goal. The exercise of oversight is my weakest leadership competency. As a member of the CLARB Board of Directors, it was a challenge for me to take off my Executive Director hat, where I focus on what's being done and how it is being done, and switch to focusing on outcomes to be achieved. Although this is still my weakest leadership competency, it is also the area where I have seen the most growth.

Questions from the Leadership Advisory Council

What unique qualifications or experiences will you bring to CLARB leadership that we might not otherwise know about?

My experience on the Board of Directors gives me insight into the knowledge, skills and competencies needed in CLARB's future leadership. Additionally, as MBE Director I have served in a liaison role communicating to the membership issues that are important to CLARB. I can instill that same trust and confidence in the appointment process. I want to continue to be a leader of the CLARB community by helping to develop the future of CLARB with a competency-based perspective on appointments to the Board of Directors.

When thinking about your role in CLARB leadership, what would success look like to you?

If I were allowed to serve on the Leadership Advisory Council, I would feel successful if there was confidence in CLARB's newly developing governance processes where membership does not elect the Directors, but where the Leadership Advisory Council appoints leaders based on CLARB's needed leadership competencies. I believe that the nomination selections over the next several years will be imperative to CLARB's future success and the role it plays as a leader in the greater regulatory environment. I hope that I can be part of making the new governance model successful.

Service Information

Board Service

- Executive Director for the Texas Board of Architectural Examiners: 2015-present
- Executive Director and General Counsel for the Texas Board of Dental Examiners: 2012-2015
- Litigation Counsel for the Texas State Board of Pharmacy: 1999-2012
- Assistant General Counsel for the Texas Medical Board: 1998-1999

CLARB Service

- Director-at-Large and Chair of the MBE Committee: 2018-present
- MBE Committee Member: 2015-2018
- Presentations at the 2016, 2017 and 2019 Annual Meetings

Other Service

- NCARB Model Law Task Force: 2018-present
- NCARB Experience Committee: 2017
- NCARB MBE Director for the Region 3 Board of Directors: 2016-2017
- NCARB Procedures and Documents Committee: 2016
- CIDQ Bylaws Task Force: 2016

2020 Candidate Interest Form

General Information

Jurisdiction: Mississippi
Company Name: Mercier Landscape Architect
Position: Principal / Owner
Education: Bachelor of Landscape Architecture
Mississippi State University
Licenses: Alabama, Mississippi, Tennessee



Leadership Competencies

Please rank these **leadership competencies** from the list below (1 being where you feel the strongest, 9 your weakest).

Please explain, giving examples as appropriate, your first and last choices.

- | | | | | | |
|---|--------------------------------|---|-----------------------------------|---|----------------------------------|
| 1 | Be willing to learn and grow | 2 | Demonstrate personal integrity | 6 | Think strategically/analytically |
| 5 | Communicate effectively | 7 | Exercise oversight vs supervision | 4 | Work collaboratively |
| 3 | Demonstrate emotional maturity | 8 | Practice the duty of foresight | 9 | Work with an open mind |

I believe my strongest leadership competency is being willing to learn and grow. I have always believed in continuing to learn, and instill that in my children and employees. In order to stay at the top of your game, you must stay ahead of the competition and be willing to learn something every day. My weakest leadership competency is working with an open mind - but from a position of being willing to be proven wrong (and learn something new). I tend to have pre-determined ideas of what something should be, work like, look like, etc. However, I am always willing to hear another viewpoint, and try to see it from another perspective.

Questions from the Leadership Advisory Council

What unique qualifications or experiences will you bring to CLARB leadership that we might not otherwise know about?

While serving as the president of the MS ASLA Chapter in 2007, I initiated the AL/MS Twin States Conference with Sharon Nelson (then president of the AL ASLA Chapter). The conference mission is to promote landscape architecture; provide networking among peers and landscape architecture students; and provide an opportunity for continuing education.

When thinking about your role in CLARB leadership, what would success look like to you?

My vision of success would be continuing the (already) successful mission of CLARB by:

- Furthering the development of a diverse board
- Promoting the leadership role among the design profession
- Utilizing strategic thinking and foresight to keep the board prepared for the future
- Meeting the challenges of the current regulatory environment

Service Information

Board Service

Date(s) Appointed to Board: 2006–2019

Board Service:

- President: 2009, 2011, 2012, 2017
- Secretary: 2008

CLARB Service

- Region III Director: 2015–2017
- Alternate Regional Director: 2014–2015
- Attended Annual Meetings: 2007-2018
- Candidate for CLARB Vice President: 2018
- Candidate for CLARB Secretary: 2019

Other Service

- ASLA Government Affairs Advisory Committee Member: 2014–2015
- Mississippi ASLA Chapter:
 - Trustee: 2011-2014
 - President: 2007-2009
- Annual ASLA Advocacy Day Participant: 2006-2014
- Boy Scouts of America Troop 2627 Scout Master: 2013-2019
- Imagine the Possibilities Career Expo
 - Landscape Architecture representative: 2017-present
- Youth soccer coach: 1997-2015

2020 Candidate Interest Form

General Information

Jurisdiction: California
Company Name: Plural, San Francisco, CA
Position: Principal, Co-Founder
Education: BSLA - The Ohio State University, 1998
Licenses: California



Leadership Competencies

Please rank these **leadership competencies** from the list below (1 being where you feel the strongest, 9 your weakest). Please explain, giving examples as appropriate, your first and last choices. *[Response should be no more than 350 characters]*

- | | | | | | |
|---|--------------------------------|---|-----------------------------------|---|----------------------------------|
| 4 | Be willing to learn and grow | 5 | Demonstrate personal integrity | 2 | Think strategically/analytically |
| 6 | Communicate effectively | 8 | Exercise oversight vs supervision | 1 | Work collaboratively |
| 9 | Demonstrate emotional maturity | 3 | Practice the duty of foresight | 7 | Work with an open mind |

This is a challenging list of items to rank as there is a lot of overlap.

I co-founded a company in 2019 with 2 colleagues, which requires working collaboratively, strategically/analytically, and with foresight. I chose emotional maturity as my last item, not because I can't accept when I am wrong or endure setbacks, but because I sometimes have trouble setting boundaries and expressing gratitude often enough.

Questions from the Leadership Advisory Council

What unique qualifications or experiences will you bring to CLARB leadership that we might not otherwise know about?

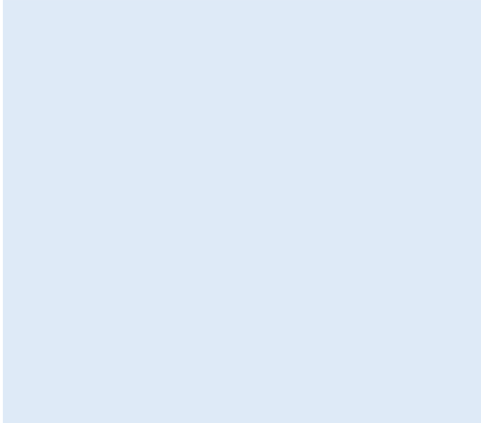
I am continually looking for opportunities for growth and leadership. Over the last 15 years, I have been involved in the grading and preparation of the L.A.R.E. This experience has allowed me to learn more about CLARB, understand issues around obtaining a license, and the challenges faced in professional licensing.

When thinking about your role in CLARB leadership, what would success look like to you?

Success to me would be helping to select a diverse and inclusive CLARB Board of Directors that supports the integrity of professional licensure, by actively working to evolve the licensure exam to more effectively test current and future practices within the field of landscape architecture.

Service Information

Board Service



CLARB Service

- ASLA LARE Prep Committee - CLARB Liaison: 2020
- Section 4 Exam Writing Committee Chair: 2018-2018
- Section 4 Exam Writing Committee: 2012-2016
- Section E Grader: 2004-2012

Other Service

- UC Berkeley Extension Teacher - Construction Technology II
- Sylvia Mendez Elementary School - PTA and Unallocated Funds Subcommittee



1840 Michael Faraday Drive
Suite 200
Reston, Virginia USA 20190
571-432-0332
www.clarb.org

TO: Member Board Executives

FROM: Andrea Elkin
PMO Manager

RE: Letter of Delegate Credentials for Elections

With regard to board delegation and voting rights, Article VI, Section 3 of CLARB's Bylaws state:

"Each member board is entitled to be represented at CLARB meetings. As many delegates as are able to attend may represent a member board, but only one (1) vote may be cast on each motion for each member board by its credentialed delegate. A letter of credential from the delegate's board shall identify the voting delegate attending the annual meeting or any special meeting of CLARB. The credentialed delegate must be a member or staff of the member board."

The credentials letter should be filled out by a Member Board Executive or officer of the Member Board. The credentials letter should designate the Member Board Member, Member Board Executive or Member Board Staff Member who is/are eligible to cast your Board's ballot. Only one ballot per Member Board may be cast.

Please submit your board's ballot and credentials letter together as one voting package.

You may choose any of the following options to submit your voting package to CLARB:

- **Email – As an attachment (Word or PDF) to Andrea Elkin by Monday, September 7.**

If you have any questions about any of these procedures, please let me know.

DATE: _____

TO: CLARB Board of Directors

FROM: _____

(Member Board)

RE: Letter of Delegate Credentials for 2020 CLARB Annual Meeting

In accordance with Article VI, Section 3 of the Bylaws of the Council of Landscape Architectural Registration Boards, the CLARB Member Board indicated above has designated the following member(s) as its delegate(s) to the CLARB Annual Meeting September 10, 2020.

We understand that delegates are eligible to vote on behalf of the Member Board on all business matters and that only one ballot per Board may be cast regardless of the number of delegates present.

NAME

POSITION

_____	_____
_____	_____
_____	_____
_____	_____

In addition, the following representatives will be in attendance:

Signed by: _____

Name

Title



1840 Michael Faraday Drive
Suite 200
Reston, Virginia USA 20190
571-432-0332
www.clarb.org

2020 Board of Directors & Leadership Advisory Council Elections Ballot

MEMBER BOARD: _____

COMPLETED BY: _____

Please note- Ballots may only be completed by a member or staff from the member board, who has been authorized on the credentials letter to represent the member board's vote. The same person may not sign the ballot and the credentials letter.

Please check the boxes to cast your vote:

President-Elect (select 1)

- Robert (Bob) Gunderson
 Chuck Smith

Leadership Advisory Council (select 2)

- Julie Hildebrand
 Bob Mercier
 Carrie Rybczynski

Please submit your board's ballot and credentials letter together as one voting package.

You may choose any of the following options to submit your voting package to CLARB:

- *Email* – As an attachment (Word or PDF) to [Andrea Elkin](#) by **Monday, September 7.**

AGENDA ITEM H: REVIEW AND DISCUSS 2020 LEGISLATION

Summary

An update to the 2020 legislative items listed below will be presented to the LATC.

Action Requested

None

Attachments

1. Assembly Bill (AB) 2028 (Aguiar-Curry) State Agencies: Meetings
2. AB 2113 (Low) Refugees, Asylees, and Special Immigrant Visa Holders Professional Licensing: Initial Licensure Process
3. AB 2257 (Gonzalez) Worker Classification: Employees and Independent Contractors: Occupations: Professional Services
4. Senate Bill (SB) 878 (Jones) Department of Consumer Affairs License Application: Processing Timeframes
5. SB 1474 (Committee on Business, Professions and Economic Development) Business and Professions

AMENDED IN SENATE JULY 28, 2020

AMENDED IN SENATE JULY 8, 2020

AMENDED IN ASSEMBLY JUNE 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2028

**Introduced by Assembly Member Aguiar-Curry
(Coauthor: Assembly Member Gonzalez)**

January 30, 2020

~~An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.~~ *An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2028, as amended, Aguiar-Curry. State agencies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would prescribe requirements to be satisfied in order for these

writings or materials to be distributed or discussed. The bill would generally require that these writings and materials be made available on the body's internet website no later than the first business day after they are provided to members of the state body or at least 48 hours in advance of the meeting, whichever is earlier, and to be provided immediately upon written request. If the writings or materials are provided to the members of the state body by another state body after this 48-hour deadline, the bill would require that they be posted on the body's internet website no later than the first business day, but prior to the meeting of the state body, following the dissemination of the writings and materials to the members of the state body, and made available immediately upon written request. The bill would except writings or materials relating to matters to be discussed in a closed session and state financial materials, as defined, that put the Treasurer, or specified entities for which the Treasurer serves as chairperson, at a competitive disadvantage in financial transactions from its requirements. The bill would authorize a state body to post and provide additional time-sensitive materials related to certain active legislation, as specified, and changing financial market conditions as they become available, as specified. Upon receipt of a written request, the bill would require that these writings or materials be provided immediately.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item. Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

~~Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.~~

~~This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would prescribe requirements to be satisfied in order for these writings or materials to be distributed or discussed. The bill would generally require that these writings and materials be made available on the body's internet website no later than the first business day after they are provided to members of the state body or at least 48 hours in advance of the meeting, whichever is earlier, and to be provided immediately upon written request. If the writings or materials are provided to the members of the state body by another state body after this 48-hour deadline, the bill would require that they be posted on the body's internet website no later than the first business day, but prior to the meeting of the state body, following the dissemination of the writings and materials to the members of the state body, and made available immediately upon written request. The bill would except writings or materials relating to matters to be discussed in a closed session and state financial materials, as defined, that put the Treasurer at a competitive disadvantage in financial transactions from its requirements. The bill would authorize a state body to post and provide additional time-sensitive materials related to certain active legislation, as specified, and changing financial market conditions as they become available, as specified. Upon receipt of a written request, the bill would require that these writings or materials be provided immediately.~~

~~Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item. Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.~~

~~This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 *SECTION 1. The Legislature finds and declares the following:*

2 *(a) The Bagley-Keene Open Meeting Act (Article 9 (commencing*
3 *with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title*
4 *2 of the Government Code) (hereafter “Bagley-Keene”) was*
5 *intended to implement Section 3 of Article I of the California*
6 *Constitution, which states in part, “The people have the right of*
7 *access to information concerning the conduct of the people’s*
8 *business, and, therefore, the meetings of public bodies and the*
9 *writings of public officials and agencies shall be open to public*
10 *scrutiny.”*

11 *(b) Bagley-Keene was written to protect public meetings and*
12 *public notice and to ensure the transparency of actions taken by*
13 *state agencies, boards, and commissions.*

14 *(c) Californians have the right to participate in state body*
15 *deliberations. This includes the public’s ability to comment on all*
16 *agenda items discussed at a meeting of the state body, regardless*
17 *of whether an item has been discussed previously in a committee*
18 *of the state body.*

19 *(d) The purpose of public notice is so that state bodies give the*
20 *public adequate time for review of the substance of a state body*
21 *meeting and for comment.*

22 *(e) Public notice must also include any writings or materials*
23 *provided by a state body’s staff or by a member of the state body*
24 *to other members of the state body for a noticed meeting of the*
25 *body.*

26 *(f) Bagley-Keene affirms these rights by stating in Section 11120*
27 *of the Government Code, “The people of this state do not yield*
28 *their sovereignty to the agencies which serve them. The people, in*
29 *delegating authority, do not give their public servants the right to*
30 *decide what is good for the people to know and what is not good*
31 *for them to know. The people insist on remaining informed so that*
32 *they may retain control over the instruments they have created.”*

33 *SEC. 2. Section 11125 of the Government Code is amended to*
34 *read:*

35 11125. (a) The state body shall provide notice of its meeting
36 to any person who requests that notice in writing. Notice shall be
37 given and also made available on the ~~Internet~~ internet website at
38 least 10 days in advance of the meeting, and shall include the name,

1 address, and telephone number of any person who can provide
2 further information prior to the meeting, but need not include a
3 list of witnesses expected to appear at the meeting. The written
4 notice shall additionally include the address of the ~~Internet site~~
5 *internet website* where notices required by this article are made
6 available.

7 (b) The notice of a meeting of a body that is a state body shall
8 include a specific agenda for the meeting, containing a brief
9 description of the items of business to be transacted or discussed
10 in either open or closed session. A brief general description of an
11 item generally need not exceed 20 words. A description of an item
12 to be transacted or discussed in closed session shall include a
13 citation of the specific statutory authority under which a closed
14 session is being held. No item shall be added to the agenda
15 subsequent to the provision of this notice, unless otherwise
16 permitted by this article.

17 (c) (1) *Any notice provided pursuant to subdivision (a) shall*
18 *include all writings or materials provided for the noticed meeting*
19 *to a member of the state body by the staff of that state agency,*
20 *board, or commission, or another member of the state body, that*
21 *are in connection with a matter subject to discussion or*
22 *consideration at the meeting. A state body may distribute or discuss*
23 *writings or materials only to the extent that it has complied with*
24 *the applicable requirements of this subdivision.*

25 (2) (A) *The writings or materials to be considered at a noticed*
26 *meeting and provided to members of the state body in advance of*
27 *the meeting shall be made available on the body's internet website*
28 *no later than the first business day following the dissemination of*
29 *the writings and materials to members of the state body or at least*
30 *48 hours in advance of the meeting, whichever is earlier. Upon*
31 *receipt of a written request for writings or materials provided to*
32 *members of the state body in advance of the meeting, a state body*
33 *shall provide them immediately.*

34 (B) *Any writings or materials provided to the members of the*
35 *state body by another state body after the time periods described*
36 *in subparagraph (A) have passed shall be posted on the body's*
37 *internet website no later than the first business day, but prior to*
38 *the meeting of the state body, following the dissemination of the*
39 *writings and materials to the members of the state body. Upon*
40 *receipt of a written request, these writings or materials shall be*

1 *provided immediately. A state body that satisfies the requirements*
 2 *of this subparagraph may discuss these writings and materials at*
 3 *an otherwise properly noticed meeting.*

4 (3) (A) *This subdivision does not apply to writings or materials*
 5 *prepared for a matter to be discussed in a closed session of the*
 6 *state body or to state financial materials that put the Treasurer,*
 7 *or any of the boards, authorities, commissions, committees, and*
 8 *councils for which the Treasurer serves as chairperson, at a*
 9 *competitive disadvantage in financial transactions.*

10 (B) *For purposes of this paragraph, “financial materials” mean*
 11 *documents related to bonds, loans, and grants.*

12 (4) *If the writings or materials described in paragraph (1) on*
 13 *an agenda for discussion at a meeting of the state body are related*
 14 *to legislation that is before the Legislature in a current legislative*
 15 *session or are related to changing financial market conditions, a*
 16 *state body shall satisfy the requirements of this subdivision by*
 17 *posting on its internet website the writings and materials related*
 18 *to the legislation or the changing market conditions as they become*
 19 *available after the time periods described in paragraph (2). Upon*
 20 *receipt of a written request, these writings or materials shall be*
 21 *provided immediately. The state body shall make clear what date*
 22 *the new or changed writings or materials are posted and, when*
 23 *applicable, what changes have been made in the writings or*
 24 *materials.*

25 (c)

26 (d) *Notice of a meeting of a state body that complies with this*
 27 *section shall also constitute notice of a meeting of an advisory*
 28 *body of that state body, provided that the business to be discussed*
 29 *by the advisory body is covered by the notice of the meeting of*
 30 *the state body, provided that the specific time and place of the*
 31 *advisory body’s meeting is announced during the open and public*
 32 *state body’s meeting, and provided that the advisory body’s*
 33 *meeting is conducted within a reasonable time of, and nearby, the*
 34 *meeting of the state body.*

35 (d)

36 (e) *A person may request, and shall be provided, notice pursuant*
 37 *to subdivision (a) for all meetings of a state body or for a specific*
 38 *meeting or meetings. In addition, at the state body’s discretion, a*
 39 *person may request, and may be provided, notice of only those*

1 meetings of a state body at which a particular subject or subjects
2 specified in the request will be discussed.

3 (e)

4 (f) A request for notice of more than one meeting of a state body
5 shall be subject to the provisions of Section 14911.

6 (f)

7 (g) The notice shall be made available in appropriate alternative
8 formats, as required by Section 202 of the Americans with
9 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
10 rules and regulations adopted in implementation thereof, upon
11 request by any person with a disability. The notice shall include
12 information regarding how, to whom, and by when a request for
13 any disability-related modification or accommodation, including
14 auxiliary aids or services may be made by a person with a disability
15 who requires these aids or services in order to participate in the
16 public meeting.

17 *SEC. 3. Section 11125.7 of the Government Code is amended*
18 *to read:*

19 11125.7. (a) Except as otherwise provided in this section, the
20 state body shall provide an opportunity for members of the public
21 to directly address the state body on each agenda item before or
22 during the state body’s discussion or consideration of the item.
23 ~~This section is not applicable if the agenda item has already been~~
24 ~~considered by a committee composed exclusively of members of~~
25 ~~the state body at a public meeting where interested members of~~
26 ~~the public were afforded the opportunity to address the committee~~
27 ~~on the item, before or during the committee’s consideration of the~~
28 ~~item, unless the item has been substantially changed since the~~
29 ~~committee heard the item, as determined by the state body.~~ Every
30 notice for a special meeting at which action is proposed to be taken
31 on an item shall provide an opportunity for members of the public
32 to directly address the state body concerning that item prior to
33 action on the item. In addition, the notice requirement of Section
34 11125 shall not preclude the acceptance of testimony at meetings,
35 other than emergency meetings, from members of the public if no
36 action is taken by the state body at the same meeting on matters
37 brought before the body by members of the public.

38 (b) The state body may adopt reasonable regulations to ensure
39 that the intent of subdivision (a) is carried out, including, but not
40 limited to, regulations limiting the total amount of time allocated

1 for public comment on particular issues and for each individual
2 speaker.

3 (c) (1) Notwithstanding subdivision (b), when a state body
4 limits time for public comment the state body shall provide at least
5 twice the allotted time to a member of the public who utilizes a
6 translator to ensure that non-English speakers receive the same
7 opportunity to directly address the state body.

8 (2) Paragraph (1) shall not apply if the state body utilizes
9 simultaneous translation equipment in a manner that allows the
10 state body to hear the translated public testimony simultaneously.

11 (d) The state body shall not prohibit public criticism of the
12 policies, programs, or services of the state body, or of the acts or
13 omissions of the state body. Nothing in this subdivision shall confer
14 any privilege or protection for expression beyond that otherwise
15 provided by law.

16 (e) This section is not applicable to ~~closed sessions held pursuant~~
17 ~~to Section 11126. any of the following:~~

18 (1) ~~Closed sessions held pursuant to Section 11126.~~

19 (f) ~~This section is not applicable to decisions~~

20 (2) ~~Decisions~~ regarding proceedings held pursuant to Chapter
21 5 (commencing with Section 11500), relating to administrative
22 adjudication, or to the conduct of those proceedings.

23 (g) ~~This section is not applicable to hearings~~

24 (3) ~~Hearings~~ conducted by the California Victim Compensation
25 Board pursuant to Sections 13963 and 13963.1.

26 (h) ~~This section is not applicable to agenda~~

27 (4) ~~Agenda~~ items that involve decisions of the Public Utilities
28 Commission regarding adjudicatory hearings held pursuant to
29 Chapter 9 (commencing with Section 1701) of Part 1 of Division
30 1 of the Public Utilities Code. For all other agenda items, the
31 commission shall provide members of the public, other than those
32 who have already participated in the proceedings underlying the
33 agenda item, an opportunity to directly address the commission
34 before or during the commission’s consideration of the item.

35 SECTION 1. ~~The Legislature finds and declares the following:~~

36 (a) ~~The Bagley-Keene Open Meeting Act (Article 9~~
37 ~~(commencing with Section 11120) of Chapter 1 of Part 1 of~~
38 ~~Division 3 of Title 2 of the Government Code) (hereafter~~
39 ~~“Bagley-Keene”) was intended to implement Section 3 of Article~~
40 ~~I of the California Constitution, which states in part, “The people~~

1 have the right of access to information concerning the conduct of
2 the people's business, and, therefore, the meetings of public bodies
3 and the writings of public officials and agencies shall be open to
4 public scrutiny."

5 (b) Bagley-Keene was written to protect public meetings and
6 public notice and to ensure the transparency of actions taken by
7 state agencies, boards, and commissions.

8 (c) Californians have the right to participate in state body
9 deliberations. This includes the public's ability to comment on all
10 agenda items discussed at a meeting of the state body, regardless
11 of whether an item has been discussed previously in a committee
12 of the state body.

13 (d) The purpose of public notice is so that state bodies give the
14 public adequate time for review of the substance of a state body
15 meeting and for comment.

16 (e) Public notice must also include any writings or materials
17 provided by a state body's staff or by a member of the state body
18 to other members of the state body for a noticed meeting of the
19 body.

20 (f) Bagley-Keene affirms these rights by stating in Section 11120
21 of the Government Code, "The people of this state do not yield
22 their sovereignty to the agencies which serve them. The people,
23 in delegating authority, do not give their public servants the right
24 to decide what is good for the people to know and what is not good
25 for them to know. The people insist on remaining informed so that
26 they may retain control over the instruments they have created."

27 SEC. 2. Section 11125 of the Government Code is amended
28 to read:

29 11125. (a) The state body shall provide notice of its meeting
30 to any person who requests that notice in writing. Notice shall be
31 given and also made available on the internet website at least 10
32 days in advance of the meeting, and shall include the name,
33 address, and telephone number of any person who can provide
34 further information prior to the meeting, but need not include a
35 list of witnesses expected to appear at the meeting. The written
36 notice shall additionally include the address of the internet website
37 where notices required by this article are made available.

38 (b) The notice of a meeting of a body that is a state body shall
39 include a specific agenda for the meeting, containing a brief
40 description of the items of business to be transacted or discussed

1 in either open or closed session. A brief general description of an
2 item generally need not exceed 20 words. A description of an item
3 to be transacted or discussed in closed session shall include a
4 citation of the specific statutory authority under which a closed
5 session is being held. No item shall be added to the agenda
6 subsequent to the provision of this notice, unless otherwise
7 permitted by this article.

8 (e) (1) Any notice provided pursuant to subdivision (a) shall
9 include all writings or materials provided for the noticed meeting
10 to a member of the state body by the staff of that state agency,
11 board, or commission, or another member of the state body, that
12 are in connection with a matter subject to discussion or
13 consideration at the meeting. A state body may distribute or discuss
14 writings or materials only to the extent that it has complied with
15 the applicable requirements of this subdivision.

16 (2) (A) The writings or materials to be considered at a noticed
17 meeting and provided to members of the state body in advance of
18 the meeting shall be made available on the body's internet website
19 no later than the first business day following the dissemination of
20 the writings and materials to members of the state body or at least
21 48 hours in advance of the meeting, whichever is earlier. Upon
22 receipt of a written request for writings or materials provided to
23 members of the state body in advance of the meeting, a state body
24 shall provide them immediately.

25 (B) Any writings or materials provided to the members of the
26 state body by another state body after the time periods described
27 in subparagraph (A) have passed shall be posted on the body's
28 internet website no later than the first business day, but prior to
29 the meeting of the state body, following the dissemination of the
30 writings and materials to the members of the state body. Upon
31 receipt of a written request, these writings or materials shall be
32 provided immediately. A state body that satisfies the requirements
33 of this subparagraph may discuss these writings and materials at
34 an otherwise properly noticed meeting.

35 (3) (A) This subdivision does not apply to writings or materials
36 prepared for a matter to be discussed in a closed session of the
37 state body or state financial materials that put the Treasurer at a
38 competitive disadvantage in financial transactions.

39 (B) For purposes of this paragraph, "financial materials" mean
40 documents related to bonds, loans, and grants.

1 ~~(4) If the writings or materials described in paragraph (1) on an~~
2 ~~agenda for discussion at a meeting of the state body are related to~~
3 ~~legislation that is before the Legislature in a current legislative~~
4 ~~session or are related to changing financial market conditions, a~~
5 ~~state body shall satisfy the requirements of this subdivision by~~
6 ~~posting on its internet website the writings and materials related~~
7 ~~to the legislation or the changing market conditions as they become~~
8 ~~available after the time periods described in paragraph (2). Upon~~
9 ~~receipt of a written request, these writings or materials shall be~~
10 ~~provided immediately. The state body shall make clear what date~~
11 ~~the new or changed writings or materials are posted and, when~~
12 ~~applicable, what changes have been made in the writings or~~
13 ~~materials.~~

14 ~~(d) Notice of a meeting of a state body that complies with this~~
15 ~~section shall also constitute notice of a meeting of an advisory~~
16 ~~body of that state body, provided that the business to be discussed~~
17 ~~by the advisory body is covered by the notice of the meeting of~~
18 ~~the state body, provided that the specific time and place of the~~
19 ~~advisory body's meeting is announced during the open and public~~
20 ~~state body's meeting, and provided that the advisory body's~~
21 ~~meeting is conducted within a reasonable time of, and nearby, the~~
22 ~~meeting of the state body.~~

23 ~~(e) A person may request, and shall be provided, notice pursuant~~
24 ~~to subdivision (a) for all meetings of a state body or for a specific~~
25 ~~meeting or meetings. In addition, at the state body's discretion, a~~
26 ~~person may request, and may be provided, notice of only those~~
27 ~~meetings of a state body at which a particular subject or subjects~~
28 ~~specified in the request will be discussed.~~

29 ~~(f) A request for notice of more than one meeting of a state body~~
30 ~~shall be subject to the provisions of Section 14911.~~

31 ~~(g) The notice shall be made available in appropriate alternative~~
32 ~~formats, as required by Section 202 of the Americans with~~
33 ~~Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal~~
34 ~~rules and regulations adopted in implementation thereof, upon~~
35 ~~request by any person with a disability. The notice shall include~~
36 ~~information regarding how, to whom, and by when a request for~~
37 ~~any disability-related modification or accommodation, including~~
38 ~~auxiliary aids or services may be made by a person with a disability~~
39 ~~who requires these aids or services in order to participate in the~~
40 ~~public meeting.~~

1 SEC. 3.— Section 11125.7 of the Government Code is amended
 2 to read:

3 11125.7.— (a) Except as otherwise provided in this section, the
 4 state body shall provide an opportunity for members of the public
 5 to directly address the state body on each agenda item before or
 6 during the state body’s discussion or consideration of the item.
 7 Every notice for a special meeting at which action is proposed to
 8 be taken on an item shall provide an opportunity for members of
 9 the public to directly address the state body concerning that item
 10 prior to action on the item. In addition, the notice requirement of
 11 Section 11125 shall not preclude the acceptance of testimony at
 12 meetings, other than emergency meetings, from members of the
 13 public if no action is taken by the state body at the same meeting
 14 on matters brought before the body by members of the public.

15 (b) The state body may adopt reasonable regulations to ensure
 16 that the intent of subdivision (a) is carried out, including, but not
 17 limited to, regulations limiting the total amount of time allocated
 18 for public comment on particular issues and for each individual
 19 speaker.

20 (c) (1) Notwithstanding subdivision (b), when a state body
 21 limits time for public comment the state body shall provide at least
 22 twice the allotted time to a member of the public who utilizes a
 23 translator to ensure that non-English speakers receive the same
 24 opportunity to directly address the state body.

25 (2) Paragraph (1) shall not apply if the state body utilizes
 26 simultaneous translation equipment in a manner that allows the
 27 state body to hear the translated public testimony simultaneously.

28 (d) The state body shall not prohibit public criticism of the
 29 policies, programs, or services of the state body, or of the acts or
 30 omissions of the state body. Nothing in this subdivision shall confer
 31 any privilege or protection for expression beyond that otherwise
 32 provided by law.

33 (e) This section is not applicable to any of the following:

- 34 (1) Closed sessions held pursuant to Section 11126.
- 35 (2) Decisions regarding proceedings held pursuant to Chapter
 36 5 (commencing with Section 11500), relating to administrative
 37 adjudication, or to the conduct of those proceedings.
- 38 (3) Hearings conducted by the California Victim Compensation
 39 Board pursuant to Sections 13963 and 13963.1.

1 ~~(4) Agenda items that involve decisions of the Public Utilities~~
2 ~~Commission regarding adjudicatory hearings held pursuant to~~
3 ~~Chapter 9 (commencing with Section 1701) of Part 1 of Division~~
4 ~~1 of the Public Utilities Code. For all other agenda items, the~~
5 ~~commission shall provide members of the public, other than those~~
6 ~~who have already participated in the proceedings underlying the~~
7 ~~agenda item, an opportunity to directly address the commission~~
8 ~~before or during the commission's consideration of the item.~~

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AMENDED IN SENATE AUGUST 4, 2020

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2113

**Introduced by Assembly Member Low
(Coauthors: Assembly Members Carrillo, Chiu, Medina,
Blanca Rubio, and Gonzalez)**

February 6, 2020

An act to add Section 135.4 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2113, as amended, Low. Refugees, asylees, and ~~immigrants:~~ *special immigrant visa holders: professional licensing: licensing: initial licensure process.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law prohibits ~~an entity~~ *a board* within the department from denying licensure to an applicant based upon their citizenship or immigration status.

This bill, notwithstanding any other law, would require a board within the department to expedite, and authorize it to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they are a refugee, have been granted ~~political~~ asylum, or have a special immigrant visa, as specified. The bill would authorize a board to adopt regulations necessary to administer these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 135.4 is added to the Business and
2 Professions Code, to read:
3 135.4. (a) Notwithstanding any other law, a board within the
4 department shall expedite, and may assist, the initial licensure
5 process for an applicant who supplies satisfactory evidence to the
6 board that they have been admitted to the United States as a refugee
7 under Section 1157 of Title 8 of the United States Code, have been
8 granted ~~political~~ asylum by the Secretary of Homeland Security
9 or the Attorney General of the United States pursuant to Section
10 1158 of Title 8 of the United States Code, or they have a special
11 immigrant visa (SIV) that has been granted a status under Section
12 1244 of Public Law 110-181, under Public Law 109-163, or under
13 Section 602(b) of Title VI of Division F of Public Law 111-8.
14 (b) Nothing in this section shall be construed as changing
15 existing licensure requirements. A person applying for expedited
16 licensure under subdivision (a) shall meet all applicable statutory
17 and regulatory licensure requirements.
18 (c) A board may adopt regulations necessary to administer this
19 section.

O

AMENDED IN SENATE AUGUST 20, 2020

AMENDED IN SENATE AUGUST 7, 2020

AMENDED IN ASSEMBLY JUNE 4, 2020

AMENDED IN ASSEMBLY MAY 6, 2020

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2257

**Introduced by Assembly Member Gonzalez
(Principal coauthor: Assembly Member Calderon)
(Coauthor: Assembly Member Smith)**

February 13, 2020

An act to amend Section 2750.3 of the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2257, as amended, Gonzalez. Worker classification: employees and independent contractors: occupations: professional services.

Existing law requires a 3-part test, commonly known as the "ABC" test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance

of the work, the person performs work that is outside the usual course of the hiring entity's business, and the person is customarily engaged in an independently established trade, occupation, or business. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.

Existing law exempts specified occupations and business relationships from the application of the ABC test described above. Existing law, instead, provides that these exempt relationships are governed by the multifactor test previously adopted in the case of *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341. Existing exemptions include persons providing professional services under specified circumstances, including *certain* services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists who do not license or provide, as applicable, content submissions more than 35 times annually to a putative employer. *cartoonists.*

This bill would additionally exempt certain occupations in connection with creating, marketing, promoting, or distributing sound recordings or musical compositions. ~~This~~ *The* bill would also exempt a musician or musical group for the purpose of a single-engagement live performance event, unless certain conditions apply, and would define related terms. *The bill would also exempt an individual performance artist presenting material that is their original work and creative in character and the result of which depends primarily on the individual's invention, imagination, or talent, if certain conditions are satisfied.*

This bill would delete the existing professional services exemptions for services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists. The bill would, instead, establish an exemption for services provided by a still photographer, photojournalist, videographer, or photo editor, as defined, who works under a *written* contract that specifies certain terms, ~~as long as the individual providing the services is not replacing an employee performing the same work at the same volume, the individual does not primarily perform the work at the hiring entity's business location, and the individual is not restricted from working for more than one hiring entity.~~ *subject to prescribed restrictions.* The bill would establish an exemption for services provided to a digital content aggregator, as defined, by a still photographer, photojournalist, videographer, or photo editor. The bill would establish an exemption for services provided by a freelance writer, *translator*, editor, copy editor, illustrator, or

newspaper cartoonist who works under a *written* contract that specifies certain terms in advance, as long as the individual providing the services is not replacing an employee performing the same work at the same volume, the individual does not primarily perform the work at the hiring entity's business location, and the individual is not restricted from working for more than one hiring entity. *terms, subject to prescribed restrictions.*

This bill would create additional exemptions for various professions and occupations. In this regard, the bill would exempt from the ABC test people who provide underwriting inspections and other services for the insurance industry, a manufactured housing salesperson, subject to certain obligations, people engaged by an international exchange visitor program, as specified, and competition judges with specialized skills, as specified. The bill would also create exceptions for *licensed landscape architects, specialized performers teaching master-classes and classes, registered professional foresters, real estate appraisers, appraisers and home inspectors, and feedback aggregators.* The bill would revise the conditions pursuant to which business service providers providing services pursuant to contract to another business are ~~exempt~~ *and exempt.* The bill would revise the criteria pursuant to which referral agencies and service providers providing services to clients through referral agencies are ~~exempt.~~ *exempt and would revise applicable definitions.*

Existing law authorizes an action for injunctive relief to prevent misclassification of employees, to be prosecuted against a putative employer by the Attorney General or a city attorney.

This bill would also authorize a district attorney to prosecute an action for injunctive relief.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 2750.3 of the Labor Code is amended to
- 2 read:
- 3 2750.3. (a) (1) For purposes of this code and the
- 4 Unemployment Insurance Code, and for the purposes of wage
- 5 orders of the Industrial Welfare Commission, a person providing

1 labor or services for remuneration shall be considered an employee
 2 rather than an independent contractor unless the hiring entity
 3 demonstrates that all of the following conditions are satisfied:

4 (A) The person is free from the control and direction of the
 5 hiring entity in connection with the performance of the work, both
 6 under the contract for the performance of the work and in fact.

7 (B) The person performs work that is outside the usual course
 8 of the hiring entity’s business.

9 (C) The person is customarily engaged in an independently
 10 established trade, occupation, or business of the same nature as
 11 that involved in the work performed.

12 (2) Notwithstanding paragraph (1), any exceptions to the terms
 13 “employee,” “employer,” “employ,” or “independent contractor,”
 14 and any extensions of employer status or liability, that are expressly
 15 made by a provision of this code, the Unemployment Insurance
 16 Code, or in an applicable order of the Industrial Welfare
 17 Commission, including, but not limited to, the definition of
 18 “employee” in subdivision 2(E) of Wage Order No. 2, shall remain
 19 in effect for the purposes set forth therein.

20 (3) If a court of law rules that the three-part test in paragraph
 21 (1) cannot be applied to a particular context based on grounds other
 22 than an express exception to employment status as provided under
 23 paragraph (2), then the determination of employee or independent
 24 contractor status in that context shall instead be governed by the
 25 California Supreme Court’s decision in *S. G. Borello & Sons, Inc.*
 26 *v. Department of Industrial Relations* (1989) 48 Cal.3d 341
 27 (*Borello*).

28 (b) (1) Subdivision (a) and the holding in *Dynamex* do not
 29 apply to the following occupations in connection with creating,
 30 marketing, promoting, or distributing sound recordings or musical
 31 compositions, and instead the holding in *Borello* shall apply to all
 32 of the following:

33 (A) Recording artists, subject to the below.

34 (B) Songwriters, lyricists, ~~and composers.~~ *composers, and*
 35 *proofers.*

36 (C) Managers of recording artists.

37 (D) ~~Record producers.~~ *producers and directors.*

38 (E) Musical engineers and mixers engaged in the creation of
 39 sound recordings.

1 (F) Musicians engaged in the creation of sound recordings,
2 subject to the below.

3 (G) Vocalists, subject to the below.

4 (H) Photographers working on recording photo shoots, album
5 covers, and other press and publicity purposes.

6 (I) Independent radio promoters.

7 (J) Any other individual engaged to render any creative,
8 production, marketing, or independent music publicist services
9 related primarily to the creation, marketing, promotion, or
10 distribution of sound recordings or musical ~~compositions, unless~~
11 ~~otherwise stated in the terms and conditions of any current or future~~
12 ~~collective bargaining agreement or agreement between the~~
13 ~~applicable and respective parties, in which case those terms and~~
14 ~~conditions shall govern.~~ *compositions.*

15 (2) This subdivision shall not apply to any of the following:

16 (A) Film and television unit production crews, as such term is
17 commonly used in the film and television industries, working on
18 live or recorded performances for audiovisual works, including
19 still photographers and cinematographers.

20 (B) Publicists who are not independent music publicists.

21 ~~(C) People subject to collective bargaining agreements and those~~
22 ~~hired by employers signed to collective bargaining agreements.~~

23 ~~(D) Solely for the purposes of determining a right to organize,~~
24 ~~those who are deemed to be eligible in an appropriate collective~~
25 ~~bargaining unit.~~

26 (3) Notwithstanding subdivision ~~(a)~~, *(a)* and the holding in
27 ~~Dynamex, or paragraphs (1) and (2)~~, the terms and conditions of
28 any current or future collective bargaining agreements or
29 *contractual* agreements between the applicable *labor* unions and
30 respective employers shall govern *the determination of employment*
31 *status* in all events.

32 (4) The following shall apply to recording artists, musicians,
33 and vocalists:

34 (A) Recording artists, musicians, and vocalists shall not be
35 precluded from organizing under applicable provisions of labor
36 law, or otherwise exercising rights granted to employees under the
37 National Labor Relations Act (29 U.S.C. Sec. 151 et seq.).

38 (B) Musicians and vocalists who are not royalty-based
39 participants in the work created during any specific engagement
40 shall be ~~governed by state and local administrative and judicial~~

1 ~~bodies with respect to minimum wage and overtime requirements~~
2 ~~related to that engagement, and therefore treated as employees~~
3 ~~solely for such purposes under of receiving minimum and overtime~~
4 ~~wages for hours worked during the engagement, as well as any~~
5 ~~damages and penalties due to the failure to receive minimum or~~
6 ~~overtime wages. Any such wages, damages, and penalties owed~~
7 ~~under this subparagraph shall be determined according to the~~
8 ~~applicable provisions of this code: code, wage orders of the~~
9 ~~Industrial Welfare Commission, or applicable local laws.~~

10 (C) In all events, *and notwithstanding subparagraph (B)*, the
11 terms and conditions of any current or future collective bargaining
12 agreements or *contractual* agreements between the applicable
13 labor unions and respective employers shall ~~govern~~: *govern the*
14 *determination of employment status.*

15 (c) (1) Subdivision (a) and the holding in *Dynamex* do not
16 apply to a musician or musical group for the purpose of a
17 single-engagement live performance event, and instead the
18 determination of employee or independent contractor status shall
19 be governed by *Borello*, unless one of the following conditions is
20 met:

21 (A) The musical group is performing as a symphony orchestra,
22 the musical group is performing at a theme park or amusement
23 park, or a musician is performing in a musical theater production.

24 (B) The musical group is an event headliner for a performance
25 taking place in a venue location with more than 1,500 attendees.

26 (C) The musical group is performing at a festival that sells more
27 than 18,000 tickets per day.

28 (2) This subdivision is inclusive of rehearsals related to the
29 single-engagement live performance event.

30 (3) As used in this subdivision:

31 (A) “Event headliner” means the musical group that appears
32 most prominently in an event program, advertisement, or on a
33 marquee.

34 (B) “Festival” means a single day or multiday event in a single
35 venue location that occurs once a year, featuring performances by
36 various musical groups.

37 (C) “Musical group” means a solo artist, band, or a group of
38 musicians who perform under a distinct name.

1 (D) “Musical theater production” means a form of theatrical
2 performance that combines songs, spoken dialogue, acting, and
3 dance.

4 (E) “Musician” means an individual performing instrumental,
5 electronic, or vocal music in a live setting.

6 (F) “Single-engagement live performance event” means a
7 stand-alone musical performance in a single venue location, or a
8 series of performances in the same venue location no more than
9 once a week. ~~The performance is not considered a~~ *This does not*
10 *include performances that are* part of a tour or series of live
11 performances at various locations.

12 (G) “Venue location” means an indoor or outdoor location used
13 primarily as a space to hold a concert or musical performance.
14 “Venue location” includes, but is not limited to, a restaurant, bar,
15 or brewery that regularly offers live musical entertainment.

16 (d) *Subdivision (a) and the holding in Dynamex do not apply*
17 *to the following, and instead, the determination of employee or*
18 *independent contractor status shall be governed by Borello:*

19 (1) *An individual performance artist presenting material that*
20 *is their original work and creative in character and the result of*
21 *which depends primarily on the individual’s invention, imagination,*
22 *or talent, given all of the following conditions are satisfied:*

23 (A) *The individual is free from the control and direction of the*
24 *hiring entity in connection with the performance of the work, both*
25 *as a matter of contract and in fact. This includes, and is not limited*
26 *to, the right for the performer to exercise artistic control over all*
27 *elements of the performance.*

28 (B) *The individual retains the rights to their intellectual property*
29 *that was created in connection with the performance.*

30 (C) *Consistent with the nature of the work, the performer sets*
31 *their terms of work and has the ability to set or negotiate their*
32 *rates.*

33 (D) *The performer is free to accept or reject each individual*
34 *performance engagement without being penalized in any form by*
35 *the hiring entity.*

36 (2) *In all events, the terms and conditions of any current or*
37 *future collective bargaining agreements or contractual agreements*
38 *between the applicable labor unions and respective employer shall*
39 *govern the determination of employment status.*

1 (3) *This subdivision does not apply to an individual participating*
2 *in a theatrical production, or a musician or musical group as*
3 *defined in subdivision (c).*

4 ~~(d)~~

5 (e) Subdivision (a) and the holding in *Dynamex* do not apply
6 to the following occupations as defined in the paragraphs below,
7 and instead, the determination of employee or independent
8 contractor status for individuals in those occupations shall be
9 governed by *Borello*:

10 (1) A person or organization who is licensed by the Department
11 of Insurance pursuant to Chapter 5 (commencing with Section
12 1621), Chapter 6 (commencing with Section 1760), or Chapter 8
13 (commencing with Section 1831) of Part 2 of Division 1 of the
14 Insurance Code or a person who provides underwriting inspections,
15 premium audits, risk management, or loss control work for the
16 insurance ~~industry.~~ *and financial service industries.*

17 (2) A physician and surgeon, dentist, podiatrist, psychologist,
18 or veterinarian licensed by the State of California pursuant to
19 Division 2 (commencing with Section 500) of the Business and
20 Professions Code, performing professional or medical services
21 provided to or by a health care entity, including an entity organized
22 as a sole proprietorship, partnership, or professional corporation
23 as defined in Section 13401 of the Corporations Code. Nothing in
24 this subdivision shall circumvent, undermine, or restrict the rights
25 under federal law to organize and collectively bargain.

26 (3) An individual who holds an active license from the State of
27 California and is practicing one of the following recognized
28 professions: lawyer, architect, *landscape architect*, engineer,
29 private investigator, or accountant.

30 (4) A securities broker-dealer or investment adviser or their
31 agents and representatives that are either of the following:

32 (A) Registered with the Securities and Exchange Commission
33 or the Financial Industry Regulatory Authority.

34 (B) Licensed by the State of California under Chapter 2
35 (commencing with Section 25210) or Chapter 3 (commencing with
36 Section 25230) of Division 1 of Part 3 of Title 4 of the
37 Corporations Code.

38 (5) A direct sales salesperson as described in Section 650 of the
39 Unemployment Insurance Code, so long as the conditions for
40 exclusion from employment under that section are met.

1 (6) A manufactured housing salesperson, subject to all
2 obligations under Part 2 (commencing with Section 18000) of
3 Division 13 of the Health and Safety Code, including all regulations
4 promulgated by the Department of Housing and Community
5 Development relating to manufactured home salespersons and all
6 other obligations of manufactured housing salespersons to members
7 of the public.

8 (7) A commercial fisher working on an American vessel as
9 defined in subparagraph (A) below.

10 (A) For the purposes of this paragraph:

11 (i) “American vessel” has the same meaning as defined in
12 Section 125.5 of the Unemployment Insurance Code.

13 (ii) “Commercial fisher” means a person who has a valid,
14 unrevoked commercial fishing license issued pursuant to Article
15 3 (commencing with Section 7850) of Chapter 1 of Part 3 of
16 Division 6 of the Fish and Game Code.

17 (iii) “Working on an American vessel” means the taking or the
18 attempt to take fish, shellfish, or other fishery resources of the state
19 by any means, and includes each individual aboard an American
20 vessel operated for fishing purposes who participates directly or
21 indirectly in the taking of these raw fishery products, including
22 maintaining the vessel or equipment used aboard the vessel.
23 However, “working on an American vessel” does not apply to
24 anyone aboard a licensed commercial fishing vessel as a visitor
25 or guest who does not directly or indirectly participate in the taking.

26 (B) For the purposes of this paragraph, a commercial fisher
27 working on an American vessel is eligible for unemployment
28 insurance benefits if they meet the definition of “employment” in
29 Section 609 of the Unemployment Insurance Code and are
30 otherwise eligible for those benefits pursuant to the provisions of
31 the Unemployment Insurance Code.

32 (C) On or before March 1, 2021, and each March 1 thereafter,
33 the Employment Development Department shall issue an annual
34 report to the Legislature on the use of unemployment insurance in
35 the commercial fishing industry. This report shall include, but not
36 be limited to, the number of commercial fishers who apply for
37 unemployment insurance benefits, the number of commercial
38 fishers who have their claims disputed, the number of commercial
39 fishers who have their claims denied, and the number of
40 commercial fishers who receive unemployment insurance benefits.

1 The report required by this subparagraph shall be submitted in
2 compliance with Section 9795 of the Government Code.

3 (D) This paragraph shall become inoperative on January 1, 2023,
4 unless extended by the Legislature.

5 (8) A newspaper distributor working under contract with a
6 newspaper publisher, as defined in subparagraph (A), and a
7 newspaper carrier working under contract either with a newspaper
8 publisher or newspaper distributor.

9 (A) For purposes of this paragraph:

10 (i) “Newspaper” means a newspaper of general circulation, as
11 defined in Section 6000 of the Government Code, and any other
12 publication circulated to the community in general as an extension
13 of or substitute for that newspaper’s own publication, whether that
14 publication be designated a “shoppers’ guide,” as a zoned edition,
15 or otherwise.

16 (ii) “Publisher” means the natural or corporate person that
17 manages the newspaper’s business operations, including
18 circulation.

19 (iii) “Newspaper distributor” means a person or entity that
20 contracts with a publisher to distribute newspapers to the
21 community.

22 (iv) “Carrier” means a person who effects physical delivery of
23 the newspaper to the customer or reader.

24 (B) This paragraph shall become inoperative on January 1, 2021,
25 unless extended by the Legislature.

26 (9) An individual who is engaged by an international exchange
27 visitor program that has obtained and maintains full official
28 designation by the United States Department of State under Part
29 62 (commencing with Section 62.1) of Title 22 of the Code of
30 Federal Regulations for the purpose of conducting international
31 and cultural exchange visitor programs and is in full compliance
32 with Part 62 (commencing with Section 62.1) of Title 22 of the
33 Code of Federal Regulations.

34 (10) A competition judge with a specialized skill set or expertise
35 providing services that require the exercise of discretion and
36 independent judgment to an organization for the purposes of
37 determining the outcome or enforcing the rules of a competition.
38 This includes, but is not limited to, an amateur umpire or referee.
39 (e)

1 (f) (1) Subdivision (a) and the holding in *Dynamex* do not apply
2 to a contract for “professional services” as defined below, and
3 instead the determination of whether the individual is an employee
4 or independent contractor shall be governed by *Borello* if the hiring
5 entity demonstrates that all of the following factors are satisfied:

6 (A) The individual maintains a business location, which may
7 include the individual’s residence, that is separate from the hiring
8 entity. Nothing in this subdivision prohibits an individual from
9 choosing to perform services at the location of the hiring entity.

10 (B) If work is performed more than six months after the effective
11 date of this section and the work is performed in a jurisdiction that
12 requires the individual to have a business license or business tax
13 registration, the individual has the required business license or
14 business tax registration in order to provide the services under the
15 contract, in addition to any required professional licenses or permits
16 for the individual to practice in their profession.

17 (C) The individual has the ability to set or negotiate their own
18 rates for the services performed.

19 (D) Outside of project completion dates and reasonable business
20 hours, the individual has the ability to set the individual’s own
21 hours.

22 (E) The individual is customarily engaged in the same type of
23 work performed under contract with another hiring entity or holds
24 themselves out to other potential customers as available to perform
25 the same type of work.

26 (F) The individual customarily and regularly exercises discretion
27 and independent judgment in the performance of the services.

28 (2) For purposes of this subdivision:

29 (A) An “individual” includes an individual providing services
30 ~~through as a sole proprietorship~~ *proprietor* or other business entity.

31 (B) “Professional services” means services that meet any of the
32 following:

33 (i) Marketing, provided that the contracted work is original and
34 creative in character and the result of which depends primarily on
35 the invention, imagination, or talent of the ~~employee~~ *individual* or
36 work that is an essential part of or necessarily incident to any of
37 the contracted work.

38 (ii) Administrator of human resources, provided that the
39 contracted work is predominantly intellectual and varied in
40 character and is of such character that the output produced or the

1 result accomplished cannot be standardized in relation to a given
2 period of time.

3 (iii) Travel agent services provided by either of the following:

4 (I) A person regulated by the Attorney General under Article
5 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of
6 Division 7 of the Business and Professions Code.

7 (II) An individual who is a seller of travel within the meaning
8 of subdivision (a) of Section 17550.1 of the Business and
9 Professions Code and who is exempt from the registration under
10 subdivision (g) of Section 17550.20 of the Business and Professions
11 Code.

12 (iv) Graphic design.

13 (v) Grant writer.

14 (vi) Fine artist.

15 (vii) Services provided by an enrolled agent who is licensed by
16 the United States Department of the Treasury to practice before
17 the Internal Revenue Service pursuant to Part 10 of Subtitle A of
18 Title 31 of the Code of Federal Regulations.

19 (viii) Payment processing agent through an independent sales
20 organization.

21 (ix) (I) Services provided:

22 (ia) By a still photographer, photojournalist, videographer, or
23 photo editor who works under a *written* contract that specifies the
24 rate of pay and obligation to pay by a defined time, as long as the
25 individual providing the services is not replacing an employee
26 ~~performing who performed~~ the same *amount and type of work at*
27 ~~the same volume, for the hiring entity;~~ the individual does not
28 primarily perform the work at the hiring entity's business location,
29 *notwithstanding subparagraph (A) of paragraph (1)*; and the
30 individual is not restricted from working for more than one hiring
31 entity. This subclause is not applicable to a still photographer,
32 photojournalist, videographer, or photo editor who works on motion
33 pictures, which ~~includes, is inclusive of,~~ but is not limited to,
34 ~~projects produced for theatrical, television, internet streaming for~~
35 ~~any device, commercial, productions, broadcast news, music~~
36 ~~videos, and live shows, whether distributed live or recorded for~~
37 ~~later broadcast, regardless of distribution platform. Nothing in this~~
38 ~~section shall impose limitations on a photographer or artist from~~
39 ~~displaying their work product for sale. *theatrical or commercial*~~
40 ~~*productions, broadcast news, television, and music videos. Nothing*~~

1 *in this section restricts a still photographer, photojournalist, photo*
2 *editor, or videographer from distributing, licensing, or selling*
3 *their work product to another business, except as prohibited under*
4 *copyright laws or workplace collective bargaining agreements.*

5 (ib) To a digital content aggregator by a still photographer,
6 photojournalist, videographer, or photo editor.

7 (II) For the purposes of this clause:

8 (ic) “Photo editor” means an individual who performs services
9 ancillary to the creation of digital content, such as retouching,
10 editing, and keywording.

11 (id) “Digital content aggregator” means a licensing intermediary
12 that obtains a license or assignment of copyright from a still
13 photographer, photojournalist, videographer, or photo editor for
14 the purposes of distributing that copyright by way of sublicense
15 or assignment, to the intermediary’s third party end users.

16 (x) By a freelance writer, *translator*, editor, copy editor,
17 illustrator, or newspaper cartoonist who works under a *written*
18 contract that specifies ~~in advance~~ the rate of pay, intellectual
19 property rights, and obligation to pay by a defined time, as long
20 as the individual providing the services is not replacing an
21 employee ~~performing~~ *who performed* the same *amount and type*
22 *of work at the same volume, for the hiring entity*; the individual
23 does not primarily perform the work at the hiring entity’s business
24 location, *notwithstanding subparagraph (A) of paragraph (1)*; and
25 the individual is not restricted from working for more than one
26 hiring entity.

27 (xi) Services provided by a licensed esthetician, licensed
28 electrologist, licensed manicurist, licensed barber, or licensed
29 cosmetologist provided that the individual:

30 (I) Sets their own rates, processes their own payments, and is
31 paid directly by clients.

32 (II) Sets their own hours of work and has sole discretion to
33 decide the number of clients and which clients for whom they will
34 provide services.

35 (III) Has their own book of business and schedules their own
36 appointments.

37 (IV) Maintains their own business license for the services
38 offered to clients.

1 (V) If the individual is performing services at the location of
2 the hiring entity, then the individual issues a Form 1099 to the
3 salon or business owner from which they rent their business space.

4 (VI) This subdivision shall become inoperative, with respect to
5 licensed manicurists, on January 1, 2022.

6 (xii) A specialized performer hired by a performing arts
7 company or organization to teach a master class for no more than
8 one week. “Master class” means a specialized course for limited
9 duration that is not regularly offered by the hiring entity and is
10 taught by an expert in a recognized field of artistic endeavor who
11 does not work for the hiring entity to teach on a regular basis.

12 (xiii) Services provided by an appraiser, as defined in Part 3
13 (commencing with Section 11300) of Division 4 of the Business
14 and Professions Code.

15 (xiv) *Registered professional foresters licensed pursuant to*
16 *Article 3 (commencing with Section 750) of Chapter 2.5 of Division*
17 *1 of the Public Resources Code.*

18 ~~(f)~~

19 (g) Subdivision (a) and the holding in *Dynamex* do not apply
20 to the following, which are subject to the Business and Professions
21 Code:

22 (1) A real estate licensee licensed by the State of California
23 pursuant to Division 4 (commencing with Section 10000) of the
24 Business and Professions Code, for whom the determination of
25 employee or independent contractor status shall be governed by
26 subdivision (b) of Section 10032 of the Business and Professions
27 Code. If that section is not applicable, then this determination shall
28 be governed as follows:

29 (A) For purposes of unemployment insurance by Section 650
30 of the Unemployment Insurance Code.

31 (B) For purposes of workers’ compensation by Section 3200 et
32 seq.

33 (C) For all other purposes in the Labor Code by *Borello*. The
34 statutorily imposed duties of a responsible broker under Section
35 10015.1 of the Business and Professions Code are not factors to
36 be considered under the *Borello* test.

37 (2) *A home inspector, as defined in Section 7195 of the Business*
38 *and Professions Code, and subject to the provisions of Chapter*
39 *9.3 (commencing with Section 7195) of Division 3 of that code.*

40 ~~(z)~~

1 (3) A repossession agency licensed pursuant to Section 7500.2
2 of the Business and Professions Code, for whom the determination
3 of employee or independent contractor status shall be governed
4 by Section 7500.2 of the Business and Professions Code, if the
5 repossession agency is free from the control and direction of the
6 hiring person or entity in connection with the performance of the
7 work, both under the contract for the performance of the work and
8 in fact.

9 ~~(g)~~

10 (h) Subdivision (a) and the holding in *Dynamex* do not apply
11 to a bona fide business-to-business contracting relationship, as
12 defined below, under the following conditions:

13 (1) If *an individual acting as a sole proprietor, or a business*
14 *entity formed as a sole proprietorship, partnership, limited liability*
15 *company, limited liability partnership, or corporation (“business*
16 *service provider”)* contracts to provide services to another such
17 *business or to a public agency or quasi-public corporation*
18 *(“contracting business”), the determination of employee or*
19 *independent contractor status of the business services provider*
20 *shall be governed by Borello, if the contracting business*
21 *demonstrates that all of the following criteria are satisfied:*

22 (A) The business service provider is free from the control and
23 direction of the contracting business entity in connection with the
24 performance of the work, both under the contract for the
25 performance of the work and in fact.

26 (B) The business service provider is providing services directly
27 to the contracting business rather than to customers of the
28 contracting business. This subparagraph does not apply if the
29 business service provider’s employees are solely performing the
30 services under the contract under the name of the business service
31 provider and the business service provider regularly contracts with
32 other businesses.

33 (C) The contract with the business service provider is ~~in writing.~~
34 *writing and specifies the payment amount, including any applicable*
35 *rate of pay, for services to be performed, as well as the due date*
36 *of payment for such services.*

37 (D) If the work is performed in a jurisdiction that requires the
38 business service provider to have a business license or business
39 tax registration, the business service provider has the required
40 business license or business tax registration.

1 (E) The business service provider maintains a business ~~location~~
 2 *location, which may include the business service provider's*
 3 *residence*, that is separate from the business or work location of
 4 the contracting business.

5 (F) The business service provider is customarily engaged in an
 6 independently established business of the same nature as that
 7 involved in the work performed.

8 (G) The business service provider can contract with other
 9 businesses to provide the same or similar services and maintain a
 10 clientele without restrictions from the hiring entity.

11 (H) The business service provider advertises and holds itself
 12 out to the public as available to provide the same or similar
 13 services.

14 ~~(I) The~~ *Consistent with the nature of the work, the* business
 15 service provider provides its own tools, vehicles, and equipment
 16 to perform the services, not including any proprietary materials
 17 that may be necessary to perform the services under the contract.

18 (J) The business service provider can negotiate its own rates.

19 (K) Consistent with the nature of the work, the business service
 20 provider can set its own hours and location of work.

21 (L) The business service provider is not performing the type of
 22 work for which a license from the Contractors' State License Board
 23 is required, pursuant to Chapter 9 (commencing with Section 7000)
 24 of Division 3 of the Business and Professions Code.

25 ~~(2) This subdivision does not apply to an individual worker, as~~
 26 ~~opposed to a business entity, who performs labor or services for~~
 27 ~~a contracting business.~~

28 ~~(3)~~

29 (2) When two bona fide businesses are contracting with one
 30 another under the conditions set forth in paragraph (1), the
 31 determination of whether an individual working for a business
 32 service provider is an employee or independent contractor of the
 33 business service provider is governed by paragraph (1) of
 34 subdivision (a).

35 ~~(4)~~

36 (3) This subdivision does not alter or supersede any existing
 37 rights under Section 2810.3.

38 ~~(h)~~

39 (i) Subdivision (a) and the holding in *Dynamex* do not apply to
 40 the relationship between a contractor and an individual performing

1 work pursuant to a subcontract in the construction industry, and
2 instead the determination of whether the individual is an employee
3 of the contractor shall be governed by Section 2750.5 and by
4 Borello, if the contractor demonstrates that all the following criteria
5 are satisfied:

6 (1) The subcontract is in writing.

7 (2) The subcontractor is licensed by the Contractors' State
8 License Board and the work is within the scope of that license.

9 (3) If the subcontractor is domiciled in a jurisdiction that requires
10 the subcontractor to have a business license or business tax
11 registration, the subcontractor has the required business license or
12 business tax registration.

13 (4) The subcontractor maintains a business location that is
14 separate from the business or work location of the contractor.

15 (5) The subcontractor has the authority to hire and to fire other
16 persons to provide or to assist in providing the services.

17 (6) The subcontractor assumes financial responsibility for errors
18 or omissions in labor or services as evidenced by insurance, legally
19 authorized indemnity obligations, performance bonds, or warranties
20 relating to the labor or services being provided.

21 (7) The subcontractor is customarily engaged in an
22 independently established business of the same nature as that
23 involved in the work performed.

24 (8) (A) Paragraph (2) shall not apply to a subcontractor
25 providing construction trucking services for which a contractor's
26 license is not required by Chapter 9 (commencing with Section
27 7000) of Division 3 of the Business and Professions Code, provided
28 that all of the following criteria are satisfied:

29 (i) The subcontractor is a business entity formed as a sole
30 proprietorship, partnership, limited liability company, limited
31 liability partnership, or corporation.

32 (ii) For work performed after January 1, 2020, the subcontractor
33 is registered with the Department of Industrial Relations as a public
34 works contractor pursuant to Section 1725.5, regardless of whether
35 the subcontract involves public work.

36 (iii) The subcontractor utilizes its own employees to perform
37 the construction trucking services, unless the subcontractor is a
38 sole proprietor who operates their own truck to perform the entire
39 subcontract and holds a valid motor carrier permit issued by the
40 Department of Motor Vehicles.

1 (iv) The subcontractor negotiates and contracts with, and is
 2 compensated directly by, the licensed contractor.

3 (B) For work performed after January 1, 2020, any business
 4 entity that provides construction trucking services to a licensed
 5 contractor utilizing more than one truck shall be deemed the
 6 employer for all drivers of those trucks.

7 (C) For purposes of this paragraph, “construction trucking
 8 services” mean hauling and trucking services provided in the
 9 construction industry pursuant to a contract with a licensed
 10 contractor utilizing vehicles that require a commercial driver’s
 11 license to operate or have a gross vehicle weight rating of 26,001
 12 or more pounds.

13 (D) This paragraph shall only apply to work performed before
 14 January 1, 2022.

15 (E) Nothing in this paragraph prohibits an individual who owns
 16 their truck from working as an employee of a trucking company
 17 and utilizing that truck in the scope of that employment. An
 18 individual employee providing their own truck for use by an
 19 employer trucking company shall be reimbursed by the trucking
 20 company for the reasonable expense incurred for the use of the
 21 employee-owned truck.

22 (i)

23 (j) Subdivision (a) and the holding in *Dynamex* do not apply to
 24 the relationship between a referral agency and a service provider,
 25 as defined below, under the following conditions:

26 (1) If *an individual acting as a sole proprietor, or a business*
 27 *entity formed as a sole proprietor, partnership, limited liability*
 28 *company, limited liability partnership, or corporation (“service*
 29 *provider”)* provides services to clients through a referral agency,
 30 the determination of whether the service provider is an employee
 31 of the referral agency shall be governed by *Borello*, if the referral
 32 agency demonstrates that all of the following criteria are satisfied:

33 (A) The service provider is free from the control and direction
 34 of the referral agency in connection with the performance of the
 35 work for the client, both as a matter of contract and in fact.

36 (B) If the work for the client is performed in a jurisdiction that
 37 requires the service provider to have a business license or business
 38 tax registration in order to provide the services under the contract,
 39 the service provider ~~has~~ *shall certify they have* the required business
 40 license or business tax registration. ~~The referral agency may verify~~

1 ~~the validity of at least one license in a location where the service~~
2 ~~provider performs work a minimum of one time per calendar year.~~

3 As used in this subparagraph:

4 (i) “Business license” includes a license, tax certificate, fee, or
5 equivalent payment that is required or collected by a local
6 jurisdiction annually, or on some other fixed cycle, as a condition
7 of providing services in the local jurisdiction.

8 (ii) “Local jurisdiction” means a city, county, or city and county,
9 including charter cities.

10 (C) If the work for the client requires the service provider to
11 hold a state contractor’s license pursuant to Chapter 9 (commencing
12 with Section 7000) of Division 3 of the Business and Professions
13 Code, the service provider has the required contractor’s license.

14 (D) If there is an applicable professional licensure, permit,
15 certification, or registration *administered or recognized by the*
16 *state* available for the type of work being performed for the client,
17 the service provider ~~has~~ *shall certify they have* the appropriate
18 *professional* licensure, permit, certification, or registration.

19 (E) The service provider delivers services to the client under
20 the service provider’s name, ~~rather than under the name of the~~
21 ~~referral agency.~~ *without being required to deliver the services*
22 *under the name of the referral agency.*

23 (F) The service provider provides its own tools and supplies to
24 perform the services.

25 (G) The service provider is customarily engaged in an
26 independently established business or trade of the same nature as
27 that involved in the work performed for the client.

28 (H) The referral agency does not restrict the service provider
29 from maintaining a clientele and the service provider is free to
30 seek work elsewhere, including through a competing *referral*
31 *agency.*

32 ~~(I) The service provider sets their own hours, rates, and terms~~
33 ~~of work, or the service provider negotiates their own hours, rates,~~
34 ~~and terms of work directly with the client, without deduction by~~
35 ~~the referral agency.~~

36 *(I) The service provider sets their own hours and terms of work*
37 *or negotiates their hours and terms of work directly with the client.*

38 *(J) Without deduction by the referral agency, the service*
39 *provider sets their own rates, or negotiates their rates directly*
40 *with the client, or is free to accept or reject rates set by the client.*

1 (J)
 2 (K) The service provider is free to accept or reject ~~clients, rates~~
 3 ~~set by the client, clients~~ and contracts, without being penalized in
 4 any form for ~~rejecting clients, rates set by the client, or contracts.~~
 5 *by the referral agency.* This subparagraph does not apply if the
 6 service provider accepts a client or contract and then fails to fulfill
 7 any of its contractual obligations.

8 (2) For purposes of this subdivision, the following definitions
 9 apply:

10 (A) “Animal services” means services related to daytime and
 11 nighttime pet care including pet boarding under Section 122380
 12 of the Health and Safety Code.

13 (B) “Client” means a person or business that utilizes a referral
 14 agency to contract for services *from a service provider* that are not
 15 otherwise provided on a regular basis by employees at ~~their~~ *the*
 16 *client’s business location. location or to contract for services that*
 17 *are outside of the client’s usual course of business.*

18 (C) (i) “Referral agency” is a business that provides clients
 19 with referrals for ~~businesses that service providers to provide~~
 20 services under a ~~contract. contract, with the exception of services~~
 21 *in clause (iii).*

22 (ii) Under this subparagraph, referrals for services may include,
 23 but are not limited to, graphic design, *web design*, photography,
 24 tutoring, *consulting*, youth sports coaching, *wedding or event*
 25 *planning*, minor home repair, moving, home cleaning, errands,
 26 furniture assembly, animal services, dog walking, dog grooming,
 27 ~~web design~~, picture hanging, pool cleaning, yard cleanup, ~~or~~
 28 *captioning*, and interpreting and translating ~~services by a service~~
 29 ~~provider certified in a language with an available certification~~
 30 ~~through the Registry of Interpreters for the Deaf, National~~
 31 ~~Association of the Deaf, Certification Commission for Healthcare~~
 32 ~~Interpreters, National Board of Certification for Medical~~
 33 ~~Interpreters, International Association of Conference Interpreters,~~
 34 ~~American Translators Association, Judicial Council of California,~~
 35 ~~State Personnel Board or any other agency or department in the~~
 36 ~~State of California, United States Department of State, or a federal~~
 37 ~~court. services.~~

38 (iii) Under this subparagraph, referrals for services do not
 39 include services provided in an industry designated by the Division
 40 of Occupational Safety and Health or the Department of Industrial

1 Relations as a high hazard industry pursuant to subparagraph (A)
2 of paragraph (3) of subdivision (e) of Section 6401.7 of the Labor
3 Code or referrals for businesses that provide janitorial, delivery,
4 courier, transportation, trucking, agricultural labor, retail, logging,
5 ~~home in-home~~ care, or construction services other than minor home
6 repair.

7 (D) (i) “Referral agency contract” is the agency’s contract with
8 clients and service providers governing the use of its intermediary
9 services described in subparagraph (C). The intermediary services
10 provided to the service provider by the *referral* agency are limited
11 to client referrals and other administrative services ancillary to the
12 service provider’s business operation.

13 (ii) A referral agency’s contract ~~with a client~~ may include a fee
14 or fees to be paid by the client for utilizing the referral agency.
15 This fee shall not be deducted from the rate set or negotiated by
16 the service provider as set forth in subparagraph (I) of paragraph
17 (1).

18 (E) “Service provider” means ~~a person~~ *an individual acting as*
19 *a sole proprietor* or business ~~who~~ *entity that* agrees to the referral
20 agency’s contract and uses the referral agency to connect with
21 clients.

22 (F) “Tutor” means a person who develops and teaches their own
23 curriculum, teaches curriculum that is ~~proprietary~~ *proprietary*
24 and privately developed, or provides private instruction or
25 supplemental academic enrichment services by using their own
26 teaching methodology or techniques. A “tutor” does not include
27 a person who teaches a curriculum created by a local education
28 agency *or private school in a classroom setting, or a person who*
29 contracts with a local education agency *or private school* through
30 a referral ~~company~~ *agency* for purposes of teaching students of a
31 public *or private* school.

32 (G) “Youth sports coaching” means services provided by a
33 sports coach who develops and implements their own curriculum,
34 which may be subject to requirements of a youth sports league,
35 for an athletic program in which youth who are 18 years of age or
36 younger predominantly participate and that is organized for the
37 purposes of training for and engaging in athletic activity and
38 competition. “Youth sports coaching” does not mean services
39 provided by an individual who teaches a curriculum created by a
40 local education agency *or private school*, or who contracts with a

1 local education agency *or private school* through a referral
2 company for purposes of teaching students of a public *or private*
3 school.

4 (H) “*Interpreting and translating services*” means:

5 (i) *Services provided by a certified or registered interpreter or*
6 *translator in a language with an available certification or*
7 *registration through the Judicial Council of California, State*
8 *Personnel Board, or any other agency or department in the State*
9 *of California, or through a testing organization, agency, or*
10 *educational institution approved or recognized by the state, or*
11 *through the Registry of Interpreters for the Deaf, Certification*
12 *Commission for Healthcare Interpreters, National Board of*
13 *Certification for Medical Interpreters, International Association*
14 *of Conference Interpreters, American Translators Association,*
15 *United States Department of State, or a federal court.*

16 (ii) *Services provided by an interpreter or translator in a*
17 *language without an available certification through the entities*
18 *listed in clause (i).*

19 (3) The determination of whether an individual worker is an
20 employee of a service provider or whether an individual worker
21 is an ~~employer~~ *employee* of a client is governed by subdivision
22 (a).

23 (k) (1) *Subdivision (a) and the holding in Dynamex do not apply*
24 *to the relationship between a feedback aggregator and an*
25 *individual providing feedback, and instead the holding in Borello*
26 *shall apply, under the following conditions:*

27 (A) *The individual is free from control and direction from the*
28 *feedback aggregator with respect to the substance and content of*
29 *the feedback.*

30 (B) *Any consideration paid for each piece of feedback provided,*
31 *if prorated to an hourly basis, is an amount equivalent to or greater*
32 *than the state minimum wage.*

33 (C) *The nature of the feedback requested requires the individual*
34 *providing feedback to exercise independent judgment and*
35 *discretion.*

36 (D) *The individual has the ability to reject feedback requests,*
37 *without being penalized in any form.*

38 (2) *As used in this subdivision:*

39 (A) *“Feedback aggregator” is a business that requests and*
40 *gathers feedback from an individual willing to provide it.*

1 (B) “Minimum wage” is local or state minimum wage,
2 whichever is greater.

3 ~~(j)~~

4 (l) Subdivision (a) and the holding in *Dynamex* do not apply to
5 the relationship between a motor club holding a certificate of
6 authority issued pursuant to Chapter 2 (commencing with Section
7 12160) of Part 5 of Division 2 of the Insurance Code and an
8 individual performing services pursuant to a contract between the
9 motor club and a third party to provide motor club services utilizing
10 the employees and vehicles of the third party and, instead, the
11 determination of whether such an individual is an employee of the
12 motor club shall be governed by *Borello*, if the motor club
13 demonstrates that the third party is a separate and independent
14 business from the motor club.

15 ~~(k)~~

16 (m) (1) Subdivision (a) does not constitute a change in, but is
17 declaratory of, existing law with regard to wage orders of the
18 Industrial Welfare Commission and violations of this code relating
19 to wage orders.

20 (2) Insofar as the application of subdivisions (b), (c), (d), (e),
21 (f), (g), (h), (i), ~~and (j)~~ (j), (k), and (l) would relieve an employer
22 from liability, those subdivisions shall apply retroactively to
23 existing claims and actions to the maximum extent permitted by
24 law.

25 (3) Except as provided in paragraphs (1) and (2), this section
26 shall apply to work performed on or after January 1, 2020.

27 ~~(t)~~

28 (n) In addition to any other remedies available, an action for
29 injunctive relief to prevent the continued misclassification of
30 employees as independent contractors may be prosecuted against
31 the putative employer in a court of competent jurisdiction by the
32 Attorney General, by a district attorney, or by a city attorney of a
33 city having a population in excess of 750,000, or by a city attorney
34 in a city and county or, with the consent of the district attorney,
35 by a city prosecutor in a city having a full-time city prosecutor in
36 the name of the people of the State of California upon their own
37 complaint or upon the complaint of a board, officer, person,
38 corporation, or association.

39 SEC. 2. This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the California Constitution and shall
2 go into immediate effect. The facts constituting the necessity are:
3 In order to ensure businesses and workers have immediate clarity
4 on the specific standards used to determine an individual's
5 employment classification working in the professions impacted
6 by this legislation, including musicians, various professionals in
7 the music recording industry, writers, photographers,
8 videographers, photo editors, and illustrators, and others, it is
9 necessary for this act to take effect immediately.

O

AMENDED IN SENATE JUNE 18, 2020

SENATE BILL**No. 878****Introduced by Senator Jones**

January 22, 2020

An act to add Section 139.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 878, as amended, Jones. Department of Consumer ~~Affairs~~ Licensing: applications: wait times. *Affairs: license: application: processing timeframes.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

~~This bill~~ *bill, beginning July 1, 2021, would require each board within the department that issues licenses licenses, on at least a quarterly basis, to prominently display on its internet website either the current timeframe average timeframes for processing initial and renewal license applications on its internet website, as provided. or the combined current average timeframe for processing both initial and renewal license applications. The bill would also require each board to prominently display on its internet website either the current average timeframes for processing each license type that the board administers or the combined current average timeframe for processing all license types that the board administers.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 139.5 is added to the Business and
2 Professions Code, to read:

3 139.5. ~~Each~~ *Beginning July 1, 2021, each* board, as defined in
4 ~~section~~ *Section 22*, within the department that issues a license shall
5 do both of the ~~following~~: *following on at least a quarterly basis:*

6 (a) Prominently display ~~the~~ *on its internet website one of the*
7 *following:*

8 (1) ~~The current timeframe~~ *average timeframes* for processing
9 initial and renewal license ~~applications on its internet website.~~
10 *applications.*

11 (2) *The combined current average timeframe for processing*
12 *both initial and renewal license applications.*

13 (b) ~~With respect to the information displayed on the website,~~
14 ~~specify the~~ *Prominently display on its internet website one of the*
15 *following:*

16 (1) ~~The current average timeframe~~ *timeframes* for processing
17 each license ~~category.~~ *type that the board administers.*

18 (2) *The combined current average timeframe for processing all*
19 *license types that the board administers.*

AMENDED IN ASSEMBLY JULY 27, 2020

AMENDED IN SENATE JUNE 18, 2020

AMENDED IN SENATE MAY 14, 2020

SENATE BILL

No. 1474

**Introduced by Committee on Business, Professions and Economic
Development (Senators Glazer (Chair), Archuleta, Chang, Dodd,
Galgiani, Hill, Leyva, Pan, and Wilk)**

(Principal coauthor: Assembly Member Low)

(Coauthor: Senator Morrell)

March 16, 2020

An act to amend Sections 27, 101, 125.9, 130, 144, 200.1, 205, 494.5, 1000, 1209, 1913, 1917, 1917.1, 1922, 2065, 2113, 2135.5, 2460, 2531, 2531.75, 2570.19, 2602, 2607.5, 2841, 2847.1, 2847.3, 2920, 2933, 3504, 3512, 3686, 3710, 3716, 4001, 4003, 4501, 4503, 4604, 4621, 4800, 4804.5, 4990, 4990.04, 5600.4, 5810, 7000, 7000.5, 7000.6, 7011.4, 7011.5, 7011.8, 7015, 7017.3, 7028.7, 7030, 7031, 7058.7, 7071.4, 7080.5, 7085.5, 7099.2, 7123.5, 7135, 7136, 7137, 7137.5, 7138, 7139.1, 7139.2, 7141.5, 7145.5, 7159, 7170, 7303, 7512.3, 7512.14, 7512.15, 7520.3, 7525.1, 7529, 7533.5, 7538, 7538.5, 7539, 8516, 10050, 11301, 16100, and 19164 of, ~~and to amend, repeal, and add Section 1632 of,~~ to add Sections 5650.5 and 7099.9 to, ~~and to add and repeal Section 1632.56 of,~~ the Business and Professions Code, to add Section 1670.8.5 to the Civil Code, and to amend Section 94950 of the Education Code, relating to business and professions, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1474, as amended, Committee on Business, Professions and Economic Development. Business and professions.

(1) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board in the Department of Consumer Affairs. Existing law requires fees and penalties received pursuant to the law to be deposited in the Contractors' License Fund, a continuously appropriated fund, except that certain service fees for the deposit of money in lieu of paying a bond are required to be deposited in the Contractors' Deposit Fund.

This bill would rename the Contractors' State license Law as the Contractors State License Law, would rename the Contractors' State License Board as the Contractors State License Board, and would rename the Contractors' License Fund as the Contractors License Fund. The bill would delete the provision establishing the Contractors' Deposit Fund, and would therefore require those service fees to be deposited in the Contractors License Fund. By authorizing a new source of revenue to be deposited into a continuously appropriated fund, the bill would make an appropriation.

Existing law authorizes a licensee who is subject to a bonding provision under the law, in lieu of giving a bond, to deposit money or a cashier's check with the registrar of contractors.

This bill would prohibit the deposit from being released if the board is notified of a civil action against the deposit and, if the amount of the deposit is insufficient to pay all claims, would require the deposit to be distributed to claimants in proportion to the amount of the claims.

Existing law authorizes the registrar of contractors to grant the retroactive renewal of a license if, within 90 days from the due date, the licensee requests the retroactive renewal in a petition to the registrar, shows that the failure to renew was due to circumstances beyond their control, files an application for renewal on a form prescribed by the registrar, and pays the appropriate renewal and delinquency fees.

This bill, instead, would require the registrar to grant the retroactive renewal of a license if, within 90 days of the expiration of the license, the otherwise eligible licensee submits a completed application for renewal and pays the renewal and delinquency fees. The bill would delete the requirement that the licensee demonstrate that the delay was due to circumstances beyond the licensee's control, and would deem

an application for renewal submitted for purposes of these provisions if it is delivered to the board's headquarters or postmarked within 90 days of the expiration of the license.

(2) Existing law, the Chiropractic Act, enacted by an initiative measure, provides for the licensure and regulation of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law requires that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if that act were scheduled to be repealed on January 1, 2022.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if that act were scheduled to be repealed on January 1, 2023.

(2)

(3) Existing law authorizes the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California and any board within the Department of Consumer Affairs to issue a citation that may contain an order of abatement or an order to pay an administrative fine, and provides that a failure to pay a fine within 30 days of the date of assessment may result in disciplinary action.

This bill would also make a failure to comply with the order of abatement within 30 days of the date of the order subject to disciplinary action.

(4) Existing law provides for the licensure, registration, and regulation of clinical laboratories and various clinical laboratory personnel by the State Department of Public Health. Existing law requires a clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) to be performed under the overall operation and administration of a laboratory director, which is defined to include certain licensees.

This bill would expand the definition of "laboratory director" to include licensed dentists.

(5) Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of dentistry by the Dental Board of California in the Department of Consumer Affairs. Existing law requires an applicant for licensure to have taken and received a passing score on either a clinical and written examination administered by the Western Regional Examining Board or a clinical and written examination

developed by the American Board of Dental Examiners, Inc., as specified.

This bill, until January 1, 2025, would specify that an applicant who received a passing score on an examination administered by the Western Regional Examining Board between January 1, 2015, to December 31, 2019, inclusive, shall be deemed to satisfy the examination requirement, as specified.

~~(3)~~

(6) Existing law provides for the licensure and regulation of registered dental hygienists by the Dental Hygiene Board of California. Existing law authorizes a registered dental hygienist to perform a procedure or provide a service within the scope of their practice under the appropriate level of supervision, as specified.

This bill would also require a registered dental hygienist to have completed the appropriate education and training required to perform the procedure or provide the service.

Existing law requires a person to have satisfactorily completed a specified examination within the preceding 2 years as a condition of licensure as a registered dental hygienist.

This bill would instead require completion of the dental hygiene examination within the preceding 3 years.

Existing law requires a person, as a condition for licensure as a registered dental hygienist in alternative practice, to successfully complete a bachelor's degree or its equivalent from an accredited college or institution of higher education, among other requirements.

This bill would specify that the equivalent of a bachelor's degree is recognized as a minimum of 120 semester credit hours or 180 quarter credit hours in postsecondary education.

~~(4)~~

(7) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, and requires an applicant for a physician's and surgeon's license who has completed 36 months of approved postgraduate training in another state or Canada and who is accepted into an approved postgraduate training in another state or Canada and who is accepted into an approved postgraduate training program in California to obtain their physician's and surgeon's license within 90 days after beginning the postgraduate training program.

This bill would delete the requirement that the person be accepted into an approved postgraduate training in another state or Canada.

Existing law authorizes the Medical Board of California, in its discretion, to waive certain examination and certification requirements for licensure for a graduate of a foreign medical school who holds a certificate of registration issued by the board to practice medicine as a full-time faculty member at a medical school.

This bill would also authorize the board to accept clinical practice in an appointment as qualifying time to meet specified postgraduate training requirements for licensure for those registrants.

Existing law authorizes the Medical Board of California, upon and review and recommendation, to determine that an applicant for a physician and surgeon's certificate has satisfied the medical education and examination requirements for an applicant who holds an unlimited and unrestricted license as a physician and surgeon in another state and has held the license continuously for a minimum of 4 years, subject to satisfaction of specified requirements.

This bill would also require the applicant to meet specified postgraduate training requirements.

(5)

(8) Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Existing law requires the board to issue a retired license to an architect who meets specified requirements, and also provides for the restoration of a retired license to active status upon satisfaction of specified requirements applicable to licenses that are not renewed within 5 years of its expiration.

This bill would also authorize the restoration of a retired license to active status upon satisfaction of specified requirements applicable to licenses that are renewed within 5 years of its expiration.

(6)

(9) Existing law provides for the licensure and regulation of landscape architects by the California Architects Board and the Landscape Architects Technical Committee of the California Architects Board.

This bill would authorize the board to obtain and review criminal offender record information and would require an applicant, as a condition of licensure, to furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and criminal offender record information search. The bill would require the applicant to pay the reasonable regulatory costs for furnishing the fingerprints and conducting the searches, and would require the applicant to certify, under penalty of perjury, whether the applicant's

fingerprints have been furnished to the Department of Justice. By expanding the crime of perjury, the bill would impose a state-mandated local program.

(7)

(10) Existing law provides for the January 1, 2021, repeal of provisions creating the Podiatric Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Board of Psychology, the Physician Assistant Board, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Behavioral Sciences, and the State Board of Barbering and Cosmetology.

This bill would extend the operation of those provisions to January 1, 2022, and make conforming changes relating to the appointment of an executive officer, as applicable.

(11) *Existing law provides for the January 1, 2022, repeal of provisions regulating naturopathic medicine and interior design and provisions creating the California Board of Occupational Therapy, the Physical Therapy Board of California, the Respiratory Care Board of California, and the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.*

This bill would extend the operation of those provisions to January 1, 2023, and make conforming changes relating to the appointment of an executive officer, as applicable.

(8)

(12) Existing law, the Massage Therapy Act, until January 1, 2021, provides for the certification and regulation of massage therapists by the California Massage Therapy Council.

This bill would extend the operation of the Massage Therapy Act to January 1, 2022, and make conforming changes relating to massage therapist certification requirements.

(13) *Existing law, the Private Investigator Act, provides for the licensure and regulation of private investigators by the Bureau of Security and Investigative Services. Existing law, until January 1, 2021, authorizes the bureau to issue a private investigator license to a limited liability company. A violation of the act is a crime.*

This bill would extend that date to January 1, 2024. By extending the operation of these provisions, the bill would impose a state-mandated local program.

(9)

(14) Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers by the Real Estate Commissioner, the chief officer of the Department of Real Estate within the Business, Consumer Services, and Housing Agency. The Real Estate Law subjects the powers and duties of the department, under specified provisions of law, to review by the appropriate policy committees of the Legislature, performed as if those provisions were scheduled to be repealed as of January 1, 2021.

This bill would extend that date to January 1, 2022.

(10)

(15) Existing law, the Real Estate Appraisers' Licensing and Certification Law, creates a Bureau of Real Estate Appraisers within the Department of Consumer Affairs to administer and enforce that law. The Real Estate Appraisers' Licensing and Certification Law subjects the powers and duties of the bureau to review by the appropriate policy committees of the Legislature, performed as if that law were scheduled to be repealed as of January 1, 2021.

This bill would extend that date to January 1, 2022.

(16) Existing law regulates the formation and enforcement of contracts, including what constitutes an unlawful contract. Under existing law, a contract is unlawful if it is contrary to an express provision of law, contrary to the policy of express law, though not expressly prohibited, or otherwise contrary to good morals.

Existing law regulates licensees who are subject to the jurisdiction of a state licensing entity, including the State Bar of California, the Department of Real Estate, the Department of Consumer Affairs, or any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

This bill would prohibit a contract or proposed contract for the provision of a consumer service by a licensee regulated by a licensing board from including a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee. The bill would specify that a waiver of these provisions is contrary to public policy and is void and unenforceable. The bill would provide that a violation of these provisions by a licensee constitutes unprofessional conduct subject to discipline by the licensee's regulatory board.

(11)

(17) Existing law, the California Private Postsecondary Education Act of 2009, until January 1, 2021, provides, among other things, for

student protections and regulatory oversight of private postsecondary institutions in the state, enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs.

This bill would extend the operation of the California Private Postsecondary Education Act of 2009 to January 1, 2022.

~~(12)~~

(18) This bill would make other conforming, technical, and nonsubstantive changes.

~~(13)~~

(19) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 27 of the Business and Professions Code
 2 is amended to read:
 3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
 4 shall provide on the internet information regarding the status of
 5 every license issued by that entity in accordance with the California
 6 Public Records Act (Chapter 3.5 (commencing with Section 6250)
 7 of Division 7 of Title 1 of the Government Code) and the
 8 Information Practices Act of 1977 (Chapter 1 (commencing with
 9 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
 10 The public information to be provided on the internet shall include
 11 information on suspensions and revocations of licenses issued by
 12 the entity and other related enforcement action, including
 13 accusations filed pursuant to the Administrative Procedure Act
 14 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
 15 Division 3 of Title 2 of the Government Code) taken by the entity
 16 relative to persons, businesses, or facilities subject to licensure or
 17 regulation by the entity. The information may not include personal
 18 information, including home telephone number, date of birth, or
 19 social security number. Each entity shall disclose a licensee’s
 20 address of record. However, each entity shall allow a licensee to
 21 provide a post office box number or other alternate address, instead

1 of the licensee’s home address, as the address of record. This
2 section shall not preclude an entity from also requiring a licensee,
3 who has provided a post office box number or other alternative
4 mailing address as the licensee’s address of record, to provide a
5 physical business address or residence address only for the entity’s
6 internal administrative use and not for disclosure as the licensee’s
7 address of record or disclosure on the internet.

8 (b) In providing information on the internet, each entity specified
9 in subdivisions (c) and (d) shall comply with the Department of
10 Consumer Affairs’ guidelines for access to public records.

11 (c) Each of the following entities within the Department of
12 Consumer Affairs shall comply with the requirements of this
13 section:

14 (1) The Board for Professional Engineers, Land Surveyors, and
15 Geologists shall disclose information on its registrants and
16 licensees.

17 (2) The Bureau of Automotive Repair shall disclose information
18 on its licensees, including auto repair dealers, smog stations, lamp
19 and brake stations, smog check technicians, and smog inspection
20 certification stations.

21 (3) The Bureau of Household Goods and Services shall disclose
22 information on its licensees and registrants, including major
23 appliance repair dealers, combination dealers (electronic and
24 appliance), electronic repair dealers, service contract sellers, service
25 contract administrators, and household movers.

26 (4) The Cemetery and Funeral Bureau shall disclose information
27 on its licensees, including cemetery brokers, cemetery salespersons,
28 cemetery managers, crematory managers, cemetery authorities,
29 crematories, cremated remains disposers, embalmers, funeral
30 establishments, and funeral directors.

31 (5) The Professional Fiduciaries Bureau shall disclose
32 information on its licensees.

33 (6) The Contractors State License Board shall disclose
34 information on its licensees and registrants in accordance with
35 Chapter 9 (commencing with Section 7000) of Division 3. In
36 addition to information related to licenses as specified in
37 subdivision (a), the board shall also disclose information provided
38 to the board by the Labor Commissioner pursuant to Section 98.9
39 of the Labor Code.

1 (7) The Bureau for Private Postsecondary Education shall
2 disclose information on private postsecondary institutions under
3 its jurisdiction, including disclosure of notices to comply issued
4 pursuant to Section 94935 of the Education Code.

5 (8) The California Board of Accountancy shall disclose
6 information on its licensees and registrants.

7 (9) The California Architects Board shall disclose information
8 on its licensees, including architects and landscape architects.

9 (10) The State Athletic Commission shall disclose information
10 on its licensees and registrants.

11 (11) The State Board of Barbering and Cosmetology shall
12 disclose information on its licensees.

13 (12) The Acupuncture Board shall disclose information on its
14 licensees.

15 (13) The Board of Behavioral Sciences shall disclose
16 information on its licensees and registrants.

17 (14) The Dental Board of California shall disclose information
18 on its licensees.

19 (15) The State Board of Optometry shall disclose information
20 on its licensees and registrants.

21 (16) The Board of Psychology shall disclose information on its
22 licensees, including psychologists, psychological assistants, and
23 registered psychologists.

24 (17) The Veterinary Medical Board shall disclose information
25 on its licensees, registrants, and permit holders.

26 (d) The State Board of Chiropractic Examiners shall disclose
27 information on its licensees.

28 (e) The Structural Pest Control Board shall disclose information
29 on its licensees, including applicators, field representatives, and
30 operators in the areas of fumigation, general pest and wood
31 destroying pests and organisms, and wood roof cleaning and
32 treatment.

33 (f) The Bureau of Cannabis Control shall disclose information
34 on its licensees.

35 (g) “Internet” for the purposes of this section has the meaning
36 set forth in paragraph (6) of subdivision (f) of Section 17538.

37 SEC. 2. Section 101 of the Business and Professions Code is
38 amended to read:

39 101. The department is comprised of the following:

40 (a) The Dental Board of California.

- 1 (b) The Medical Board of California.
- 2 (c) The State Board of Optometry.
- 3 (d) The California State Board of Pharmacy.
- 4 (e) The Veterinary Medical Board.
- 5 (f) The California Board of Accountancy.
- 6 (g) The California Architects Board.
- 7 (h) The State Board of Barbering and Cosmetology.
- 8 (i) The Board for Professional Engineers, Land Surveyors, and
- 9 Geologists.
- 10 (j) The Contractors State License Board.
- 11 (k) The Bureau for Private Postsecondary Education.
- 12 (l) The Bureau of Household Goods and Services.
- 13 (m) The Board of Registered Nursing.
- 14 (n) The Board of Behavioral Sciences.
- 15 (o) The State Athletic Commission.
- 16 (p) The Cemetery and Funeral Bureau.
- 17 (q) The Bureau of Security and Investigative Services.
- 18 (r) The Court Reporters Board of California.
- 19 (s) The Board of Vocational Nursing and Psychiatric
- 20 Technicians.
- 21 (t) The Landscape Architects Technical Committee.
- 22 (u) The Division of Investigation.
- 23 (v) The Bureau of Automotive Repair.
- 24 (w) The Respiratory Care Board of California.
- 25 (x) The Acupuncture Board.
- 26 (y) The Board of Psychology.
- 27 (z) The Podiatric Medical Board of California.
- 28 (aa) The Physical Therapy Board of California.
- 29 (ab) The Arbitration Review Program.
- 30 (ac) The Physician Assistant Board.
- 31 (ad) The Speech-Language Pathology and Audiology and
- 32 Hearing Aid Dispensers Board.
- 33 (ae) The California Board of Occupational Therapy.
- 34 (af) The Osteopathic Medical Board of California.
- 35 (ag) The Naturopathic Medicine Committee.
- 36 (ah) The Dental Hygiene Board of California.
- 37 (ai) The Professional Fiduciaries Bureau.
- 38 (aj) The State Board of Chiropractic Examiners.
- 39 (ak) The Bureau of Real Estate Appraisers.
- 40 (al) The Structural Pest Control Board.

1 (am) The Bureau of Cannabis Control.

2 (an) Any other boards, offices, or officers subject to its
3 jurisdiction by law.

4 (ao) This section shall become operative on July 1, 2018.

5 SEC. 3. Section 125.9 of the Business and Professions Code
6 is amended to read:

7 125.9. (a) Except with respect to persons regulated under
8 Chapter 11 (commencing with Section 7500), any board, bureau,
9 or commission within the department, the State Board of
10 Chiropractic Examiners, and the Osteopathic Medical Board of
11 California, may establish, by regulation, a system for the issuance
12 to a licensee of a citation which may contain an order of abatement
13 or an order to pay an administrative fine assessed by the board,
14 bureau, or commission where the licensee is in violation of the
15 applicable licensing act or any regulation adopted pursuant thereto.

16 (b) The system shall contain the following provisions:

17 (1) Citations shall be in writing and shall describe with
18 particularity the nature of the violation, including specific reference
19 to the provision of law determined to have been violated.

20 (2) Whenever appropriate, the citation shall contain an order of
21 abatement fixing a reasonable time for abatement of the violation.

22 (3) In no event shall the administrative fine assessed by the
23 board, bureau, or commission exceed five thousand dollars (\$5,000)
24 for each inspection or each investigation made with respect to the
25 violation, or five thousand dollars (\$5,000) for each violation or
26 count if the violation involves fraudulent billing submitted to an
27 insurance company, the Medi-Cal program, or Medicare. In
28 assessing a fine, the board, bureau, or commission shall give due
29 consideration to the appropriateness of the amount of the fine with
30 respect to factors such as the gravity of the violation, the good
31 faith of the licensee, and the history of previous violations.

32 (4) A citation or fine assessment issued pursuant to a citation
33 shall inform the licensee that if the licensee desires a hearing to
34 contest the finding of a violation, that hearing shall be requested
35 by written notice to the board, bureau, or commission within 30
36 days of the date of issuance of the citation or assessment. If a
37 hearing is not requested pursuant to this section, payment of any
38 fine shall not constitute an admission of the violation charged.
39 Hearings shall be held pursuant to Chapter 5 (commencing with

1 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
2 Code.

3 (5) Failure of a licensee to pay a fine or comply with an order
4 of abatement, or both, within 30 days of the date of assessment or
5 order, unless the citation is being appealed, may result in
6 disciplinary action being taken by the board, bureau, or
7 commission. Where a citation is not contested and a fine is not
8 paid, the full amount of the assessed fine shall be added to the fee
9 for renewal of the license. A license shall not be renewed without
10 payment of the renewal fee and fine.

11 (c) The system may contain the following provisions:

12 (1) A citation may be issued without the assessment of an
13 administrative fine.

14 (2) Assessment of administrative fines may be limited to only
15 particular violations of the applicable licensing act.

16 (d) Notwithstanding any other provision of law, if a fine is paid
17 to satisfy an assessment based on the finding of a violation,
18 payment of the fine and compliance with the order of abatement,
19 if applicable, shall be represented as satisfactory resolution of the
20 matter for purposes of public disclosure.

21 (e) Administrative fines collected pursuant to this section shall
22 be deposited in the special fund of the particular board, bureau, or
23 commission.

24 SEC. 4. Section 130 of the Business and Professions Code is
25 amended to read:

26 130. (a) Notwithstanding any other law, the term of office of
27 any member of an agency designated in subdivision (b) shall be
28 for a term of four years expiring on June 1.

29 (b) Subdivision (a) applies to the following boards or
30 committees:

31 (1) The Medical Board of California.

32 (2) The Podiatric Medical Board of California.

33 (3) The Physical Therapy Board of California.

34 (4) The Board of Registered Nursing, except as provided in
35 subdivision (c) of Section 2703.

36 (5) The Board of Vocational Nursing and Psychiatric
37 Technicians.

38 (6) The State Board of Optometry.

39 (7) The California State Board of Pharmacy.

40 (8) The Veterinary Medical Board.

- 1 (9) The California Architects Board.
- 2 (10) The Landscape Architect Technical Committee.
- 3 (11) The Board for Professional Engineers and Land Surveyors.
- 4 (12) The Contractors State License Board.
- 5 (13) The Board of Behavioral Sciences.
- 6 (14) The Court Reporters Board of California.
- 7 (15) The State Athletic Commission.
- 8 (16) The Osteopathic Medical Board of California.
- 9 (17) The Respiratory Care Board of California.
- 10 (18) The Acupuncture Board.
- 11 (19) The Board of Psychology.
- 12 (20) The Structural Pest Control Board.
- 13 SEC. 5. Section 144 of the Business and Professions Code is
- 14 amended to read:
- 15 144. (a) Notwithstanding any other law, an agency designated
- 16 in subdivision (b) shall require an applicant to furnish to the agency
- 17 a full set of fingerprints for purposes of conducting criminal history
- 18 record checks. Any agency designated in subdivision (b) may
- 19 obtain and receive, at its discretion, criminal history information
- 20 from the Department of Justice and the United States Federal
- 21 Bureau of Investigation.
- 22 (b) Subdivision (a) applies to the following:
- 23 (1) California Board of Accountancy.
- 24 (2) State Athletic Commission.
- 25 (3) Board of Behavioral Sciences.
- 26 (4) Court Reporters Board of California.
- 27 (5) Dental Board of California.
- 28 (6) California State Board of Pharmacy.
- 29 (7) Board of Registered Nursing.
- 30 (8) Veterinary Medical Board.
- 31 (9) Board of Vocational Nursing and Psychiatric Technicians.
- 32 (10) Respiratory Care Board of California.
- 33 (11) Physical Therapy Board of California.
- 34 (12) Physician Assistant Committee.
- 35 (13) Speech-Language Pathology and Audiology and Hearing
- 36 Aid Dispensers Board.
- 37 (14) Medical Board of California.
- 38 (15) State Board of Optometry.
- 39 (16) Acupuncture Board.
- 40 (17) Cemetery and Funeral Bureau.

- 1 (18) Bureau of Security and Investigative Services.
- 2 (19) Division of Investigation.
- 3 (20) Board of Psychology.
- 4 (21) California Board of Occupational Therapy.
- 5 (22) Structural Pest Control Board.
- 6 (23) Contractors State License Board.
- 7 (24) Naturopathic Medicine Committee.
- 8 (25) Professional Fiduciaries Bureau.
- 9 (26) Board for Professional Engineers, Land Surveyors, and
- 10 Geologists.
- 11 (27) Bureau of Cannabis Control.
- 12 (28) Podiatric Medical Board of California.
- 13 (29) Osteopathic Medical Board of California.
- 14 (30) California Architects Board, beginning January 1, 2021.
- 15 (31) Landscape Architects Technical Committee, beginning
- 16 January 1, 2021.
- 17 (c) For purposes of paragraph (26) of subdivision (b), the term
- 18 “applicant” shall be limited to an initial applicant who has never
- 19 been registered or licensed by the board or to an applicant for a
- 20 new licensure or registration category.
- 21 SEC. 6. Section 200.1 of the Business and Professions Code
- 22 is amended to read:
- 23 200.1. (a) Any accruals that occur on or after September 11,
- 24 1993, to any funds or accounts within the Professions and
- 25 Vocations Fund that realize increased revenues to that fund or
- 26 account as a result of legislation enacted on or after September 11,
- 27 1993, and that have not been transferred pursuant to Sections 13.50,
- 28 13.60, and 13.70 of the Budget Act of 1993 on the effective date
- 29 of the act that enacted this section, shall be exempt from the
- 30 transfers contained in Sections 13.50, 13.60, and 13.70 of the
- 31 Budget Act of 1993. These funds shall include, but not be limited
- 32 to, all of the following:
- 33 (1) Athletic Commission Fund.
- 34 (2) Bureau of Home Furnishings and Thermal Insulation Fund.
- 35 (3) Contractors License Fund.
- 36 (4) Private Investigator Fund.
- 37 (5) Respiratory Care Fund.
- 38 (6) Vocational Nursing and Psychiatric Technicians Fund.
- 39 (b) Subdivision (a) shall not apply to the Contingent Fund of
- 40 the Medical Board of California.

1 SEC. 7. Section 205 of the Business and Professions Code, as
2 amended by Section 2 of Chapter 865 of the Statutes of 2019, is
3 amended to read:

4 205. (a) There is in the State Treasury the Professions and
5 Vocations Fund. The fund shall consist of the following special
6 funds:

- 7 (1) Accountancy Fund.
- 8 (2) California Architects Board Fund.
- 9 (3) Athletic Commission Fund.
- 10 (4) Barbering and Cosmetology Contingent Fund.
- 11 (5) Cemetery and Funeral Fund.
- 12 (6) Contractors License Fund.
- 13 (7) State Dentistry Fund.
- 14 (8) Home Furnishings and Thermal Insulation Fund.
- 15 (9) California Architects Board-Landscape Architects Fund.
- 16 (10) Contingent Fund of the Medical Board of California.
- 17 (11) Optometry Fund.
- 18 (12) Pharmacy Board Contingent Fund.
- 19 (13) Physical Therapy Fund.
- 20 (14) Private Investigator Fund.
- 21 (15) Private Security Services Fund.
- 22 (16) Professional Engineer's, Land Surveyor's, and Geologist's
23 Fund.
- 24 (17) Consumer Affairs Fund.
- 25 (18) Behavioral Sciences Fund.
- 26 (19) Licensed Midwifery Fund.
- 27 (20) Court Reporters' Fund.
- 28 (21) Veterinary Medical Board Contingent Fund.
- 29 (22) Vocational Nursing and Psychiatric Technicians Fund.
- 30 (23) Electronic and Appliance Repair Fund.
- 31 (24) Dispensing Opticians Fund.
- 32 (25) Acupuncture Fund.
- 33 (26) Physician Assistant Fund.
- 34 (27) Board of Podiatric Medicine Fund.
- 35 (28) Psychology Fund.
- 36 (29) Respiratory Care Fund.
- 37 (30) Speech-Language Pathology and Audiology and Hearing
38 Aid Dispensers Fund.
- 39 (31) Board of Registered Nursing Fund.
- 40 (32) Animal Health Technician Examining Committee Fund.

- 1 (33) State Dental Hygiene Fund.
- 2 (34) State Dental Assistant Fund.
- 3 (35) Structural Pest Control Fund.
- 4 (36) Structural Pest Control Eradication and Enforcement Fund.
- 5 (37) Structural Pest Control Research Fund.
- 6 (38) Household Movers Fund.

7 (b) For accounting and recordkeeping purposes, the Professions
8 and Vocations Fund shall be deemed to be a single special fund,
9 and each of the several special funds therein shall constitute and
10 be deemed to be a separate account in the Professions and
11 Vocations Fund. Each account or fund shall be available for
12 expenditure only for the purposes as are now or may hereafter be
13 provided by law.

14 (c) This section shall be repealed on July 1, 2022.

15 SEC. 8. Section 205 of the Business and Professions Code, as
16 added by Section 3 of Chapter 865 of the Statutes of 2019, is
17 amended to read:

18 205. (a) There is in the State Treasury the Professions and
19 Vocations Fund. The fund shall consist of the following special
20 funds:

- 21 (1) Accountancy Fund.
- 22 (2) California Architects Board Fund.
- 23 (3) Athletic Commission Fund.
- 24 (4) Barbering and Cosmetology Contingent Fund.
- 25 (5) Cemetery and Funeral Fund.
- 26 (6) Contractors License Fund.
- 27 (7) State Dentistry Fund.
- 28 (8) Home Furnishings and Thermal Insulation Fund.
- 29 (9) California Architects Board-Landscape Architects Fund.
- 30 (10) Contingent Fund of the Medical Board of California.
- 31 (11) Optometry Fund.
- 32 (12) Pharmacy Board Contingent Fund.
- 33 (13) Physical Therapy Fund.
- 34 (14) Private Investigator Fund.
- 35 (15) Private Security Services Fund.
- 36 (16) Professional Engineer's, Land Surveyor's, and Geologist's
37 Fund.
- 38 (17) Consumer Affairs Fund.
- 39 (18) Behavioral Sciences Fund.
- 40 (19) Licensed Midwifery Fund.

- 1 (20) Court Reporters' Fund.
- 2 (21) Veterinary Medical Board Contingent Fund.
- 3 (22) Vocational Nursing and Psychiatric Technicians Fund.
- 4 (23) Electronic and Appliance Repair Fund.
- 5 (24) Dispensing Opticians Fund.
- 6 (25) Acupuncture Fund.
- 7 (26) Physician Assistant Fund.
- 8 (27) Board of Podiatric Medicine Fund.
- 9 (28) Psychology Fund.
- 10 (29) Respiratory Care Fund.
- 11 (30) Speech-Language Pathology and Audiology and Hearing
- 12 Aid Dispensers Fund.
- 13 (31) Board of Registered Nursing Fund.
- 14 (32) Animal Health Technician Examining Committee Fund.
- 15 (33) State Dental Hygiene Fund.
- 16 (34) Structural Pest Control Fund.
- 17 (35) Structural Pest Control Eradication and Enforcement Fund.
- 18 (36) Structural Pest Control Research Fund.
- 19 (37) Household Movers Fund.

20 (b) For accounting and recordkeeping purposes, the Professions
21 and Vocations Fund shall be deemed to be a single special fund,
22 and each of the several special funds therein shall constitute and
23 be deemed to be a separate account in the Professions and
24 Vocations Fund. Each account or fund shall be available for
25 expenditure only for the purposes as are now or may hereafter be
26 provided by law.

27 (c) This section shall become operative on July 1, 2022.

28 SEC. 9. Section 494.5 of the Business and Professions Code
29 is amended to read:

30 494.5. (a) (1) Except as provided in paragraphs (2), (3), and
31 (4), a state governmental licensing entity shall refuse to issue,
32 reactivate, reinstate, or renew a license and shall suspend a license
33 if a licensee's name is included on a certified list.

34 (2) The Department of Motor Vehicles shall suspend a license
35 if a licensee's name is included on a certified list. Any reference
36 in this section to the issuance, reactivation, reinstatement, renewal,
37 or denial of a license shall not apply to the Department of Motor
38 Vehicles.

39 (3) The State Bar of California may recommend to refuse to
40 issue, reactivate, reinstate, or renew a license and may recommend

1 to suspend a license if a licensee’s name is included on a certified
2 list. The word “may” shall be substituted for the word “shall”
3 relating to the issuance of a temporary license, refusal to issue,
4 reactivate, reinstate, renew, or suspend a license in this section for
5 licenses under the jurisdiction of the California Supreme Court.

6 (4) The Department of Alcoholic Beverage Control may refuse
7 to issue, reactivate, reinstate, or renew a license, and may suspend
8 a license, if a licensee’s name is included on a certified list.

9 (b) For purposes of this section:

10 (1) “Certified list” means either the list provided by the State
11 Board of Equalization or the list provided by the Franchise Tax
12 Board of persons whose names appear on the lists of the 500 largest
13 tax delinquencies pursuant to Section 7063 or 19195 of the
14 Revenue and Taxation Code, as applicable.

15 (2) “License” includes a certificate, registration, or any other
16 authorization to engage in a profession or occupation issued by a
17 state governmental licensing entity. “License” includes a driver’s
18 license issued pursuant to Chapter 1 (commencing with Section
19 12500) of Division 6 of the Vehicle Code. “License” excludes a
20 vehicle registration issued pursuant to Division 3 (commencing
21 with Section 4000) of the Vehicle Code.

22 (3) “Licensee” means an individual authorized by a license to
23 drive a motor vehicle or authorized by a license, certificate,
24 registration, or other authorization to engage in a profession or
25 occupation issued by a state governmental licensing entity.

26 (4) “State governmental licensing entity” means any entity listed
27 in Section 101, 1000, or 19420, the office of the Attorney General,
28 the Department of Insurance, the Department of Motor Vehicles,
29 the State Bar of California, the Department of Real Estate, and
30 any other state agency, board, or commission that issues a license,
31 certificate, or registration authorizing an individual to engage in
32 a profession or occupation, including any certificate, business or
33 occupational license, or permit or license issued by the Department
34 of Motor Vehicles or the Department of the California Highway
35 Patrol. “State governmental licensing entity” shall not include the
36 Contractors State License Board.

37 (c) The State Board of Equalization and the Franchise Tax Board
38 shall each submit its respective certified list to every state
39 governmental licensing entity. The certified lists shall include the
40 name, social security number or taxpayer identification number,

1 and the last known address of the persons identified on the certified
2 lists.

3 (d) Notwithstanding any other law, each state governmental
4 licensing entity shall collect the social security number or the
5 federal taxpayer identification number from all applicants for the
6 purposes of matching the names of the certified lists provided by
7 the State Board of Equalization and the Franchise Tax Board to
8 applicants and licensees.

9 (e) (1) Each state governmental licensing entity shall determine
10 whether an applicant or licensee is on the most recent certified list
11 provided by the State Board of Equalization and the Franchise Tax
12 Board.

13 (2) If an applicant or licensee is on either of the certified lists,
14 the state governmental licensing entity shall immediately provide
15 a preliminary notice to the applicant or licensee of the entity's
16 intent to suspend or withhold issuance or renewal of the license.
17 The preliminary notice shall be delivered personally or by mail to
18 the applicant's or licensee's last known mailing address on file
19 with the state governmental licensing entity within 30 days of
20 receipt of the certified list. Service by mail shall be completed in
21 accordance with Section 1013 of the Code of Civil Procedure.

22 (A) The state governmental licensing entity shall issue a
23 temporary license valid for a period of 90 days to any applicant
24 whose name is on a certified list if the applicant is otherwise
25 eligible for a license.

26 (B) The 90-day time period for a temporary license shall not be
27 extended. Only one temporary license shall be issued during a
28 regular license term and the term of the temporary license shall
29 coincide with the first 90 days of the regular license term. A license
30 for the full term or the remainder of the license term may be issued
31 or renewed only upon compliance with this section.

32 (C) In the event that a license is suspended or an application for
33 a license or the renewal of a license is denied pursuant to this
34 section, any funds paid by the applicant or licensee shall not be
35 refunded by the state governmental licensing entity.

36 (f) (1) A state governmental licensing entity shall refuse to
37 issue or shall suspend a license pursuant to this section no sooner
38 than 90 days and no later than 120 days of the mailing of the
39 preliminary notice described in paragraph (2) of subdivision (e),
40 unless the state governmental licensing entity has received a release

1 pursuant to subdivision (h). The procedures in the administrative
2 adjudication provisions of the Administrative Procedure Act
3 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
4 (commencing with Section 11500) of Part 1 of Division 3 of Title
5 2 of the Government Code) shall not apply to the denial or
6 suspension of, or refusal to renew, a license or the issuance of a
7 temporary license pursuant to this section.

8 (2) Notwithstanding any other law, if a board, bureau, or
9 commission listed in Section 101, other than the Contractors State
10 License Board, fails to take action in accordance with this section,
11 the Department of Consumer Affairs shall issue a temporary license
12 or suspend or refuse to issue, reactivate, reinstate, or renew a
13 license, as appropriate.

14 (g) Notices shall be developed by each state governmental
15 licensing entity. For an applicant or licensee on the State Board
16 of Equalization's certified list, the notice shall include the address
17 and telephone number of the State Board of Equalization, and shall
18 emphasize the necessity of obtaining a release from the State Board
19 of Equalization as a condition for the issuance, renewal, or
20 continued valid status of a license or licenses. For an applicant or
21 licensee on the Franchise Tax Board's certified list, the notice shall
22 include the address and telephone number of the Franchise Tax
23 Board, and shall emphasize the necessity of obtaining a release
24 from the Franchise Tax Board as a condition for the issuance,
25 renewal, or continued valid status of a license or licenses.

26 (1) The notice shall inform the applicant that the state
27 governmental licensing entity shall issue a temporary license, as
28 provided in subparagraph (A) of paragraph (2) of subdivision (e),
29 for 90 calendar days if the applicant is otherwise eligible and that
30 upon expiration of that time period, the license will be denied
31 unless the state governmental licensing entity has received a release
32 from the State Board of Equalization or the Franchise Tax Board,
33 whichever is applicable.

34 (2) The notice shall inform the licensee that any license
35 suspended under this section will remain suspended until the state
36 governmental licensing entity receives a release along with
37 applications and fees, if applicable, to reinstate the license.

38 (3) The notice shall also inform the applicant or licensee that if
39 an application is denied or a license is suspended pursuant to this
40 section, any moneys paid by the applicant or licensee shall not be

1 refunded by the state governmental licensing entity. The state
2 governmental licensing entity shall also develop a form that the
3 applicant or licensee shall use to request a release by the State
4 Board of Equalization or the Franchise Tax Board. A copy of this
5 form shall be included with every notice sent pursuant to this
6 subdivision.

7 (h) If the applicant or licensee wishes to challenge the
8 submission of their name on a certified list, the applicant or licensee
9 shall make a timely written request for release to the State Board
10 of Equalization or the Franchise Tax Board, whichever is
11 applicable. The State Board of Equalization or the Franchise Tax
12 Board shall immediately send a release to the appropriate state
13 governmental licensing entity and the applicant or licensee, if any
14 of the following conditions are met:

15 (1) The applicant or licensee has complied with the tax
16 obligation, either by payment of the unpaid taxes or entry into an
17 installment payment agreement, as described in Section 6832 or
18 19008 of the Revenue and Taxation Code, to satisfy the unpaid
19 taxes.

20 (2) The applicant or licensee has submitted a request for release
21 not later than 45 days after the applicant's or licensee's receipt of
22 a preliminary notice described in paragraph (2) of subdivision (e),
23 but the State Board of Equalization or the Franchise Tax Board,
24 whichever is applicable, will be unable to complete the release
25 review and send notice of its findings to the applicant or licensee
26 and state governmental licensing entity within 45 days after the
27 State Board of Equalization's or the Franchise Tax Board's receipt
28 of the applicant's or licensee's request for release. Whenever a
29 release is granted under this paragraph, and, notwithstanding that
30 release, the applicable license or licenses have been suspended
31 erroneously, the state governmental licensing entity shall reinstate
32 the applicable licenses with retroactive effect back to the date of
33 the erroneous suspension and that suspension shall not be reflected
34 on any license record.

35 (3) The applicant or licensee is unable to pay the outstanding
36 tax obligation due to a current financial hardship. "Financial
37 hardship" means financial hardship as determined by the State
38 Board of Equalization or the Franchise Tax Board, whichever is
39 applicable, where the applicant or licensee is unable to pay any
40 part of the outstanding liability and the applicant or licensee is

1 unable to qualify for an installment payment arrangement as
2 provided for by Section 6832 or Section 19008 of the Revenue
3 and Taxation Code. In order to establish the existence of a financial
4 hardship, the applicant or licensee shall submit any information,
5 including information related to reasonable business and personal
6 expenses, requested by the State Board of Equalization or the
7 Franchise Tax Board, whichever is applicable, for purposes of
8 making that determination.

9 (i) An applicant or licensee is required to act with diligence in
10 responding to notices from the state governmental licensing entity
11 and the State Board of Equalization or the Franchise Tax Board
12 with the recognition that the temporary license will lapse or the
13 license suspension will go into effect after 90 days and that the
14 State Board of Equalization or the Franchise Tax Board must have
15 time to act within that period. An applicant's or licensee's delay
16 in acting, without good cause, which directly results in the inability
17 of the State Board of Equalization or the Franchise Tax Board,
18 whichever is applicable, to complete a review of the applicant's
19 or licensee's request for release shall not constitute the diligence
20 required under this section which would justify the issuance of a
21 release. An applicant or licensee shall have the burden of
22 establishing that they diligently responded to notices from the state
23 governmental licensing entity or the State Board of Equalization
24 or the Franchise Tax Board and that any delay was not without
25 good cause.

26 (j) The State Board of Equalization or the Franchise Tax Board
27 shall create release forms for use pursuant to this section. When
28 the applicant or licensee has complied with the tax obligation by
29 payment of the unpaid taxes, or entry into an installment payment
30 agreement, or establishing the existence of a current financial
31 hardship as defined in paragraph (3) of subdivision (h), the State
32 Board of Equalization or the Franchise Tax Board, whichever is
33 applicable, shall mail a release form to the applicant or licensee
34 and provide a release to the appropriate state governmental
35 licensing entity. Any state governmental licensing entity that has
36 received a release from the State Board of Equalization and the
37 Franchise Tax Board pursuant to this subdivision shall process the
38 release within five business days of its receipt. If the State Board
39 of Equalization or the Franchise Tax Board determines subsequent
40 to the issuance of a release that the licensee has not complied with

1 their installment payment agreement, the State Board of
2 Equalization or the Franchise Tax Board, whichever is applicable,
3 shall notify the state governmental licensing entity and the licensee
4 in a format prescribed by the State Board of Equalization or the
5 Franchise Tax Board, whichever is applicable, that the licensee is
6 not in compliance and the release shall be rescinded. The State
7 Board of Equalization and the Franchise Tax Board may, when it
8 is economically feasible for the state governmental licensing entity
9 to develop an automated process for complying with this
10 subdivision, notify the state governmental licensing entity in a
11 manner prescribed by the State Board of Equalization or the
12 Franchise Tax Board, whichever is applicable, that the licensee
13 has not complied with the installment payment agreement. Upon
14 receipt of this notice, the state governmental licensing entity shall
15 immediately notify the licensee on a form prescribed by the state
16 governmental licensing entity that the licensee's license will be
17 suspended on a specific date, and this date shall be no longer than
18 30 days from the date the form is mailed. The licensee shall be
19 further notified that the license will remain suspended until a new
20 release is issued in accordance with this subdivision.

21 (k) The State Board of Equalization and the Franchise Tax Board
22 may enter into interagency agreements with the state governmental
23 licensing entities necessary to implement this section.

24 (l) Notwithstanding any other law, a state governmental
25 licensing entity, with the approval of the appropriate department
26 director or governing body, may impose a fee on a licensee whose
27 license has been suspended pursuant to this section. The fee shall
28 not exceed the amount necessary for the state governmental
29 licensing entity to cover its costs in carrying out the provisions of
30 this section. Fees imposed pursuant to this section shall be
31 deposited in the fund in which other fees imposed by the state
32 governmental licensing entity are deposited and shall be available
33 to that entity upon appropriation in the annual Budget Act.

34 (m) The process described in subdivision (h) shall constitute
35 the sole administrative remedy for contesting the issuance of a
36 temporary license or the denial or suspension of a license under
37 this section.

38 (n) Any state governmental licensing entity receiving an inquiry
39 as to the licensed status of an applicant or licensee who has had a
40 license denied or suspended under this section or who has been

1 granted a temporary license under this section shall respond that
2 the license was denied or suspended or the temporary license was
3 issued only because the licensee appeared on a list of the 500
4 largest tax delinquencies pursuant to Section 7063 or 19195 of the
5 Revenue and Taxation Code. Information collected pursuant to
6 this section by any state agency, board, or department shall be
7 subject to the Information Practices Act of 1977 (Chapter 1
8 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
9 3 of the Civil Code). Any state governmental licensing entity that
10 discloses on its internet website or other publication that the
11 licensee has had a license denied or suspended under this section
12 or has been granted a temporary license under this section shall
13 prominently disclose, in bold and adjacent to the information
14 regarding the status of the license, that the only reason the license
15 was denied, suspended, or temporarily issued is because the
16 licensee failed to pay taxes.

17 (o) Any rules and regulations issued pursuant to this section by
18 any state agency, board, or department may be adopted as
19 emergency regulations in accordance with the rulemaking
20 provisions of the Administrative Procedure Act (Chapter 3.5
21 (commencing with Section 11340) of Part 1 of Division 3 of Title
22 2 of the Government Code). The adoption of these regulations
23 shall be deemed an emergency and necessary for the immediate
24 preservation of the public peace, health, and safety, or general
25 welfare. The regulations shall become effective immediately upon
26 filing with the Secretary of State.

27 (p) The State Board of Equalization, the Franchise Tax Board,
28 and state governmental licensing entities, as appropriate, shall
29 adopt regulations as necessary to implement this section.

30 (q) (1) Neither the state governmental licensing entity, nor any
31 officer, employee, or agent, or former officer, employee, or agent
32 of a state governmental licensing entity, may disclose or use any
33 information obtained from the State Board of Equalization or the
34 Franchise Tax Board, pursuant to this section, except to inform
35 the public of the denial, refusal to renew, or suspension of a license
36 or the issuance of a temporary license pursuant to this section. The
37 release or other use of information received by a state governmental
38 licensing entity pursuant to this section, except as authorized by
39 this section, is punishable as a misdemeanor. This subdivision may
40 not be interpreted to prevent the State Bar of California from filing

1 a request with the Supreme Court of California to suspend a
 2 member of the bar pursuant to this section.

3 (2) A suspension of, or refusal to renew, a license or issuance
 4 of a temporary license pursuant to this section does not constitute
 5 denial or discipline of a licensee for purposes of any reporting
 6 requirements to the National Practitioner Data Bank and shall not
 7 be reported to the National Practitioner Data Bank or the Healthcare
 8 Integrity and Protection Data Bank.

9 (3) Upon release from the certified list, the suspension or
 10 revocation of the applicant’s or licensee’s license shall be purged
 11 from the state governmental licensing entity’s internet website or
 12 other publication within three business days. This paragraph shall
 13 not apply to the State Bar of California.

14 (r) If any provision of this section or the application thereof to
 15 any person or circumstance is held invalid, that invalidity shall not
 16 affect other provisions or applications of this section that can be
 17 given effect without the invalid provision or application, and to
 18 this end the provisions of this section are severable.

19 (s) All rights to review afforded by this section to an applicant
 20 shall also be afforded to a licensee.

21 (t) Unless otherwise provided in this section, the policies,
 22 practices, and procedures of a state governmental licensing entity
 23 with respect to license suspensions under this section shall be the
 24 same as those applicable with respect to suspensions pursuant to
 25 Section 17520 of the Family Code.

26 (u) No provision of this section shall be interpreted to allow a
 27 court to review and prevent the collection of taxes prior to the
 28 payment of those taxes in violation of the California Constitution.

29 (v) This section shall apply to any licensee whose name appears
 30 on a list of the 500 largest tax delinquencies pursuant to Section
 31 7063 or 19195 of the Revenue and Taxation Code on or after July
 32 1, 2012.

33 *SEC. 10. Section 1000 of the Business and Professions Code*
 34 *is amended to read:*

35 1000. (a) The law governing practitioners of chiropractic is
 36 found in an initiative act entitled “An act prescribing the terms
 37 upon which licenses may be issued to practitioners of chiropractic,
 38 creating the State Board of Chiropractic Examiners and declaring
 39 its powers and duties, prescribing penalties for violation hereof,

1 and repealing all acts and parts of acts inconsistent herewith,”
2 adopted by the electors November 7, 1922.

3 (b) The State Board of Chiropractic Examiners is within the
4 Department of Consumer Affairs.

5 (c) Notwithstanding any other law, the powers and duties of the
6 State Board of Chiropractic Examiners, as set forth in this article
7 and under the act creating the board, shall be subject to review by
8 the appropriate policy committees of the Legislature. The review
9 shall be performed as if this chapter were scheduled to be repealed
10 as of January 1, ~~2022~~: 2023.

11 *SEC. 11. Section 1209 of the Business and Professions Code*
12 *is amended to read:*

13 1209. (a) As used in this chapter, “laboratory director” means
14 any person who is any of the following:

15 (1) A duly licensed physician and surgeon.

16 (2) Only for purposes of a clinical laboratory test or examination
17 classified as waived, is any of the following:

18 (A) A duly licensed clinical laboratory scientist.

19 (B) A duly licensed limited clinical laboratory scientist.

20 (C) A duly licensed naturopathic doctor.

21 (D) A duly licensed optometrist serving as the director of a
22 laboratory that only performs clinical laboratory tests authorized
23 in paragraph (10) of subdivision (d) of Section 3041.

24 (E) *A duly licensed dentist.*

25 (3) Licensed to direct a clinical laboratory under this chapter.

26 (b) (1) A person defined in paragraph (1) or (3) of subdivision
27 (a) who is identified as the CLIA laboratory director of a laboratory
28 that performs clinical laboratory tests classified as moderate or
29 high complexity shall also meet the laboratory director
30 qualifications under CLIA for the type and complexity of tests
31 being offered by the laboratory.

32 (2) As used in this subdivision, “CLIA laboratory director”
33 means the person identified as the laboratory director on the CLIA
34 certificate issued to the laboratory by the federal Centers for
35 Medicare and Medicaid Services (CMS).

36 (c) The laboratory director, if qualified under CLIA, may
37 perform the duties of the technical consultant, technical supervisor,
38 clinical consultant, general supervisor, and testing personnel, or
39 delegate these responsibilities to persons qualified under CLIA.
40 If the laboratory director reapportions performance of those

1 responsibilities or duties, ~~he or she~~ *they* shall remain responsible
2 for ensuring that all those duties and responsibilities are properly
3 performed.

4 (d) (1) The laboratory director is responsible for the overall
5 operation and administration of the clinical laboratory, including
6 administering the technical and scientific operation of a clinical
7 laboratory, the selection and supervision of procedures, the
8 reporting of results, and active participation in its operations to
9 the extent necessary to ensure compliance with this act and CLIA.
10 ~~He or she~~ *They* shall be responsible for the proper performance of
11 all laboratory work of all subordinates and shall employ a sufficient
12 number of laboratory personnel with the appropriate education
13 and either experience or training to provide appropriate
14 consultation, properly supervise and accurately perform tests, and
15 report test results in accordance with the personnel qualifications,
16 duties, and responsibilities described in CLIA and this chapter.

17 (2) Where a point-of-care laboratory testing device is utilized
18 and provides results for more than one analyte, the testing
19 personnel may perform and report the results of all tests ordered
20 for each analyte for which ~~he or she~~ *they* have been found by
21 the laboratory director to be competent to perform and report.

22 (e) As part of the overall operation and administration, the
23 laboratory director of a registered laboratory shall document the
24 adequacy of the qualifications (educational background, training,
25 and experience) of the personnel directing and supervising the
26 laboratory and performing the laboratory test procedures and
27 examinations. In determining the adequacy of qualifications, the
28 laboratory director shall comply with any regulations adopted by
29 the department that specify the minimum qualifications for
30 personnel, in addition to any CLIA requirements relative to the
31 education or training of personnel.

32 (f) As part of the overall operation and administration, the
33 laboratory director of a licensed laboratory shall do all of the
34 following:

35 (1) Ensure that all personnel, prior to testing biological
36 specimens, have the appropriate education and experience, receive
37 the appropriate training for the type and complexity of the services
38 offered, and have demonstrated that they can perform all testing
39 operations reliably to provide and report accurate results. In
40 determining the adequacy of qualifications, the laboratory director

1 shall comply with any regulations adopted by the department that
2 specify the minimum qualifications for, and the type of procedures
3 that may be performed by, personnel in addition to any CLIA
4 requirements relative to the education or training of personnel.
5 Any regulations adopted pursuant to this section that specify the
6 type of procedure that may be performed by testing personnel shall
7 be based on the skills, knowledge, and tasks required to perform
8 the type of procedure in question.

9 (2) Ensure that policies and procedures are established for
10 monitoring individuals who conduct preanalytical, analytical, and
11 postanalytical phases of testing to ensure that they are competent
12 and maintain their competency to process biological specimens,
13 perform test procedures, and report test results promptly and
14 proficiently, and, whenever necessary, identify needs for remedial
15 training or continuing education to improve skills.

16 (3) Specify in writing the responsibilities and duties of each
17 individual engaged in the performance of the preanalytic, analytic,
18 and postanalytic phases of clinical laboratory tests or examinations,
19 including which clinical laboratory tests or examinations the
20 individual is authorized to perform, whether supervision is required
21 for the individual to perform specimen processing, test
22 performance, or results reporting, and whether consultant,
23 supervisor, or director review is required prior to the individual
24 reporting patient test results.

25 (g) The competency and performance of staff of a licensed
26 laboratory shall be evaluated and documented by the laboratory
27 director, or by a person who qualifies as a technical consultant or
28 a technical supervisor under CLIA depending on the type and
29 complexity of tests being offered by the laboratory.

30 (1) The procedures for evaluating the competency of the staff
31 shall include, but are not limited to, all of the following:

32 (A) Direct observations of routine patient test performance,
33 including patient preparation, if applicable, and specimen handling,
34 processing, and testing.

35 (B) Monitoring the recording and reporting of test results.

36 (C) Review of intermediate test results or worksheets, quality
37 control records, proficiency testing results, and preventive
38 maintenance records.

39 (D) Direct observation of performance of instrument
40 maintenance and function checks.

1 (E) Assessment of test performance through testing previously
2 analyzed specimens, internal blind testing samples, or external
3 proficiency testing samples.

4 (F) Assessment of problem solving skills.

5 (2) Evaluation and documentation of staff competency and
6 performance shall occur at least semiannually during the first year
7 an individual tests biological specimens. Thereafter, evaluations
8 shall be performed at least annually unless test methodology or
9 instrumentation changes, in which case, prior to reporting patient
10 test results, the individual's performance shall be reevaluated to
11 include the use of the new test methodology or instrumentation.

12 (h) The laboratory director of each clinical laboratory of an
13 acute care hospital shall be a physician and surgeon who is a
14 qualified pathologist, except as follows:

15 (1) If a qualified pathologist is not available, a physician and
16 surgeon or a clinical laboratory bioanalyst qualified as a laboratory
17 director under subdivision (a) may direct the laboratory. However,
18 a qualified pathologist shall be available for consultation at suitable
19 intervals to ensure high-quality service.

20 (2) If there are two or more clinical laboratories of an acute care
21 hospital, those additional clinical laboratories that are limited to
22 the performance of blood gas analysis, blood electrolyte analysis,
23 or both, may be directed by a physician and surgeon qualified as
24 a laboratory director under subdivision (a), irrespective of whether
25 a pathologist is available.

26 As used in this subdivision, a qualified pathologist is a physician
27 and surgeon certified or eligible for certification in clinical or
28 anatomical pathology by the American Board of Pathology or the
29 American Osteopathic Board of Pathology.

30 (i) Subdivision (h) does not apply to any director of a clinical
31 laboratory of an acute care hospital acting in that capacity on or
32 before January 1, 1988.

33 (j) A laboratory director may serve as the director of up to the
34 maximum number of laboratories stipulated by CLIA, as defined
35 under Section 1202.5.

36 *SEC. 12. Section 1632 of the Business and Professions Code*
37 *is amended to read:*

38 1632. (a) The board shall require each applicant to successfully
39 complete the written examination of the National Board Dental

1 Examination of the Joint Commission on National Dental
2 Examinations.

3 (b) The board shall require each applicant to successfully
4 complete an examination in California law and ethics developed
5 and administered by the board. The board shall provide a separate
6 application for this examination. The board shall ensure that the
7 law and ethics examination reflects current law and regulations,
8 and ensure that the examinations are randomized. Applicants shall
9 submit this application and required fee to the board in order to
10 take this examination. In addition to the aforementioned
11 application, the only other requirement for taking this examination
12 shall be certification from the dean of the qualifying dental school
13 or the dean's delegate attended by the applicant that the applicant
14 has graduated, or will graduate, or is expected to graduate.
15 Applicants who submit completed applications and certification
16 from the dean at least 15 days prior to a scheduled examination
17 shall be scheduled to take the examination. Successful results of
18 the examination shall, as established by board regulation, remain
19 valid for two years from the date that the applicant is notified of
20 having passed the examination.

21 (c) Except as otherwise provided in Section ~~1632.5~~, *1632.5 or*
22 *1632.56*, the board shall require each applicant to have taken and
23 received a passing score on one of the following:

24 (1) (A) A portfolio examination of the applicant's competence
25 to enter the practice of dentistry. This examination shall be
26 conducted while the applicant is enrolled in a dental school
27 program at a board-approved school located in California. This
28 examination shall utilize uniform standards of clinical experiences
29 and competencies, as approved by the board pursuant to Section
30 1632.1. The applicant shall pass a final assessment of the submitted
31 portfolio at the end of the applicant's dental school program. Before
32 any portfolio assessment may be submitted to the board, the
33 applicant shall remit the required fee to the board to be deposited
34 into the State Dentistry Fund, and a letter of good standing signed
35 by the dean of the applicant's dental school or the dean's delegate
36 stating that the applicant has graduated or will graduate with no
37 pending ethical issues.

38 (B) The board shall provide a report on how many other states
39 have recognized licensure by portfolio examination at the time of
40 its sunset review pursuant to subdivision (d) of Section 1601.1.

1 The report shall be submitted in compliance with Section 9795 of
2 the Government Code.

3 (2) Either one of the following examinations:

4 (A) A clinical and written examination administered by the
5 Western Regional Examining Board within five years prior to the
6 date of their application for a license under this section.

7 (B) The clinical and written examination developed by the
8 American Board of Dental Examiners, Inc., within five years prior
9 to the date of their application for a license under this section.

10 (d) Notwithstanding subdivision (b) of Section 1628, the board
11 is authorized to do either of the following:

12 (1) Approve an application for examination from, and to
13 examine an applicant who is enrolled in, but has not yet graduated
14 from, a reputable dental school approved by the board.

15 (2) Accept the results of an examination described in paragraph
16 (2) of subdivision (c) submitted by an applicant who was enrolled
17 in, but had not graduated from, a reputable dental school approved
18 by the board at the time the examination was administered.

19 In either case, the board shall require the dean of that school or
20 the dean's delegate to furnish satisfactory proof that the applicant
21 will graduate within one year of the date the examination was
22 administered or as provided in paragraph (1) of subdivision (c).

23 (e) The board may determine the testing format, as related to
24 patients, for the examination provided pursuant to subparagraph
25 (B) of paragraph (2) of subdivision (c).

26 (f) *This section shall remain in effect only until January 1, 2025,*
27 *and as of that date is repealed.*

28 *SEC. 13. Section 1632 is added to the Business and Professions*
29 *Code, to read:*

30 *1632. (a) The board shall require each applicant to*
31 *successfully complete the written examination of the National*
32 *Board Dental Examination of the Joint Commission on National*
33 *Dental Examinations.*

34 *(b) The board shall require each applicant to successfully*
35 *complete an examination in California law and ethics developed*
36 *and administered by the board. The board shall provide a separate*
37 *application for this examination. The board shall ensure that the*
38 *law and ethics examination reflects current law and regulations,*
39 *and ensure that the examinations are randomized. Applicants shall*
40 *submit this application and required fee to the board in order to*

1 take this examination. In addition to the aforementioned
2 application, the only other requirement for taking this examination
3 shall be certification from the dean of the qualifying dental school
4 or the dean's delegate attended by the applicant that the applicant
5 has graduated, or will graduate, or is expected to graduate.
6 Applicants who submit completed applications and certification
7 from the dean at least 15 days prior to a scheduled examination
8 shall be scheduled to take the examination. Successful results of
9 the examination shall, as established by board regulation, remain
10 valid for two years from the date that the applicant is notified of
11 having passed the examination.

12 (c) Except as otherwise provided in Section 1632.5, the board
13 shall require each applicant to have taken and received a passing
14 score on one of the following:

15 (1) (A) A portfolio examination of the applicant's competence
16 to enter the practice of dentistry. This examination shall be
17 conducted while the applicant is enrolled in a dental school
18 program at a board-approved school located in California. This
19 examination shall utilize uniform standards of clinical experiences
20 and competencies, as approved by the board pursuant to Section
21 1632.1. The applicant shall pass a final assessment of the submitted
22 portfolio at the end of the applicant's dental school program.
23 Before any portfolio assessment may be submitted to the board,
24 the applicant shall remit the required fee to the board to be
25 deposited into the State Dentistry Fund, and a letter of good
26 standing signed by the dean of the applicant's dental school or
27 the dean's delegate stating that the applicant has graduated or
28 will graduate with no pending ethical issues.

29 (B) The board shall provide a report on how many other states
30 have recognized licensure by portfolio examination at the time of
31 its sunset review pursuant to subdivision (d) of Section 1601.1.
32 The report shall be submitted in compliance with Section 9795 of
33 the Government Code.

34 (2) Either one of the following examinations:

35 (A) A clinical and written examination administered by the
36 Western Regional Examining Board within five years prior to the
37 date of their application for a license under this section.

38 (B) The clinical and written examination developed by the
39 American Board of Dental Examiners, Inc., within five years prior
40 to the date of their application for a license under this section.

1 (d) Notwithstanding subdivision (b) of Section 1628, the board
2 is authorized to do either of the following:

3 (1) Approve an application for examination from, and to
4 examine an applicant who is enrolled in, but has not yet graduated
5 from, a reputable dental school approved by the board.

6 (2) Accept the results of an examination described in paragraph
7 (2) of subdivision (c) submitted by an applicant who was enrolled
8 in, but had not graduated from, a reputable dental school approved
9 by the board at the time the examination was administered.

10 In either case, the board shall require the dean of that school
11 or the dean’s delegate to furnish satisfactory proof that the
12 applicant will graduate within one year of the date the examination
13 was administered or as provided in paragraph (1) of subdivision
14 (c).

15 (e) The board may determine the testing format, as related to
16 patients, for the examination provided pursuant to subparagraph
17 (B) of paragraph (2) of subdivision (c).

18 (f) This section shall become operative on January 1, 2025.

19 SEC. 14. Section 1632.56 is added to the Business and
20 Professions Code, immediately following Section 1632.55, to read:

21 1632.56. (a) Notwithstanding Section 1630, an applicant
22 receiving a passing score on an examination administered by the
23 Western Regional Examining Board from January 1, 2015, to
24 December 31, 2019, inclusive, shall satisfy the requirement of a
25 passing score pursuant to subdivision (c) of Section 1632 for a
26 license to practice dentistry in this state, so long as the passing
27 score is used for initial licensure within five years prior to the date
28 of their application for a license under Section 1632.

29 (b) This section shall remain in effect only until January 1, 2025,
30 and as of that date is repealed.

31 ~~SEC. 10.~~

32 SEC. 15. Section 1913 of the Business and Professions Code
33 is amended to read:

34 1913. Unless otherwise specified in this chapter, a registered
35 dental hygienist may perform any procedure or provide any service
36 within the scope of their practice in any setting under the
37 appropriate level of supervision required by this article, if the
38 registered dental hygienist has completed the appropriate education
39 and training required to perform the procedure or provide the
40 service.

1 ~~SEC. 11.~~

2 *SEC. 16.* Section 1917 of the Business and Professions Code
3 is amended to read:

4 1917. The dental hygiene board shall grant initial licensure as
5 a registered dental hygienist to a person who satisfies all of the
6 following requirements:

7 (a) Completion of an educational program for registered dental
8 hygienists, approved by the dental hygiene board, accredited by
9 the Commission on Dental Accreditation, and conducted by a
10 degree-granting, postsecondary institution.

11 (b) Within the preceding three years, satisfactory completion
12 of the dental hygiene examination given by the Western Regional
13 Examining Board or any other clinical or dental hygiene
14 examination approved by the dental hygiene board.

15 (c) Satisfactory completion of the National Board Dental
16 Hygiene Examination.

17 (d) Satisfactory completion of the examination in California
18 law and ethics as prescribed by the dental hygiene board.

19 (e) Submission of a completed application form and all fees
20 required by the dental hygiene board.

21 (f) Satisfactory completion of dental hygiene board-approved
22 instruction in gingival soft-tissue curettage, nitrous oxide-oxygen
23 analgesia, and local anesthesia.

24 ~~SEC. 12.~~

25 *SEC. 17.* Section 1917.1 of the Business and Professions Code
26 is amended to read:

27 1917.1. (a) The dental hygiene board may grant a license as
28 a registered dental hygienist to an applicant who has not taken a
29 clinical examination before the dental hygiene board, if the
30 applicant submits all of the following to the dental hygiene board:

31 (1) A completed application form and all fees required by the
32 dental hygiene board.

33 (2) Proof of a current license as a registered dental hygienist
34 issued by another state that is not revoked, suspended, or otherwise
35 restricted.

36 (3) Proof that the applicant has been in clinical practice as a
37 registered dental hygienist or has been a full-time faculty member
38 in an accredited dental hygiene education program for a minimum
39 of 750 hours per year for at least five years immediately preceding
40 the date of application under this section. The clinical practice

1 requirement shall be deemed met if the applicant provides proof
2 of at least three years of clinical practice and commits to
3 completing the remaining two years of clinical practice by filing
4 with the dental hygiene board a copy of a pending contract to
5 practice dental hygiene in any of the following facilities:

6 (A) A primary care clinic licensed under subdivision (a) of
7 Section 1204 of the Health and Safety Code.

8 (B) A primary care clinic exempt from licensure pursuant to
9 subdivision (c) of Section 1206 of the Health and Safety Code.

10 (C) A clinic owned or operated by a public hospital or health
11 system.

12 (D) A clinic owned and operated by a hospital that maintains
13 the primary contract with a county government to fill the county's
14 role under Section 17000 of the Welfare and Institutions Code.

15 (4) Satisfactory performance on a California law and ethics
16 examination and any examination that may be required by the
17 dental hygiene board.

18 (5) Proof that the applicant has not been subject to disciplinary
19 action by any state in which the applicant is or has been previously
20 issued any professional or vocational license. If the applicant has
21 been subject to disciplinary action, the dental hygiene board shall
22 review that action to determine if it warrants refusal to issue a
23 license to the applicant.

24 (6) Proof of graduation from a school of dental hygiene
25 accredited by the Commission on Dental Accreditation.

26 (7) Proof of satisfactory completion of the National Board
27 Dental Hygiene Examination and of a state clinical examination,
28 regional clinical licensure examination, or any other clinical dental
29 hygiene examination approved by the dental hygiene board.

30 (8) Proof that the applicant has not failed the state clinical
31 examination, the examination given by the Western Regional
32 Examining Board, or any other clinical dental hygiene examination
33 approved by the dental hygiene board for licensure to practice
34 dental hygiene under this chapter more than once or once within
35 five years prior to the date of application for a license under this
36 section.

37 (9) Documentation of completion of a minimum of 25 units of
38 continuing education earned in the two years preceding application,
39 including completion of any continuing education requirements

1 imposed by the dental hygiene board on registered dental hygienists
2 licensed in this state at the time of application.

3 (10) Any other information as specified by the dental hygiene
4 board to the extent that it is required of applicants for licensure by
5 examination under this article.

6 (b) The dental hygiene board may periodically request
7 verification of compliance with the requirements of paragraph (3)
8 of subdivision (a) and may revoke the license upon a finding that
9 the employment requirement or any other requirement of paragraph
10 (3) of subdivision (a) has not been met.

11 (c) The dental hygiene board shall provide in the application
12 packet to each out-of-state dental hygienist pursuant to this section
13 the following information:

14 (1) The location of dental manpower shortage areas in the state.

15 (2) Any nonprofit clinics, public hospitals, and accredited dental
16 hygiene education programs seeking to contract with licensees for
17 dental hygiene service delivery or training purposes.

18 ~~SEC. 13.~~

19 *SEC. 18.* Section 1922 of the Business and Professions Code
20 is amended to read:

21 1922. The dental hygiene board shall license as a registered
22 dental hygienist in alternative practice a person who demonstrates
23 satisfactory performance on an examination in California law and
24 ethics required by the dental hygiene board and who completes an
25 application form and pays all application fees required by the dental
26 hygiene board and meets either of the following requirements:

27 (a) Holds a current California license as a registered dental
28 hygienist and meets the following requirements:

29 (1) Has been engaged in the practice of dental hygiene, as
30 defined in Section 1908, as a registered dental hygienist in any
31 setting, including, but not limited to, educational settings and public
32 health settings, for a minimum of 2,000 hours during the
33 immediately preceding 36 months.

34 (2) Has successfully completed a bachelor's degree or its
35 equivalent, recognized as a minimum of 120 semester credit hours
36 or 180 quarter credit hours in postsecondary education, from a
37 college or institution of higher education that is accredited by a
38 national or regional accrediting agency recognized by the United
39 States Department of Education, and a minimum of 150 hours of
40 additional educational requirements, as prescribed by the dental

1 hygiene board by regulation, that are consistent with good dental
2 and dental hygiene practice, including, but not necessarily limited
3 to, dental hygiene technique and theory including gerontology and
4 medical emergencies, and business administration and practice
5 management.

6 (b) Has received a letter of acceptance into the employment
7 utilization phase of the Health Workforce Pilot Project No. 155
8 established by the Office of Statewide Health Planning and
9 Development pursuant to Article 1 (commencing with Section
10 128125) of Chapter 3 of Part 3 of Division 107 of the Health and
11 Safety Code.

12 ~~SEC. 14.~~

13 *SEC. 19.* Section 2065 of the Business and Professions Code
14 is amended to read:

15 2065. (a) Unless otherwise provided by law, no postgraduate
16 trainee, intern, resident, postdoctoral fellow, or instructor may
17 engage in the practice of medicine, or receive compensation
18 therefor, or offer to engage in the practice of medicine unless they
19 hold a valid, unrevoked, and unsuspended physician's and
20 surgeon's certificate issued by the board. However, a graduate of
21 an approved medical school may engage in the practice of medicine
22 whenever and wherever required as a part of a postgraduate training
23 program under the following conditions:

24 (1) The medical school graduate has taken and passed the
25 board-approved medical licensing examinations required to qualify
26 the applicant to participate in an approved postgraduate training
27 program.

28 (2) If the medical school graduate graduated from a foreign
29 medical school approved by the board pursuant to Section 2084,
30 the Educational Commission for Foreign Medical Graduates
31 (ECFMG) has submitted an official ECFMG Certification Status
32 Report directly to the board confirming the graduate is ECFMG
33 certified.

34 (3) The medical school graduate is enrolled in a postgraduate
35 training program approved by the board.

36 (4) The board-approved postgraduate training program has
37 submitted the required board-approved form to the board
38 documenting the medical school graduate is enrolled in an
39 approved postgraduate training program.

1 (5) The medical school graduate obtains a physician's and
2 surgeon's postgraduate training license in accordance with Section
3 2064.5.

4 (b) A medical school graduate enrolled in an approved first-year
5 postgraduate training program in accordance with this section may
6 engage in the practice of medicine whenever and wherever required
7 as a part of the training program, and may receive compensation
8 for that practice.

9 (c) A graduate who has completed the first year of postgraduate
10 training may, in an approved residency or fellowship, engage in
11 the practice of medicine whenever and wherever required as part
12 of that residency or fellowship, and may receive compensation for
13 that practice. The resident or fellow shall qualify for, take, and
14 pass the next succeeding written examination for licensure. If the
15 resident or fellow fails to receive a license to practice medicine
16 under this chapter within 27 months from the commencement of
17 the residency or fellowship, except as otherwise allowed under
18 subdivision (g) or (h), or if the board denies their application for
19 licensure, all privileges and exemptions under this section shall
20 automatically cease.

21 (d) All approved postgraduate training the medical school
22 graduate has successfully completed in the United States or Canada
23 shall count toward the 39-month license exemption, except as
24 otherwise allowed under subdivision (h).

25 (e) A medical school graduate from a medical school approved
26 by the board shall have successfully completed a minimum of 36
27 months of approved postgraduate training, which includes
28 successful progression through 24 months in the same program,
29 to be eligible for a California physician's and surgeon's certificate.

30 (f) The program director for an approved postgraduate training
31 program in California shall report to the board, on a form approved
32 by the board, and provide any supporting documents as required
33 by the board, the following actions within 30 days of the action:

34 (1) A postgraduate trainee is notified that they have received
35 partial or no credit for a period of postgraduate training, and their
36 postgraduate training period is extended.

37 (2) A postgraduate trainee takes a leave of absence or any break
38 from their postgraduate training, and they are notified that their
39 postgraduate training period is extended.

1 (3) A postgraduate trainee is terminated from the postgraduate
2 training program.

3 (4) A postgraduate trainee resigns, dies, or otherwise leaves the
4 postgraduate training program.

5 (5) A postgraduate trainee has completed a one-year contract
6 approved by the postgraduate training program.

7 (g) Upon review of supporting documentation, the board, in its
8 discretion, may grant an extension beyond 39 months to a
9 postgraduate training licensee to successfully complete the 36
10 months of required approved postgraduate training.

11 (h) An applicant for a physician's and surgeon's license who
12 has successfully completed 36 months of approved postgraduate
13 training in another state or in Canada and who is accepted into an
14 approved postgraduate training program in California shall obtain
15 their physician's and surgeon's license within 90 days after
16 beginning that postgraduate training program or all privileges and
17 exemptions under this section shall automatically cease.

18 (i) This section shall become operative on January 1, 2020.

19 ~~SEC. 15.~~

20 *SEC. 20.* Section 2113 of the Business and Professions Code
21 is amended to read:

22 2113. (a) Any person who does not immediately qualify for
23 a physician's and surgeon's certificate under this chapter and who
24 is offered by the dean of an approved medical school in this state
25 a full-time faculty position may, after application to and approval
26 by the board, be granted a certificate of registration to engage in
27 the practice of medicine only to the extent that the practice is
28 incident to and a necessary part of their duties as approved by the
29 board in connection with the faculty position. A certificate of
30 registration does not authorize a registrant to admit patients to a
31 nursing or a skilled or assisted living facility unless that facility is
32 formally affiliated with the sponsoring medical school. A clinical
33 fellowship shall not be submitted as a faculty service appointment.

34 (b) Application for a certificate of registration shall be made on
35 a form prescribed by the board and shall be accompanied by a
36 registration fee fixed by the board in an amount necessary to
37 recover the actual application processing costs of the program. To
38 qualify for the certificate, an applicant shall submit all of the
39 following:

1 (1) If the applicant is a graduate of a medical school other than
2 in the United States or Canada, documentary evidence satisfactory
3 to the board that they have been licensed to practice medicine and
4 surgery for not less than four years in another state or country
5 whose requirements for licensure are satisfactory to the board, or
6 has been engaged in the practice of medicine in the United States
7 for at least four years in approved facilities, or has completed a
8 combination of that licensure and training.

9 (2) If the applicant is a graduate of a medical school in the
10 United States or Canada, documentary evidence that the medical
11 school is approved by the board.

12 (3) Written certification by the head of the department in which
13 the applicant is to be appointed of all of the following:

14 (A) The applicant will be under their direction.

15 (B) The applicant will not be permitted to practice medicine
16 unless incident to and a necessary part of their duties as approved
17 by the board in subdivision (a).

18 (C) The applicant will be accountable to the medical school's
19 department chair or division chief for the specialty in which the
20 applicant will practice.

21 (D) The applicant will be proctored in the same manner as other
22 new faculty members, including, as appropriate, review by the
23 medical staff of the school's medical center.

24 (E) The applicant will not be appointed to a supervisory position
25 at the level of a medical school department chair or division chief.

26 (4) Demonstration by the dean of the medical school that the
27 applicant has the requisite qualifications to assume the position to
28 which they are to be appointed and that shall include a written
29 statement of the recruitment procedures followed by the medical
30 school before offering the faculty position to the applicant.

31 (c) A certificate of registration shall be issued only for a faculty
32 position at one approved medical school, and no person shall be
33 issued more than one certificate of registration for the same period
34 of time.

35 (d) (1) A certificate of registration is valid for one year from
36 its date of issuance and may be renewed twice.

37 A request for renewal shall be submitted on a form prescribed
38 by the board and shall be accompanied by a renewal fee fixed by
39 the board in an amount necessary to recover the actual application
40 processing costs of the program.

1 (2) The dean of the medical school may request renewal of the
2 registration by submitting a plan at the beginning of the third year
3 of the registrant's appointment demonstrating the registrant's
4 continued progress toward licensure and, if the registrant is a
5 graduate of a medical school other than in the United States or
6 Canada, that the registrant has been issued a certificate by the
7 Educational Commission for Foreign Medical Graduates. The
8 board may, in its discretion, extend the registration for a two-year
9 period to facilitate the registrant's completion of the licensure
10 process.

11 (e) If the registrant is a graduate of a medical school other than
12 in the United States or Canada, they shall meet the requirements
13 of Section 2065 or 2135, as appropriate, in order to obtain a
14 physician's and surgeon's certificate. Notwithstanding any other
15 provision of law, the board may accept clinical practice in an
16 appointment pursuant to this section as qualifying time to meet
17 the postgraduate training requirements in Section 2065, and, in its
18 discretion, waive the examination and the Educational Commission
19 for Foreign Medical Graduates certification requirements specified
20 in paragraph (3) of subdivision (a) of Section 2065 in the event
21 the registrant applies for a physician's and surgeon's certificate.
22 As a condition to waiving any examination or the Educational
23 Commission for Foreign Medical Graduates certification
24 requirement, the board in its discretion, may require an applicant
25 to pass a clinical competency examination approved by the board.
26 The board shall not waive any examination for an applicant who
27 has not completed at least one year in the faculty position.

28 (f) Except to the extent authorized by this section, the registrant
29 shall not engage in the practice of medicine, bill individually for
30 medical services provided by the registrant, or receive
31 compensation therefor, unless they are issued a physician's and
32 surgeon's certificate.

33 (g) When providing clinical services, the registrant shall wear
34 a visible name tag containing the title "visiting professor" or
35 "visiting faculty member," as appropriate, and the institution at
36 which the services are provided shall obtain a signed statement
37 from each patient to whom the registrant provides services
38 acknowledging that the patient understands that the services are
39 provided by a person who does not hold a physician's and

1 surgeon's certificate but who is qualified to participate in a special
2 program as a visiting professor or faculty member.

3 (h) The board shall notify both the registrant and the dean of
4 the medical school of a complaint made about the registrant. The
5 board may terminate a registration for any act that would be
6 grounds for discipline if done by a licensee. The board shall provide
7 both the registrant and the dean of the medical school with written
8 notice of the termination and the basis for that termination. The
9 registrant may, within 30 days after the date of the notice of
10 termination, file a written appeal to the board. The appeal shall
11 include any documentation the registrant wishes to present to the
12 board.

13 (i) This section shall become operative on January 1, 2020.

14 ~~SEC. 16:~~

15 *SEC. 21.* Section 2135.5 of the Business and Professions Code
16 is amended to read:

17 2135.5. Upon review and recommendation, the board may
18 determine that an applicant for a physician's and surgeon's
19 certificate has satisfied the medical education requirements of
20 Sections 2084 and 2135 and the examination requirements of
21 Section 2170 if the applicant meets all of the following criteria:

22 (a) They hold an unlimited and unrestricted license as a
23 physician and surgeon in another state and has held that license
24 continuously for a minimum of four years prior to the date of
25 application.

26 (b) They meet the postgraduate training requirements in Section
27 2096 and are certified by a specialty board that is a member board
28 of the American Board of Medical Specialties.

29 (c) They are not subject to denial of licensure under Division
30 1.5 (commencing with Section 475) or Article 12 (commencing
31 with Section 2220).

32 (d) They have not been the subject of a disciplinary action by
33 a medical licensing authority or of an adverse judgment or
34 settlement resulting from the practice of medicine that, as
35 determined by the board, constitutes a pattern of negligence or
36 incompetence.

37 (e) This section shall become operative on January 1, 2020.

38 ~~SEC. 17:~~

39 *SEC. 22.* Section 2460 of the Business and Professions Code
40 is amended to read:

1 2460. (a) There is created in the Department of Consumer
2 Affairs the California Board of Podiatric Medicine. Commencing
3 July 1, 2019, the California Board of Podiatric Medicine is renamed
4 the Podiatric Medical Board of California. Any reference in any
5 provision of law to the California Board of Podiatric Medicine
6 shall, commencing July 1, 2019, be deemed to refer to the Podiatric
7 Medical Board of California.

8 (b) This section shall remain in effect only until January 1, 2022,
9 and as of that date is repealed. Notwithstanding any other law, the
10 repeal of this section renders the California Board of Podiatric
11 Medicine subject to review by the appropriate policy committees
12 of the Legislature.

13 (c) The amendments made by Chapter 775 of the Statutes of
14 2017 relating to podiatrists shall not be construed to change any
15 rights or privileges held by podiatrists prior to the enactment of
16 that act.

17 *SEC. 23. Section 2531 of the Business and Professions Code*
18 *is amended to read:*

19 2531. (a) There is in the Department of Consumer Affairs the
20 Speech-Language Pathology and Audiology and Hearing Aid
21 Dispensers Board in which the enforcement and administration of
22 this chapter are vested. The Speech-Language Pathology and
23 Audiology and Hearing Aid Dispensers Board shall consist of nine
24 members, three of whom shall be public members.

25 (b) This section shall remain in effect only until January 1, ~~2022,~~
26 ~~2023,~~ and as of that date is repealed.

27 (c) Notwithstanding any other law, the repeal of this section
28 renders the board subject to review by the appropriate policy
29 committees of the Legislature.

30 *SEC. 24. Section 2531.75 of the Business and Professions Code*
31 *is amended to read:*

32 2531.75. (a) The board may appoint a person exempt from
33 civil service who shall be designated as an executive officer and
34 who shall exercise the powers and perform the duties delegated
35 by the board and vested in ~~him or her~~ *them* by this chapter.

36 (b) This section shall remain in effect only until January 1, ~~2022,~~
37 ~~2023,~~ and as of that date is repealed.

38 *SEC. 25. Section 2570.19 of the Business and Professions Code*
39 *is amended to read:*

1 2570.19. (a) There is hereby created a California Board of
2 Occupational Therapy, hereafter referred to as the board. The board
3 shall enforce and administer this chapter.

4 (b) The members of the board shall consist of the following:

5 (1) Three occupational therapists who shall have practiced
6 occupational therapy for five years.

7 (2) One occupational therapy assistant who shall have assisted
8 in the practice of occupational therapy for five years.

9 (3) Three public members who shall not be licentiates of the
10 board, of any other board under this division, or of any board
11 referred to in Section 1000 or 3600.

12 (c) The Governor shall appoint the three occupational therapists
13 and one occupational therapy assistant to be members of the board.
14 The Governor, the Senate Committee on Rules, and the Speaker
15 of the Assembly shall each appoint a public member. Not more
16 than one member of the board shall be appointed from the full-time
17 faculty of any university, college, or other educational institution.

18 (d) All members shall be residents of California at the time of
19 their appointment. The occupational therapist and occupational
20 therapy assistant members shall have been engaged in rendering
21 occupational therapy services to the public, teaching, or research
22 in occupational therapy for at least five years preceding their
23 appointments.

24 (e) The public members may not be or have ever been
25 occupational therapists or occupational therapy assistants or in
26 training to become occupational therapists or occupational therapy
27 assistants. The public members may not be related to, or have a
28 household member who is, an occupational therapist or an
29 occupational therapy assistant, and may not have had, within two
30 years of the appointment, a substantial financial interest in a person
31 regulated by the board.

32 (f) The Governor shall appoint two board members for a term
33 of one year, two board members for a term of two years, and one
34 board member for a term of three years. Appointments made
35 thereafter shall be for four-year terms, but no person shall be
36 appointed to serve more than two consecutive terms. Terms shall
37 begin on the first day of the calendar year and end on the last day
38 of the calendar year or until successors are appointed, except for
39 the first appointed members who shall serve through the last
40 calendar day of the year in which they are appointed, before

1 commencing the terms prescribed by this section. Vacancies shall
2 be filled by appointment for the unexpired term. The board shall
3 annually elect one of its members as president.

4 (g) The board shall meet and hold at least one regular meeting
5 annually in the Cities of Sacramento, Los Angeles, and San
6 Francisco. The board may convene from time to time until its
7 business is concluded. Special meetings of the board may be held
8 at any time and place designated by the board.

9 (h) Notice of each meeting of the board shall be given in
10 accordance with the Bagley-Keene Open Meeting Act (Article 9
11 (commencing with Section 11120) of Chapter 1 of Part 1 of
12 Division 3 of Title 2 of the Government Code).

13 (i) Members of the board shall receive no compensation for
14 their services, but shall be entitled to reasonable travel and other
15 expenses incurred in the execution of their powers and duties in
16 accordance with Section 103.

17 (j) The appointing power shall have the power to remove any
18 member of the board from office for neglect of any duty imposed
19 by state law, for incompetency, or for unprofessional or
20 dishonorable conduct.

21 (k) This section shall remain in effect only until January 1, ~~2022,~~
22 ~~2023~~, and as of that date is repealed.

23 (l) Notwithstanding any other law, the repeal of this section
24 renders the board subject to review by the appropriate policy
25 committees of the Legislature.

26 *SEC. 26. Section 2602 of the Business and Professions Code*
27 *is amended to read:*

28 2602. (a) The Physical Therapy Board of California, hereafter
29 referred to as the board, shall enforce and administer this chapter.

30 (b) This section shall remain in effect only until January 1, ~~2022,~~
31 ~~2023~~, and as of that date is repealed.

32 (c) Notwithstanding any other law, the repeal of this section
33 renders the board subject to review by the appropriate policy
34 committees of the Legislature.

35 *SEC. 27. Section 2607.5 of the Business and Professions Code*
36 *is amended to read:*

37 2607.5. (a) The board may employ an executive officer exempt
38 from the provisions of the State Civil Service Act (Part 2
39 (commencing with Section 18500) of Division 5 of Title 2 of the
40 Government Code) and may also employ investigators, legal

1 counsel, physical therapist consultants, and other assistance as it
2 may deem necessary to carry out this chapter. The board may fix
3 the compensation to be paid for services and may incur other
4 expenses as it may deem necessary. Investigators employed by the
5 board shall be provided special training in investigating physical
6 therapy practice activities.

7 (b) The Attorney General shall act as legal counsel for the board
8 for any judicial and administrative proceedings and ~~his or her~~ *their*
9 services shall be a charge against it.

10 (c) This section shall remain in effect only until January 1, ~~2022,~~
11 ~~2023,~~ and as of that date is repealed.

12 ~~SEC. 18.~~

13 *SEC. 28.* Section 2841 of the Business and Professions Code
14 is amended to read:

15 2841. (a) There is in the Department of Consumer Affairs a
16 Board of Vocational Nursing and Psychiatric Technicians of the
17 State of California, which consists of 11 members.

18 (b) Within the meaning of this chapter, “board,” or “the board,”
19 refers to the Board of Vocational Nursing and Psychiatric
20 Technicians of the State of California.

21 (c) This section shall remain in effect only until January 1, 2022,
22 and as of that date is repealed.

23 ~~SEC. 19.~~

24 *SEC. 29.* Section 2847.1 of the Business and Professions Code
25 is amended to read:

26 2847.1. (a) The board shall select an executive officer who
27 shall perform duties as are delegated by the board and who shall
28 be responsible to it for the accomplishment of those duties. The
29 executive officer shall not be a member of the board.

30 (b) With the approval of the Director of Finance, the board shall
31 fix the salary of the executive officer.

32 (c) The executive officer shall be entitled to traveling and other
33 necessary expenses in the performance of their duties. The
34 executive officer shall make a statement, certified before a duly
35 authorized person, that the expenses have been actually incurred.

36 (d) Commencing January 1, 2018, the executive officer
37 appointed by the board pursuant to subdivision (a) is abolished.
38 Thereafter, until January 1, 2022, the executive officer shall be
39 appointed as set forth in Section 2847.3. Commencing January 1,

1 2022, the executive officer shall, again, be appointed by the board
2 as set forth in subdivision (a).

3 (e) This section shall remain in effect only until January 1, 2023,
4 and as of that date is repealed.

5 ~~SEC. 20.~~

6 *SEC. 30.* Section 2847.3 of the Business and Professions Code
7 is amended to read:

8 2847.3. (a) Commencing January 1, 2018, the executive officer
9 position established pursuant to subdivision (a) of Section 2847.1
10 is temporarily abolished. Commencing January 1, 2018, the
11 Governor shall appoint an executive officer who shall perform
12 duties as are delegated by the board and who shall be responsible
13 for the accomplishment of those duties. The executive officer shall
14 exercise all powers, discharge all responsibilities, and administer
15 and enforce all laws pursuant to this chapter and Chapter 10
16 (commencing with Section 4500) of Division 2 that are necessary
17 to perform the duties delegated by the board.

18 (b) The executive officer shall serve at the pleasure of the
19 Governor and the Governor shall fix the salary of the executive
20 officer. The executive officer shall not be a member of the board.

21 (c) The executive officer shall be entitled to traveling and other
22 necessary expenses in the performance of their duties.

23 (d) This section shall become operative on January 1, 2018, and
24 shall remain in effect only until January 1, 2022, and as of that
25 date is repealed.

26 ~~SEC. 21.~~

27 *SEC. 31.* Section 2920 of the Business and Professions Code
28 is amended to read:

29 2920. (a) The Board of Psychology shall enforce and
30 administer this chapter. The board shall consist of nine members,
31 four of whom shall be public members.

32 (b) This section shall remain in effect only until January 1, 2022,
33 and as of that date is repealed.

34 (c) Notwithstanding any other law, the repeal of this section
35 renders the board subject to review by the appropriate policy
36 committees of the Legislature.

37 ~~SEC. 22.~~

38 *SEC. 32.* Section 2933 of the Business and Professions Code
39 is amended to read:

1 2933. (a) Except as provided by Section 159.5, the board shall
2 employ and shall make available to the board within the limits of
3 the funds received by the board all personnel necessary to carry
4 out this chapter. The board may employ, exempt from the State
5 Civil Service Act, an executive officer to the Board of Psychology.
6 The board shall make all expenditures to carry out this chapter.
7 The board may accept contributions to effectuate the purposes of
8 this chapter.

9 (b) This section shall remain in effect only until January 1, 2022,
10 and as of that date is repealed.

11 ~~SEC. 23.~~

12 *SEC. 33.* Section 3504 of the Business and Professions Code
13 is amended to read:

14 3504. There is established a Physician Assistant Board within
15 the jurisdiction of the Medical Board of California. The board
16 consists of nine members. This section shall remain in effect only
17 until January 1, 2022, and as of that date is repealed.
18 Notwithstanding any other law, the repeal of this section renders
19 the board subject to review by the appropriate policy committees
20 of the Legislature.

21 ~~SEC. 24.~~

22 *SEC. 34.* Section 3512 of the Business and Professions Code
23 is amended to read:

24 3512. (a) Except as provided in Sections 159.5 and 2020, the
25 board shall employ within the limits of the Physician Assistant
26 Fund all personnel necessary to carry out this chapter including
27 an executive officer who shall be exempt from civil service. The
28 Medical Board of California and board shall make all necessary
29 expenditures to carry out this chapter from the funds established
30 by Section 3520. The board may accept contributions to effect the
31 purposes of this chapter.

32 (b) This section shall remain in effect only until January 1, 2022,
33 and as of that date is repealed.

34 *SEC. 35.* *Section 3686 of the Business and Professions Code*
35 *is amended to read:*

36 3686. This chapter shall remain in effect only until January 1,
37 ~~2022, 2023,~~ and as of that date is repealed.

38 *SEC. 36.* *Section 3710 of the Business and Professions Code*
39 *is amended to read:*

1 3710. (a) The Respiratory Care Board of California, hereafter
2 referred to as the board, shall enforce and administer this chapter.

3 (b) This section shall remain in effect only until January 1, ~~2022,~~
4 2023, and as of that date is repealed. Notwithstanding any other
5 law, the repeal of this section renders the board subject to review
6 by the appropriate policy committees of the Legislature.

7 *SEC. 37. Section 3716 of the Business and Professions Code*
8 *is amended to read:*

9 3716. (a) The board may employ an executive officer exempt
10 from civil service and, subject to the provisions of law relating to
11 civil service, clerical assistants and, except as provided in Section
12 159.5, other employees as it may deem necessary to carry out its
13 powers and duties.

14 (b) This section shall remain in effect only until January 1, ~~2022,~~
15 2023, and as of that date is repealed.

16 ~~SEC. 25.~~

17 *SEC. 38. Section 4001 of the Business and Professions Code*
18 *is amended to read:*

19 4001. (a) There is in the Department of Consumer Affairs a
20 California State Board of Pharmacy in which the administration
21 and enforcement of this chapter is vested. The board consists of
22 13 members.

23 (b) The Governor shall appoint seven competent pharmacists
24 who reside in different parts of the state to serve as members of
25 the board. The Governor shall appoint four public members, and
26 the Senate Committee on Rules and the Speaker of the Assembly
27 shall each appoint a public member who shall not be a licensee of
28 the board, any other board under this division, or any board referred
29 to in Section 1000 or 3600.

30 (c) At least five of the seven pharmacist appointees to the board
31 shall be pharmacists who are actively engaged in the practice of
32 pharmacy. Additionally, the membership of the board shall include
33 at least one pharmacist representative from each of the following
34 practice settings: an acute care hospital, an independent community
35 pharmacy, a chain community pharmacy, and a long-term health
36 care or skilled nursing facility. The pharmacist appointees shall
37 also include a pharmacist who is a member of a labor union that
38 represents pharmacists. For the purposes of this subdivision, a
39 “chain community pharmacy” means a chain of 75 or more stores
40 in California under the same ownership, and an “independent

1 community pharmacy” means a pharmacy owned by a person or
2 entity who owns no more than four pharmacies in California.

3 (d) Members of the board shall be appointed for a term of four
4 years. No person shall serve as a member of the board for more
5 than two consecutive terms. Each member shall hold office until
6 the appointment and qualification of their successor or until one
7 year shall have elapsed since the expiration of the term for which
8 the member was appointed, whichever first occurs. Vacancies
9 occurring shall be filled by appointment for the unexpired term.

10 (e) Each member of the board shall receive a per diem and
11 expenses as provided in Section 103.

12 (f) This section shall remain in effect only until January 1, 2022,
13 and as of that date is repealed. Notwithstanding any other law, the
14 repeal of this section renders the board subject to review by the
15 appropriate policy committees of the Legislature.

16 ~~SEC. 26.~~

17 *SEC. 39.* Section 4003 of the Business and Professions Code
18 is amended to read:

19 4003. (a) The board, with the approval of the director, may
20 appoint a person exempt from civil service who shall be designated
21 as an executive officer and who shall exercise the powers and
22 perform the duties delegated by the board and vested in them by
23 this chapter. The executive officer may or may not be a member
24 of the board as the board may determine.

25 (b) The executive officer shall receive the compensation as
26 established by the board with the approval of the Director of
27 Finance. The executive officer shall also be entitled to travel and
28 other expenses necessary in the performance of their duties.

29 (c) The executive officer shall maintain and update in a timely
30 fashion records containing the names, titles, qualifications, and
31 places of business of all persons subject to this chapter.

32 (d) The executive officer shall give receipts for all money
33 received by them and pay it to the department, taking its receipt
34 therefor. Besides the duties required by this chapter, the executive
35 officer shall perform other duties pertaining to the office as may
36 be required of them by the board.

37 (e) This section shall remain in effect only until January 1, 2022,
38 and as of that date is repealed.

1 ~~SEC. 27.~~

2 *SEC. 40.* Section 4501 of the Business and Professions Code
3 is amended to read:

4 4501. (a) “Board,” as used in this chapter, means the Board
5 of Vocational Nursing and Psychiatric Technicians of the State of
6 California.

7 (b) This section shall remain in effect only until January 1, 2022,
8 and as of that date is repealed.

9 ~~SEC. 28.~~

10 *SEC. 41.* Section 4503 of the Business and Professions Code
11 is amended to read:

12 4503. (a) The board shall administer and enforce this chapter.

13 (b) This section shall remain in effect only until January 1, 2022,
14 and as of that date is repealed.

15 ~~SEC. 29.~~

16 *SEC. 42.* Section 4604 of the Business and Professions Code
17 is amended to read:

18 4604. (a) In order to obtain certification as a massage therapist,
19 an applicant shall submit a written application and provide the
20 council with satisfactory evidence that the applicant meets all of
21 the following requirements:

22 (1) The applicant is 18 years of age or older.

23 (2) The applicant has successfully completed the curricula in
24 massage and related subjects totaling a minimum of 500 hours, or
25 the credit unit equivalent, that incorporates appropriate school
26 assessment of student knowledge and skills.

27 (A) Of the 500 hours, a minimum of 100 hours of instruction
28 shall address anatomy and physiology, contraindications, health
29 and hygiene, and business and ethics.

30 (B) All of the 500 hours shall be from approved schools. The
31 council shall accept the 500 hours if, at the time all of the hours
32 were completed, the school or schools were approved. The 500
33 hours may be completed at more than one approved school.
34 Notwithstanding any other law, pursuant to its policies and
35 procedures for approval of schools, the council shall accept hours
36 earned by an applicant for certification as a massage therapist if
37 those hours were completed before July 1, 2016, and were earned
38 from a school providing education in this state that was unapproved
39 by the council after July 1, 2016, based solely on the fact that the
40 National Certification Board for Therapeutic Massage and

1 Bodywork took denial or disciplinary action against the school.
2 For purposes of this section, “unapproved” means that the council
3 determined that it will not accept hours from a school toward
4 certification.

5 (3) The applicant has passed a massage and bodywork
6 competency assessment examination that meets generally
7 recognized psychometric principles and standards and that is
8 approved by the council. The successful completion of this
9 examination may have been accomplished before the date the
10 council is authorized by this chapter to begin issuing certificates.
11 This paragraph shall be inoperative commencing on January 1,
12 2019, and shall become operative on January 1, 2022.

13 (4) The applicant has successfully passed a background
14 investigation pursuant to Section 4606, and has not violated any
15 of the provisions of this chapter.

16 (5) All fees required by the council have been paid.

17 (6) The council may issue a certificate to an applicant who meets
18 the qualifications of this chapter if the applicant holds a current
19 and valid registration, certification, or license from any other state
20 whose licensure requirements meet or exceed those defined within
21 this chapter. If an applicant has received education at a school that
22 is not approved by the council, the council shall have the discretion
23 to give credit for comparable academic work completed by an
24 applicant in a program outside of California.

25 (b) A certificate issued pursuant to this chapter and any
26 identification card issued by the council shall be surrendered to
27 the council by any certificate holder whose certificate is suspended
28 or revoked.

29 ~~SEC. 30.~~

30 *SEC. 43.* Section 4621 of the Business and Professions Code
31 is amended to read:

32 4621. (a) This chapter shall remain in effect only until January
33 1, 2022, and as of that date is repealed.

34 (b) Notwithstanding any other law, the powers and duties of the
35 council shall be subject to review by the appropriate policy
36 committees of the Legislature.

37 ~~SEC. 31.~~

38 *SEC. 44.* Section 4800 of the Business and Professions Code
39 is amended to read:

1 4800. (a) There is in the Department of Consumer Affairs a
2 Veterinary Medical Board in which the administration of this
3 chapter is vested. The board consists of the following members:

- 4 (1) Four licensed veterinarians.
- 5 (2) One registered veterinary technician.
- 6 (3) Three public members.

7 (b) This section shall remain in effect only until January 1, 2022,
8 and as of that date is repealed.

9 (c) Notwithstanding any other law, the repeal of this section
10 renders the board subject to review by the appropriate policy
11 committees of the Legislature. However, the review of the board
12 shall be limited to those issues identified by the appropriate policy
13 committees of the Legislature and shall not involve the preparation
14 or submission of a sunset review document or evaluative
15 questionnaire.

16 ~~SEC. 32.~~

17 *SEC. 45.* Section 4804.5 of the Business and Professions Code
18 is amended to read:

19 4804.5. The board may appoint a person exempt from civil
20 service who shall be designated as an executive officer and who
21 shall exercise the powers and perform the duties delegated by the
22 board and vested in them by this chapter.

23 This section shall remain in effect only until January 1, 2022,
24 and as of that date is repealed.

25 ~~SEC. 33.~~

26 *SEC. 46.* Section 4990 of the Business and Professions Code
27 is amended to read:

28 4990. (a) There is in the Department of Consumer Affairs, a
29 Board of Behavioral Sciences that consists of the following
30 members:

- 31 (1) Two state licensed clinical social workers.
- 32 (2) One state licensed educational psychologist.
- 33 (3) Two state licensed marriage and family therapists.
- 34 (4) One state licensed professional clinical counselor.
- 35 (5) Seven public members.

36 (b) Each member, except the seven public members, shall have
37 at least two years of experience in their profession.

38 (c) Each member shall reside in the State of California.

39 (d) The Governor shall appoint five of the public members and
40 the six licensed members with the advice and consent of the Senate.

1 The Senate Committee on Rules and the Speaker of the Assembly
2 shall each appoint a public member.

3 (e) Each member of the board shall be appointed for a term of
4 four years. A member appointed by the Senate Committee on Rules
5 or the Speaker of the Assembly shall hold office until the
6 appointment and qualification of their successor or until one year
7 from the expiration date of the term for which they were appointed,
8 whichever first occurs. Pursuant to Section 1774 of the Government
9 Code, a member appointed by the Governor shall hold office until
10 the appointment and qualification of their successor or until 60
11 days from the expiration date of the term for which they were
12 appointed, whichever first occurs.

13 (f) A vacancy on the board shall be filled by appointment for
14 the unexpired term by the authority who appointed the member
15 whose membership was vacated.

16 (g) Not later than the first of June of each calendar year, the
17 board shall elect a chairperson and a vice chairperson from its
18 membership.

19 (h) Each member of the board shall receive a per diem and
20 reimbursement of expenses as provided in Section 103.

21 (i) This section shall remain in effect only until January 1, 2022,
22 and as of that date is repealed.

23 (j) Notwithstanding any other provision of law, the repeal of
24 this section renders the board subject to review by the appropriate
25 policy committees of the Legislature.

26 ~~SEC. 34.~~

27 *SEC. 47.* Section 4990.04 of the Business and Professions Code
28 is amended to read:

29 4990.04. (a) The board shall appoint an executive officer. This
30 position is designated as a confidential position and is exempt from
31 civil service under subdivision (e) of Section 4 of Article VII of
32 the California Constitution.

33 (b) The executive officer serves at the pleasure of the board.

34 (c) The executive officer shall exercise the powers and perform
35 the duties delegated by the board and vested in them by this
36 chapter.

37 (d) With the approval of the director, the board shall fix the
38 salary of the executive officer.

39 (e) The chairperson and executive officer may call meetings of
40 the board and any duly appointed committee at a specified time

1 and place. For purposes of this section, “call meetings” means
2 setting the agenda, time, date, or place for any meeting of the board
3 or any committee.

4 (f) This section shall remain in effect only until January 1, 2022,
5 and as of that date is repealed.

6 ~~SEC. 35.~~

7 *SEC. 48.* Section 5600.4 of the Business and Professions Code
8 is amended to read:

9 5600.4. (a) The board shall issue, upon application and
10 payment of the fee fixed by this chapter, a retired license to an
11 architect who holds a license that is current and active or capable
12 of being renewed pursuant to Section 5600.2 and whose license
13 is not suspended, revoked, or otherwise punitively restricted by
14 the board or subject to disciplinary action under this chapter.

15 (b) The holder of a retired license issued pursuant to this section
16 shall not engage in any activity for which an active architect’s
17 license is required. An architect holding a retired license shall be
18 permitted to use the title “architect retired” or “retired architect.”

19 (c) The holder of a retired license shall not be required to renew
20 that license.

21 (d) In order for the holder of a retired license issued pursuant
22 to this section to restore their license to active status, the holder
23 of a retired license shall comply with Section 5600.2 or 5600.3,
24 as applicable.

25 ~~SEC. 36.~~

26 *SEC. 49.* Section 5650.5 is added to the Business and
27 Professions Code, to read:

28 5650.5. (a) Pursuant to Section 144, the board has the authority
29 to obtain and review criminal offender record information. The
30 information obtained as a result of the fingerprinting shall be used
31 in accordance with Section 11105 of the Penal Code to determine
32 whether the applicant is subject to denial of license pursuant to
33 Division 1.5 (commencing with Section 475) or Section 5660,
34 5675, or 5676.

35 (b) As a condition of application for a license, each applicant
36 shall furnish to the Department of Justice a full set of fingerprints
37 for the purpose of conducting a criminal history record check and
38 to undergo a state- and federal- level criminal offender record
39 information search conducted through the Department of Justice.

1 (c) The board shall request from the Department of Justice
2 subsequent arrest notification service, pursuant to subdivision (p)
3 of Section 11105 of the Penal Code.

4 (d) The applicant shall pay the reasonable regulatory costs for
5 furnishing the fingerprints and conducting the searches.

6 (e) The applicant shall certify, under penalty of perjury, when
7 applying for a license whether the applicant’s fingerprints have
8 been furnished to the Department of Justice in compliance with
9 this section.

10 (f) Failure to comply with the requirements of this section
11 renders the application for a license incomplete, and the application
12 shall not be considered until the applicant demonstrates compliance
13 with all requirements of this section.

14 (g) Notwithstanding any other law, the results of any criminal
15 offender record information request by either state or federal law
16 enforcement authorities shall not be released by the board except
17 in accordance with state and federal requirements.

18 (h) As used in this section, the term “applicant” shall be limited
19 to an initial applicant who has never been registered or licensed
20 by the board or to an applicant for a new licensure or registration
21 category.

22 (i) As a condition of petitioning the board for reinstatement of
23 a revoked or surrendered license, an applicant shall comply with
24 subdivision (a).

25 *SEC. 50. Section 5810 of the Business and Professions Code*
26 *is amended to read:*

27 5810. (a) This chapter shall be subject to review by the
28 appropriate policy committees of the Legislature.

29 (b) This chapter shall remain in effect only until January 1,
30 ~~2022~~, 2023, and as of that date is repealed.

31 ~~SEC. 37.~~

32 *SEC. 51. Section 7000 of the Business and Professions Code*
33 *is amended to read:*

34 7000. This chapter constitutes, and may be cited as, the
35 Contractors State License Law.

36 ~~SEC. 38.~~

37 *SEC. 52. Section 7000.5 of the Business and Professions Code*
38 *is amended to read:*

39 7000.5. (a) There is in the Department of Consumer Affairs
40 a Contractors State License Board, which consists of 15 members.

1 (b) Notwithstanding any other provision of law, the repeal of
2 this section renders the board subject to review by the appropriate
3 policy committees of the Legislature.

4 (c) This section shall remain in effect only until January 1, 2024,
5 and as of that date is repealed.

6 ~~SEC. 39.~~

7 *SEC. 53.* Section 7000.6 of the Business and Professions Code
8 is amended to read:

9 7000.6. Protection of the public shall be the highest priority
10 for the Contractors State License Board in exercising its licensing,
11 regulatory, and disciplinary functions. Whenever the protection
12 of the public is inconsistent with other interests sought to be
13 promoted, the protection of the public shall be paramount.

14 ~~SEC. 40.~~

15 *SEC. 54.* Section 7011.4 of the Business and Professions Code
16 is amended to read:

17 7011.4. (a) Notwithstanding Section 7011, there is in the
18 Contractors State License Board, a separate enforcement division
19 that shall rigorously enforce this chapter prohibiting all forms of
20 unlicensed activity and shall enforce the obligation to secure the
21 payment of valid and current workers' compensation insurance in
22 accordance with Section 3700.5 of the Labor Code.

23 (b) Persons employed as enforcement representatives of the
24 Contractors State License Board and designated by the Director
25 of Consumer Affairs shall have the authority to issue a written
26 notice to appear in court pursuant to Chapter 5C (commencing
27 with Section 853.5) of Title 3 of Part 2 of the Penal Code. An
28 employee so designated is not a peace officer and is not entitled
29 to safety member retirement benefits as a result of that designation.
30 They do not have the power of arrest.

31 (c) When participating in the activities of the Joint Enforcement
32 Strike Force on the Underground Economy pursuant to Section
33 329 of the Unemployment Insurance Code, the enforcement
34 division shall have free access to all places of labor.

35 ~~SEC. 41.~~

36 *SEC. 55.* Section 7011.5 of the Business and Professions Code
37 is amended to read:

38 7011.5. Persons employed as investigators of the Special
39 Investigations Unit of the Contractors State License Board and
40 designated by the Director of Consumer Affairs have the authority

1 of peace officers while engaged in exercising the powers granted
2 or performing the duties imposed upon them in investigating the
3 laws administered by the Contractors State License Board or
4 commencing directly or indirectly any criminal prosecution arising
5 from any investigation conducted under these laws. All persons
6 herein referred to shall be deemed to be acting within the scope
7 of employment with respect to all acts and matters in this section
8 set forth.

9 ~~SEC. 42.~~

10 *SEC. 56.* Section 7011.8 of the Business and Professions Code
11 is amended to read:

12 7011.8. (a) Any person subject to licensure under this chapter
13 who reports to, or causes a complaint to be filed with, the
14 Contractors State License Board that a person licensed by that
15 entity has engaged in professional misconduct, knowing the report
16 or complaint to be false, may be issued a citation by the registrar.

17 (b) The board may notify the appropriate district attorney or
18 city attorney that a person subject to licensure under this chapter
19 has made or filed what the entity believes to be a false report or
20 complaint against a licensee.

21 ~~SEC. 43.~~

22 *SEC. 57.* Section 7015 of the Business and Professions Code
23 is amended to read:

24 7015. The board shall adopt a seal for its own use. The seal
25 shall have the words “Contractors State License Board, State of
26 California, Department of Consumer Affairs,” and the care and
27 custody thereof shall be in the hands of the registrar.

28 ~~SEC. 44.~~

29 *SEC. 58.* Section 7017.3 of the Business and Professions Code
30 is amended to read:

31 7017.3. The Contractors State License Board shall report
32 annually to the Legislature, not later than October 1 of each year,
33 the following statistical information for the prior fiscal year. The
34 following data shall be reported on complaints filed with the board
35 against licensed contractors, registered home improvement
36 salespersons, and unlicensed persons acting as licensees or
37 registrants:

38 (a) The number of complaints received by the board categorized
39 by source, such as public, trade, profession, government agency,

1 or board-initiated, and by type of complaint, such as licensee or
2 nonlicensee.

3 (b) The number of complaints closed prior to referral for field
4 investigation, categorized by the reason for the closure, such as
5 settled, referred for mandatory arbitration, or referred for voluntary
6 arbitration.

7 (c) The number of complaints referred for field investigation
8 categorized by the type of complaint, such as licensee or
9 nonlicensee.

10 (d) The number of complaints closed after referral for field
11 investigation categorized by the reason for the closure, such as
12 settled, referred for mandatory arbitration, or referred for voluntary
13 arbitration.

14 (e) For the board's Intake/Mediation Center and the board's
15 Investigation Center closures, respectively, the total number of
16 complaints closed prior to a field investigation per consumer
17 services representative, and the total number of complaints closed
18 after referral for a field investigation per enforcement
19 representative. Additionally, the board shall report the total number
20 of complaints closed by other board staff during the year.

21 (f) The number of complaints pending at the end of the fiscal
22 year grouped in 90-day increments, and the percentage of total
23 complaints pending, represented by the number of complaints in
24 each grouping.

25 (g) The number of citations issued to licensees categorized by
26 the type of citation such as order of correction only or order of
27 correction and fine, and the number of citations issued to licensees
28 that were vacated or withdrawn.

29 (h) The number of citations issued to nonlicensees and the
30 number of these citations that were vacated or withdrawn.

31 (i) The number of complaints referred to a local prosecutor for
32 criminal investigation or prosecution, the number of complaints
33 referred to the Attorney General for the filing of an accusation,
34 and the number of complaints referred to both a local prosecutor
35 and the Attorney General, categorized by type of complaint, such
36 as licensee and nonlicensee.

37 (j) Actions taken by the board, including, but not limited to, the
38 following:

39 (1) The number of disciplinary actions categorized by type, such
40 as revocations or suspensions, categorized by whether the

1 disciplinary action resulted from an accusation, failure to comply
2 with a citation, or failure to comply with an arbitration award.

3 (2) The number of accusations dismissed or withdrawn.

4 (k) For subdivisions (g) and (j), the number of cases containing
5 violations of Sections 7121 and 7121.5, and paragraph (5) of
6 subdivision (a) of Section 7159.5, categorized by section.

7 (l) The number of interim suspension orders sought, the number
8 of interim suspension orders granted, the number of temporary
9 restraining orders sought, and the number of temporary restraining
10 orders granted.

11 (m) The amount of cost recovery ordered and the amount
12 collected.

13 (n) Case aging data, including data for each major stage of the
14 enforcement process, including the following:

15 (1) The average number of days from the filing of a complaint
16 to its closure by the board's Intake/Mediation Center prior to the
17 referral for an investigation categorized by the type of complaint,
18 such as licensee or nonlicensee.

19 (2) The average number of days from the referral of a complaint
20 for an investigation to its closure by the Investigation Center
21 categorized by the type of complaint, such as licensee or
22 nonlicensee.

23 (3) The average number of days from the filing of a complaint
24 to the referral of the completed investigation to the Attorney
25 General.

26 (4) The average number of days from the referral of a completed
27 investigation to the Attorney General to the filing of an accusation
28 by the Attorney General.

29 (5) The average number of days from the filing of an accusation
30 to the first hearing date or date of a stipulated settlement.

31 (6) The average number of days from the receipt of the
32 Administrative Law Judge's proposed decision to the registrar's
33 final decision.

34 ~~SEC. 45.~~

35 *SEC. 59.* Section 7028.7 of the Business and Professions Code
36 is amended to read:

37 7028.7. (a) If upon inspection or investigation, either upon
38 complaint or otherwise, the registrar has probable cause to believe
39 that a person is acting in the capacity of or engaging in the business
40 of a contractor or salesperson within this state without having a

1 license or registration in good standing to so act or engage, and
2 the person is not otherwise exempted from this chapter, the registrar
3 shall issue a citation to that person.

4 (b) Within 72 hours of receiving notice that a public entity is
5 intending to award, or has awarded, a contract to an unlicensed
6 contractor, the registrar shall give written notice to the public entity
7 that a citation may be issued if a contract is awarded to an
8 unlicensed contractor. If after receiving the written notice from
9 the registrar that the public entity has awarded or awards the
10 contract to an unlicensed contractor, the registrar may issue a
11 citation to the responsible officer or employee of the public entity
12 as specified in Section 7028.15.

13 (c) Each citation shall be in writing and shall describe with
14 particularity the basis of the citation. Notwithstanding Sections
15 125.9 and 148, each citation shall contain an order of abatement
16 and an assessment of a civil penalty in an amount not less than
17 two hundred dollars (\$200) nor more than fifteen thousand dollars
18 (\$15,000).

19 (d) With the approval of the Contractors State License Board,
20 the registrar shall prescribe procedures for the issuance of a citation
21 under this section. The board shall adopt regulations covering the
22 assessment of a civil penalty that shall give due consideration to
23 the gravity of the violation, and any history of previous violations.

24 (e) The sanctions authorized under this section shall be separate
25 from, and in addition to, all other remedies either civil or criminal.

26 ~~SEC. 46.~~

27 *SEC. 60.* Section 7030 of the Business and Professions Code
28 is amended to read:

29 7030. (a) Except for contractors writing home improvement
30 contracts pursuant to Section 7151.2 and contractors writing service
31 and repair contracts pursuant to Section 7159.10, every person
32 licensed pursuant to this chapter shall include the following
33 statement in at least 10-point type on all written contracts with
34 respect to which the person is a prime contractor:

35
36 “Contractors are required by law to be licensed and regulated
37 by the Contractors State License Board which has jurisdiction to
38 investigate complaints against contractors if a complaint regarding
39 a patent act or omission is filed within four years of the date of the
40 alleged violation. A complaint regarding a latent act or omission

1 pertaining to structural defects must be filed within 10 years of
2 the date of the alleged violation. Any questions concerning a
3 contractor may be referred to the Registrar, Contractors State
4 License Board, P.O. Box 26000, Sacramento, CA 95826.”

5
6 (b) Every person licensed pursuant to this chapter shall include
7 the following statement in at least 12-point type in all home
8 improvement contracts written pursuant to Section 7151.2 and
9 service and repair contracts written pursuant to Section 7159.10:

10
11 “Information about the Contractors State License Board (CSLB):
12 CSLB is the state consumer protection agency that licenses and
13 regulates construction contractors.

14 Contact CSLB for information about the licensed contractor you
15 are considering, including information about disclosable
16 complaints, disciplinary actions and civil judgments that are
17 reported to CSLB.

18 Use only licensed contractors. If you file a complaint against a
19 licensed contractor within the legal deadline (usually four years),
20 CSLB has authority to investigate the complaint. If you use an
21 unlicensed contractor, CSLB may not be able to help you resolve
22 your complaint. Your only remedy may be in civil court, and you
23 may be liable for damages arising out of any injuries to the
24 unlicensed contractor or the unlicensed contractor’s employees.

25 For more information:

26 Visit CSLB’s internet website at www.cslb.ca.gov

27 Call CSLB at 800-321-CSLB (2752)

28 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

29
30 (c) Failure to comply with the notice requirements set forth in
31 subdivision (a) or (b) of this section is cause for disciplinary action.

32 ~~SEC. 47.~~

33 *SEC. 61.* Section 7031 of the Business and Professions Code
34 is amended to read:

35 7031. (a) Except as provided in subdivision (e), no person
36 engaged in the business or acting in the capacity of a contractor,
37 may bring or maintain any action, or recover in law or equity in
38 any action, in any court of this state for the collection of
39 compensation for the performance of any act or contract where a
40 license is required by this chapter without alleging that they were

1 a duly licensed contractor at all times during the performance of
2 that act or contract regardless of the merits of the cause of action
3 brought by the person, except that this prohibition shall not apply
4 to contractors who are each individually licensed under this chapter
5 but who fail to comply with Section 7029.

6 (b) Except as provided in subdivision (e), a person who utilizes
7 the services of an unlicensed contractor may bring an action in
8 any court of competent jurisdiction in this state to recover all
9 compensation paid to the unlicensed contractor for performance
10 of any act or contract.

11 (c) A security interest taken to secure any payment for the
12 performance of any act or contract for which a license is required
13 by this chapter is unenforceable if the person performing the act
14 or contract was not a duly licensed contractor at all times during
15 the performance of the act or contract.

16 (d) If licensure or proper licensure is controverted, then proof
17 of licensure pursuant to this section shall be made by production
18 of a verified certificate of licensure from the Contractors State
19 License Board which establishes that the individual or entity
20 bringing the action was duly licensed in the proper classification
21 of contractors at all times during the performance of any act or
22 contract covered by the action. Nothing in this subdivision shall
23 require any person or entity controverting licensure or proper
24 licensure to produce a verified certificate. When licensure or proper
25 licensure is controverted, the burden of proof to establish licensure
26 or proper licensure shall be on the licensee.

27 (e) The judicial doctrine of substantial compliance shall not
28 apply under this section where the person who engaged in the
29 business or acted in the capacity of a contractor has never been a
30 duly licensed contractor in this state. However, notwithstanding
31 subdivision (b) of Section 143, the court may determine that there
32 has been substantial compliance with licensure requirements under
33 this section if it is shown at an evidentiary hearing that the person
34 who engaged in the business or acted in the capacity of a contractor
35 (1) had been duly licensed as a contractor in this state prior to the
36 performance of the act or contract, (2) acted reasonably and in
37 good faith to maintain proper licensure, and (3) acted promptly
38 and in good faith to remedy the failure to comply with the licensure
39 requirements upon learning of the failure.

1 (f) The exceptions to the prohibition against the application of
2 the judicial doctrine of substantial compliance found in subdivision
3 (e) shall apply to all contracts entered into on or after January 1,
4 1992, and to all actions or arbitrations arising therefrom, except
5 that the amendments to subdivisions (e) and (f) enacted during the
6 1994 portion of the 1993–94 Regular Session of the Legislature
7 shall not apply to either of the following:

8 (1) Any legal action or arbitration commenced prior to January
9 1, 1995, regardless of the date on which the parties entered into
10 the contract.

11 (2) Any legal action or arbitration commenced on or after
12 January 1, 1995, if the legal action or arbitration was commenced
13 prior to January 1, 1995, and was subsequently dismissed.

14 ~~SEC. 48.~~

15 *SEC. 62.* Section 7058.7 of the Business and Professions Code
16 is amended to read:

17 7058.7. (a) No contractor may engage in a removal or remedial
18 action, as defined in subdivision (d), unless the qualifier for the
19 license has passed an approved hazardous substance certification
20 examination.

21 (b) (1) The Contractors State License Board, the Division of
22 Occupational Safety and Health of the Department of Industrial
23 Relations, and the Department of Toxic Substances Control shall
24 jointly select an advisory committee, which shall be composed of
25 two representatives of hazardous substance removal workers in
26 California, two general engineering contractors in California, and
27 two representatives of insurance companies in California who shall
28 be selected by the Insurance Commissioner.

29 (2) The Contractors State License Board shall develop a written
30 test for the certification of contractors engaged in hazardous
31 substance removal or remedial action, in consultation with the
32 Division of Occupational Safety and Health, the State Water
33 Resources Control Board, the Department of Toxic Substances
34 Control, and the advisory committee.

35 (c) The Contractors State License Board may require additional
36 updated approved hazardous substance certification examinations
37 of licensees currently certified based on new public or occupational
38 health and safety information. The Contractors State License Board,
39 in consultation with the Department of Toxic Substances Control
40 and the State Water Resources Control Board, shall approve other

1 initial and updated hazardous substance certification examinations
2 and determine whether to require an updated certification
3 examination of all current certificate holders.

4 (d) For purposes of this section “removal or remedial action”
5 has the same meaning as found in Chapter 6.8 (commencing with
6 Section 25300) of Division 20 of the Health and Safety Code, if
7 the action requires the contractor to dig into the surface of the earth
8 and remove the dug material and the action is at a site listed
9 pursuant to Section 25356 of the Health and Safety Code or any
10 other site listed as a hazardous substance release site by the
11 Department of Toxic Substances Control or a site listed on the
12 National Priorities List compiled pursuant to the Comprehensive
13 Environmental Response, Compensation, and Liability Act of 1980
14 (42 U.S.C. Sec. 9601 et seq.). “Removal or remedial action” does
15 not include asbestos-related work, as defined in Section 6501.8 of
16 the Labor Code, or work related to a hazardous substance spill on
17 a highway.

18 (e) (1) A contractor may not install or remove an underground
19 storage tank, unless the contractor has passed the hazardous
20 substance certification examination developed pursuant to this
21 section.

22 (2) A contractor who is not certified may bid on or contract for
23 the installation or removal of an underground tank, if the work is
24 performed by a contractor who is certified pursuant to this section.

25 (3) For purposes of this subdivision, “underground storage tank”
26 has the same meaning as defined in subdivision (y) of Section
27 25281 of the Health and Safety Code.

28 ~~SEC. 49.~~

29 *SEC. 63.* Section 7071.4 of the Business and Professions Code
30 is amended to read:

31 7071.4. (a) Each person licensed under the provisions of this
32 chapter and subject to any of the bonding provisions of this article
33 shall maintain the requisite bond as executed by an admitted surety
34 insurer or as deposited with the registrar pursuant to paragraph (1)
35 of subdivision (a) of Section 995.710 of the Code of Civil
36 Procedure in the appropriate amount. Notwithstanding Article 7
37 (commencing with Section 995.710) of Chapter 2 of Title 14 of
38 Part 2 of the Code of Civil Procedure, no other method of deposit,
39 including, but not limited to, a certificate of deposit, shall satisfy
40 a bond requirement under this article.

1 (b) All existing alternatives in lieu of a bond currently filed with
2 the registrar shall be replaced for a surety bond or the deposit
3 prescribed by paragraph (1) of subdivision (a) of Section 995.710
4 of the Code of Civil Procedure by January 1, 2020.

5 (c) (1) If the board is notified, in writing, of a civil action
6 against the deposit authorized under this section, the deposit or
7 any portion thereof shall not be released for any purpose, except
8 as determined by the court.

9 (2) If any deposit authorized under this section is insufficient
10 to pay, in full, all claims that have been adjudicated under any
11 action filed in accordance with this section, the amount of the
12 deposit shall be distributed to all claimants in proportion to the
13 amount of their respective claims.

14 (d) Notwithstanding subdivision (a), this section shall not apply
15 to the bond equivalents described in Section 7159.5 of this chapter.

16 (e) (1) This section shall be operative on and after January 1,
17 2019, upon which date the registrar shall thereafter no longer accept
18 alternatives in lieu of a bond, other than as provided in this section.

19 (2) Notwithstanding any other law, in order to comply with the
20 bonding provisions of this article, a person shall only be required
21 to provide information consistent with the requirements for an
22 applicant under Section 30.

23 (f) All alternatives in lieu of a bond filed with the registrar before
24 January 1, 2019, and any lawful money or cashier's check
25 deposited pursuant to paragraph (1) of subdivision (a) of Section
26 995.710 of the Code of Civil Procedure after January 1, 2019, shall
27 be subject to the following limitations periods:

28 (1) Any action, other than an action to recover wages or fringe
29 benefits, against a deposit given in lieu of a contractor's bond or
30 bond of a qualifying individual filed by an active licensee shall be
31 brought within three years after the expiration of the license period
32 during which the act or omission occurred, or within three years
33 of the date the license of the active licensee was inactivated,
34 canceled, or revoked by the board, whichever occurs first.

35 (2) Any action, other than an action to recover wages or fringe
36 benefits, against a deposit given in lieu of a disciplinary bond filed
37 by an active licensee pursuant to Section 7071.8 shall be brought
38 within three years after the expiration of the license period during
39 which the act or omission occurred, or within three years of the
40 date the license of the active licensee was inactivated, canceled,

1 or revoked by the board, or within three years after the last date
2 for which a deposit given in lieu of a disciplinary bond filed
3 pursuant to Section 7071.8 was required, whichever date is first.

4 (3) A claim to recover wages or fringe benefits shall be brought
5 within six months from the date that the wage or fringe benefit
6 delinquencies were discovered, but in no event shall a civil action
7 thereon be brought later than two years from the date the wage or
8 fringe benefit contributions were due.

9 (g) In any case in which a claim is filed against an alternative
10 given in lieu of a bond filed with the registrar before January 1,
11 2019, or deposited with the registrar pursuant to subdivision (a),
12 by any employee or by an employee organization on behalf of an
13 employee, concerning wages or fringe benefits based upon the
14 employee’s employment, claims for the nonpayment shall be filed
15 with the Labor Commissioner. The Labor Commissioner shall,
16 pursuant to the authority vested by Section 96.5 of the Labor Code,
17 conduct hearings to determine whether or not the wages or fringe
18 benefits should be paid to the complainant. Upon a finding by the
19 commissioner that the wages or fringe benefits should be paid to
20 the complainant, the commissioner shall notify the registrar of the
21 findings. The registrar shall not make payment from the deposit
22 on the basis of findings by the commissioner for a period of 10
23 days following determination of the findings. If, within the period,
24 the complainant or the contractor files written notice with the
25 registrar and the commissioner of an intention to seek judicial
26 review of the findings pursuant to Section 11523 of the
27 Government Code, the registrar shall not make payment if an action
28 is actually filed, except as determined by the court. If, thereafter,
29 no action is filed within 60 days following determination of
30 findings by the commissioner, the registrar shall make payment
31 from the deposit to the complainant.

32 (h) Legal fees may not be charged by the board against any
33 alternative given in lieu of a bond filed with the registrar before
34 January 1, 2019, or deposited with the registrar pursuant to
35 subdivision (a).

36 ~~SEC. 50.~~

37 *SEC. 64.* Section 7080.5 of the Business and Professions Code
38 is amended to read:

39 7080.5. When an application has been accepted by the registrar,
40 the name and address of the applicant, every classification for

1 which the applicant has applied, and the names and titles of all
2 personnel who have signed the application shall be publicly posted
3 by the registrar, on the day following acceptance, in the office of
4 the Contractors State License Board in Sacramento.

5 ~~SEC. 51.~~

6 *SEC. 65.* Section 7085.5 of the Business and Professions Code
7 is amended to read:

8 7085.5. Arbitrations of disputes arising out of cases filed with
9 or by the board shall be conducted in accordance with the following
10 rules:

11 (a) All “agreements to arbitrate” shall include the names,
12 addresses, and telephone numbers of the parties to the dispute, the
13 issue in dispute, and the amount in dollars or any other remedy
14 sought. The appropriate fee shall be paid by the board from the
15 Contractors License Fund.

16 (b) (1) The board or appointed arbitration association shall
17 appoint an arbitrator in the following manner: immediately after
18 the filing of the agreement to arbitrate, the board or appointed
19 arbitration association shall submit simultaneously to each party
20 to the dispute, an identical list of names of persons chosen from
21 the panel. Each party to the dispute shall have seven days from
22 the mailing date in which to cross off any names to which it objects,
23 number the remaining names to indicate the order of preference,
24 and return the list to the board or appointed arbitration association.
25 If a party does not return the list within the time specified, all
26 persons named in the list are acceptable. From among the persons
27 who have been approved on both lists, and in accordance with the
28 designated order of mutual preference, the board or appointed
29 arbitration association shall appoint an arbitrator to serve. If the
30 parties fail to agree on any of the parties named, if acceptable
31 arbitrators are unable to act, or if, for any other reason, the
32 appointment cannot be made from the submitted lists, the board
33 or appointed arbitration association shall have the power to make
34 the appointment from among other members of the panel without
35 the submission of any additional lists. Each dispute shall be heard
36 and determined by one arbitrator unless the board or appointed
37 arbitration association, in its discretion, directs that a greater
38 number of arbitrators be appointed.

39 (2) In all cases in which a complaint has been referred to
40 arbitration pursuant to subdivision (b) of Section 7085, the board

1 or the appointed arbitration association shall have the power to
2 appoint an arbitrator to hear the matter.

3 (3) The board shall adopt regulations setting minimum
4 qualification standards for listed arbitrators based upon relevant
5 training, experience, and performance.

6 (c) No person shall serve as an arbitrator in any arbitration in
7 which that person has any financial or personal interest in the result
8 of the arbitration. Prior to accepting an appointment, the
9 prospective arbitrator shall disclose any circumstances likely to
10 prevent a prompt hearing or to create a presumption of bias. Upon
11 receipt of that information, the board or appointed arbitration
12 association shall immediately replace the arbitrator or communicate
13 the information to the parties for their comments. Thereafter, the
14 board or appointed arbitration association shall determine whether
15 the arbitrator should be disqualified and shall inform the parties
16 of its decision, which shall be conclusive.

17 (d) The board or appointed arbitration association may appoint
18 another arbitrator if a vacancy occurs, or if an appointed arbitrator
19 is unable to serve in a timely manner.

20 (e) (1) The board or appointed arbitration association shall
21 provide the parties with a list of the times and dates, and locations
22 of the hearing to be held. The parties shall notify the arbitrator,
23 within seven calendar days of the mailing of the list, of the times
24 and dates convenient to each party. If the parties fail to respond
25 to the arbitrator within the seven-day period, the arbitrator shall
26 fix the time, place, and location of the hearing. An arbitrator may,
27 at the arbitrator's sole discretion, make an inspection of the
28 construction site which is the subject of the arbitration. The
29 arbitrator shall notify the parties of the time and date set for the
30 inspection. Any party who so desires may be present at the
31 inspection.

32 (2) The board or appointed arbitration association shall fix the
33 time, place, and location of the hearing for all cases referred to
34 arbitration pursuant to subdivision (b) of Section 7085. An
35 arbitrator may, at the arbitrator's sole discretion, make an
36 inspection of the construction site which is the subject of the
37 arbitration. The arbitrator shall notify the parties of the time and
38 date set for the inspection. Any party who desires may be present
39 at the inspection.

1 (f) Any person having a direct interest in the arbitration is
2 entitled to attend the hearing. The arbitrator shall otherwise have
3 the power to require the exclusion of any witness, other than a
4 party or other essential person, during the testimony of any other
5 witness. It shall be discretionary with the arbitrator to determine
6 the propriety of the attendance of any other person.

7 (g) Hearings shall be adjourned by the arbitrator only for good
8 cause.

9 (h) A record is not required to be taken of the proceedings.
10 However, any party to the proceeding may have a record made at
11 its own expense. The parties may make appropriate notes of the
12 proceedings.

13 (i) The hearing shall be conducted by the arbitrator in any
14 manner which will permit full and expeditious presentation of the
15 case by both parties. Consistent with the expedited nature of
16 arbitration, the arbitrator shall establish the extent of, and schedule
17 for, the production of relevant documents and other information,
18 the identification of any witnesses to be called, and a schedule for
19 any hearings to elicit facts solely within the knowledge of one
20 party. The complaining party shall present its claims, proofs, and
21 witnesses, who shall submit to questions or other examination.
22 The defending party shall then present its defenses, proofs, and
23 witnesses, who shall submit to questions or other examination.
24 The arbitrator has discretion to vary this procedure but shall afford
25 full and equal opportunity to the parties for the presentation of any
26 material or relevant proofs.

27 (j) The arbitration may proceed in the absence of any party who,
28 after due notice, fails to be present. The arbitrator shall require the
29 attending party to submit supporting evidence in order to make an
30 award. An award for the attending party shall not be based solely
31 on the fact that the other party has failed to appear at the arbitration
32 hearing.

33 (k) The arbitrator shall be the sole judge of the relevancy and
34 materiality of the evidence offered and conformity to legal rules
35 of evidence shall not be required.

36 (l) The arbitrator may receive and consider documentary
37 evidence. Documents to be considered by the arbitrator may be
38 submitted prior to the hearing. However, a copy shall be
39 simultaneously transmitted to all other parties and to the board or

1 appointed arbitration association for transmittal to the arbitrator
2 or board appointed arbitrator.

3 (m) The arbitrator shall specifically inquire of the parties
4 whether they have any further proofs to offer or witnesses to be
5 heard. Upon receiving negative replies, the arbitrator shall declare
6 the hearing closed and minutes thereof shall be recorded. If briefs
7 are to be filed, the hearing shall be declared closed as of the final
8 date set by the arbitrator for the receipt of briefs. If documents are
9 to be filed as requested by the arbitrator and the date set for their
10 receipt is later than that set for the receipt of briefs, the later date
11 shall be the date of closing the hearings. The time limit within
12 which the arbitrator is required to make the award shall commence
13 to run, in the absence of other agreements by the parties, upon the
14 closing of the hearings.

15 (n) The hearing may be reopened on the arbitrator's own motion.

16 (o) Any party who proceeds with the arbitration after knowledge
17 that any provision or requirement of these rules has not been
18 complied with, and who fails to state their objections to the
19 arbitrator in writing, within 10 calendar days of close of hearing,
20 shall be deemed to have waived their right to object.

21 (p) (1) Except as provided in paragraph (2), any papers or
22 process necessary or proper for the initiation or continuation of an
23 arbitration under these rules and for any court action in connection
24 therewith, or for the entry of judgment on an award made
25 thereunder, may be served upon any party (A) by regular mail
26 addressed to that party or their attorney at the party's last known
27 address, or (B) by personal service.

28 (2) Notwithstanding paragraph (1), in all cases referred to
29 arbitration pursuant to subdivision (b) of Section 7085 in which
30 the contractor fails or refuses to return an executed copy of the
31 notice to arbitrate within the time specified, any papers or process
32 specified in paragraph (1) to be sent to the contractor, including
33 the notice of hearing, shall be mailed by certified mail to the
34 contractor's address of record.

35 (q) The award shall be made promptly by the arbitrator, and
36 unless otherwise agreed by the parties, no later than 30 calendar
37 days from the date of closing the hearing, closing a reopened
38 hearing, or if oral hearing has been waived, from the date of
39 transmitting the final statements and proofs to the arbitrator.

1 The arbitrator may for good cause extend any period of time
2 established by these rules, except the time for making the award.
3 The arbitrator shall notify the parties of any extension and the
4 reason therefor.

5 (r) (1) The arbitrator may grant any remedy or relief that the
6 arbitrator deems just and equitable and within the scope of the
7 board's referral and the requirements of the board. The arbitrator,
8 in their sole discretion, may award costs or expenses.

9 (2) The amendments made in paragraph (1) during the 2003–04
10 Regular Session shall not be interpreted to prevent an arbitrator
11 from awarding a complainant all direct costs and expenses for the
12 completion or repair of the project.

13 (s) The award shall become final 30 calendar days from the date
14 the arbitration award is issued. The arbitrator, upon written
15 application of a party to the arbitration, may correct the award
16 upon the following grounds:

17 (1) There was an evident miscalculation of figures or an evident
18 mistake in the description of any person, things, or property
19 referred to in the award.

20 (2) There is any other clerical error in the award, not affecting
21 the merits of the controversy.

22 An application for correction of the award shall be made within
23 10 calendar days of the date of service of the award by serving a
24 copy of the application on the arbitrator, and all other parties to
25 the arbitration. Any party to the arbitration may make a written
26 objection to the application for correction by serving a copy of the
27 written objection on the arbitrator, the board, and all other parties
28 to the arbitration, within 10 calendar days of the date of service of
29 the application for correction.

30 The arbitrator shall either deny the application or correct the
31 award within 30 calendar days of the date of service of the original
32 award by mailing a copy of the denial or correction to all parties
33 to the arbitration. Any appeal from the denial or correction shall
34 be filed with a court of competent jurisdiction and a true copy
35 thereof shall be filed with the arbitrator or appointed arbitration
36 association within 30 calendar days after the award has become
37 final. The award shall be in writing, and shall be signed by the
38 arbitrator or a majority of them. If no appeal is filed within the
39 30-calendar day period, it shall become a final order of the registrar.

1 (t) Service of the award by certified mail shall be effective if a
2 certified letter containing the award, or a true copy thereof, is
3 mailed by the arbitrator or arbitration association to each party or
4 to a party's attorney of record at their last known address, address
5 of record, or by personally serving any party. Service may be
6 proved in the manner authorized in civil actions.

7 (u) The board shall pay the expenses of one expert witness
8 appointed by the board when the services of an expert witness are
9 requested by either party involved in arbitration pursuant to this
10 article and the case involves workmanship issues that are itemized
11 in the complaint and have not been repaired or replaced. Parties
12 who choose to present the findings of another expert witness as
13 evidence shall pay for those services. Payment for expert witnesses
14 appointed by the board shall be limited to the expert witness costs
15 for inspection of the problem at the construction site, preparation
16 of the expert witness' report, and expert witness fees for appearing
17 or testifying at a hearing. All requests for payment to an expert
18 witness shall be submitted on a form that has been approved by
19 the registrar. All requests for payment to an expert witness shall
20 be reviewed and approved by the board prior to payment. The
21 registrar shall advise the parties that names of industry experts
22 may be obtained by requesting this information from the registrar.

23 (v) The arbitrator shall interpret and apply these rules insofar
24 as they relate to their powers and duties.

25 (w) The following shall apply as to court procedure and
26 exclusion of liability:

27 (1) The board, the appointed arbitration association, or any
28 arbitrator in a proceeding under these rules is not a necessary party
29 in judicial proceedings relating to the arbitration.

30 (2) Parties to these rules shall be deemed to have consented that
31 judgment upon the arbitration award may be entered in any federal
32 or state court having jurisdiction thereof.

33 (3) The board, the appointed arbitration association, or any
34 arbitrator is not liable to any party for any act or omission in
35 connection with any arbitration conducted under these rules.

36 ~~SEC. 52.~~

37 *SEC. 66.* Section 7099.2 of the Business and Professions Code
38 is amended to read:

39 7099.2. (a) The board shall promulgate regulations covering
40 the assessment of civil penalties under this article that give due

1 consideration to the appropriateness of the penalty with respect to
2 the following factors:

- 3 (1) The gravity of the violation.
- 4 (2) The good faith of the licensee or applicant for licensure
5 being charged.
- 6 (3) The history of previous violations.

7 (b) Except as otherwise provided by this chapter, no civil penalty
8 shall be assessed in an amount greater than five thousand dollars
9 (\$5,000). Notwithstanding Section 125.9, a civil penalty not to
10 exceed fifteen thousand dollars (\$15,000) may be assessed for a
11 violation of Section 7114 or 7118.

12 ~~SEC. 53.~~

13 *SEC. 67.* Section 7099.9 is added to the Business and
14 Professions Code, to read:

15 7099.9. (a) If, upon investigation, the registrar has probable
16 cause to believe that a licensee, registrant, or applicant has
17 committed acts or omissions that are grounds for denial,
18 suspension, or revocation of a license or registration, the registrar,
19 or their designee, may issue a letter of admonishment to an
20 applicant, licensee, or registrant in lieu of issuing a citation.
21 Nothing in this article shall in any way limit the registrar's
22 discretionary authority or ability to issue a letter of admonishment
23 as prescribed by this subdivision.

24 (b) The letter of admonishment shall be in writing and shall
25 describe in detail the nature and facts of the violation, including a
26 reference to the statutes or regulations violated. The letter of
27 admonishment shall inform the licensee, registrant, or applicant
28 that within 30 days of service of the letter of admonishment the
29 licensee, registrant, or applicant may do either of the following:

30 (1) Submit a written request for an office conference to the
31 registrar to contest the letter of admonishment. Upon a timely
32 request, the registrar, or their designee, shall hold an office
33 conference with the licensee, registrant, or applicant and, if
34 applicable, their legal counsel or authorized representative.

35 (A) No individual other than the legal counsel or authorized
36 representative of the licensee, registrant, or applicant may
37 accompany the licensee, registrant, or applicant to the office
38 conference.

1 (B) Prior to or at the office conference, the licensee, registrant,
2 or applicant may submit to the registrar declarations and documents
3 pertinent to the subject matter of the letter of admonishment.

4 (C) The office conference is intended to be informal and shall
5 not be subject to the Administrative Procedure Act (Chapter 4.5
6 commencing with Section 11400) or Chapter 5 (commencing with
7 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
8 Code).

9 (D) After the office conference, the registrar, or their designee,
10 may affirm, modify, or withdraw the letter of admonishment.
11 Within 14 calendar days from the date of the office conference,
12 the registrar, or their designee, shall personally serve or send the
13 written decision by certified mail to the licensee's, registrant's, or
14 applicant's address of record. This decision shall be deemed the
15 final administrative decision concerning the letter of
16 admonishment.

17 (E) Judicial review of the decision may be had by filing a
18 petition for a writ of mandate in accordance with the provisions
19 of Section 1094.5 of the Code of Civil Procedure within 30 days
20 after the date the decision was personally served or sent by certified
21 mail. The judicial review shall extend to the question of whether
22 or not there was a prejudicial abuse of discretion in the issuance
23 of the letter of admonishment or in the decision after the office
24 conference.

25 (2) Comply with the letter of admonishment and, if required,
26 submit a written corrective action plan to the registrar documenting
27 compliance. If an office conference is not requested pursuant to
28 this section, compliance with the letter of admonishment shall not
29 constitute an admission of the violation noted in the letter of
30 admonishment.

31 (c) The letter of admonishment shall be served upon the licensee,
32 registrant, or applicant personally or by certified mail at their
33 address of record with the board. If the licensee, registrant, or
34 applicant is served by certified mail, service shall be effective upon
35 deposit in the United States mail.

36 (d) The licensee, registrant, or applicant shall maintain and have
37 readily available a copy of the letter of admonishment and
38 corrective action plan, if any, for at least one year from the date
39 of issuance of the letter of admonishment.

1 (e) Nothing in this subdivision shall in any way limit the board's
2 authority or ability to do either of the following:

3 (1) Issue a citation pursuant to Section 125.9, 148, or 7099.

4 (2) Institute disciplinary proceedings pursuant to this article.

5 (f) The issuance of a letter of admonishment shall not be
6 construed as a disciplinary action or discipline for purposes of
7 licensure or the reporting of discipline for licensure.

8 (g) The board shall not issue a letter of admonishment when
9 any one of the following factors is present:

10 (1) The licensee, registrant, or applicant was unlicensed at the
11 time of the violation.

12 (2) Multiple violations have been established.

13 (3) The licensee, registrant, or applicant has a history of the
14 same or similar violations.

15 (4) The violation resulted in financial harm to another.

16 (5) The victim is an elder or dependent adult as defined in
17 Section 368 of the Penal Code.

18 (6) The violation is related to the repair of damage caused by a
19 natural disaster.

20 (h) The board may adopt regulations to further define the
21 circumstances under which a letter of admonishment may be issued.

22 ~~SEC. 54.~~

23 *SEC. 68.* Section 7123.5 of the Business and Professions Code
24 is amended to read:

25 7123.5. If a contractor is convicted of violating Section 396 of
26 the Penal Code or any substantially similar local ordinance in
27 connection with the sale, or offer for sale, of repair or
28 reconstruction services, as defined in Section 396 of the Penal
29 Code, the Contractors State License Board shall take disciplinary
30 action against the contractor, which shall include a suspension of
31 at least six months or the permanent revocation of the contractor's
32 license.

33 ~~SEC. 55.~~

34 *SEC. 69.* Section 7135 of the Business and Professions Code
35 is amended to read:

36 7135. (a) The fees and civil penalties received under this
37 chapter shall be deposited in the Contractors License Fund. All
38 moneys in the fund are hereby appropriated for the purposes of
39 this chapter.

1 (b) It is the intent of the Legislature that the board shall use
2 moneys appropriated from the fund to improve its administrative
3 and investigative oversight activities and capacity.

4 ~~SEC. 56.~~

5 *SEC. 70.* Section 7136 of the Business and Professions Code
6 is amended to read:

7 7136. The director shall designate a sum not to exceed 10
8 percent of the total income of the Contractors State License Board
9 for each fiscal year to be transferred to the Consumer Affairs Fund
10 as the board’s share of the cost of administration of the department.

11 ~~SEC. 57.~~

12 *SEC. 71.* Section 7137 of the Business and Professions Code
13 is amended to read:

14 7137. The board may set fees by regulation. These fees shall
15 be set according to the following schedule:

16 (a) (1) The application fee for an original license in a single
17 classification shall be three hundred thirty dollars (\$330) and may
18 be increased to not more than three hundred seventy-five dollars
19 (\$375).

20 (2) The application fee for each additional classification applied
21 for in connection with an original license shall not be more than
22 eighty-five dollars (\$85).

23 (3) The application fee for each additional classification pursuant
24 to Section 7059 shall be one hundred fifty dollars (\$150) and may
25 be increased to not more than one hundred seventy-five dollars
26 (\$175).

27 (4) The application fee to replace a responsible managing officer,
28 responsible managing manager, responsible managing member,
29 or responsible managing employee pursuant to Section 7068.2
30 shall be one hundred fifty dollars (\$150) and may be increased to
31 not more than one hundred seventy-five dollars (\$175).

32 (5) The application fee to add personnel, other than a qualifying
33 individual, to an existing license shall be one hundred dollars
34 (\$100) and may be increased to not more than one hundred fifteen
35 dollars (\$115).

36 (b) The fee for rescheduling an examination for an applicant
37 who has applied for an original license, additional classification,
38 a change of responsible managing officer, responsible managing
39 manager, responsible managing member, or responsible managing

1 employee, or for an asbestos certification or hazardous substance
2 removal certification, shall not be more than seventy dollars (\$70).

3 (c) The fee for scheduling or rescheduling an examination for
4 a licensee who is required to take the examination as a condition
5 of probation shall not be more than seventy dollars (\$70).

6 (d) The initial license fee for an active or inactive license shall
7 be two hundred dollars (\$200) and may be increased to not more
8 than two hundred twenty-five dollars (\$225).

9 (e) (1) The renewal fee for an active license shall be four
10 hundred dollars (\$400) and may be increased to not more than four
11 hundred fifty dollars (\$450).

12 (2) The renewal fee for an inactive license shall be two hundred
13 dollars (\$200) and may be increased to not more than two hundred
14 twenty-five dollars (\$225).

15 (f) The delinquency fee is an amount equal to 50 percent of the
16 renewal fee, if the license is renewed after its expiration.

17 (g) The registration fee for a home improvement salesperson
18 shall be eighty-three dollars (\$83) and may be increased to not
19 more than ninety-five dollars (\$95).

20 (h) The renewal fee for a home improvement salesperson
21 registration shall be eighty-three dollars (\$83) and may be increased
22 to not more than ninety-five dollars (\$95).

23 (i) The application fee for an asbestos certification examination
24 shall be eighty-three dollars (\$83) and may be increased to not
25 more than ninety-five dollars (\$95).

26 (j) The application fee for a hazardous substance removal or
27 remedial action certification examination shall be eighty-three
28 dollars (\$83) and may be increased to not more than ninety-five
29 dollars (\$95).

30 (k) In addition to any other fees charged to C-10 contractors,
31 the board shall charge a fee of twenty dollars (\$20), to be assessed
32 with the renewal fee for an active license, which shall be used by
33 the board to enforce provisions of the Labor Code related to
34 electrician certification.

35 (l) The service fee to deposit with the registrar lawful money
36 or cashier's check pursuant to paragraph (1) of subdivision (a) of
37 Section 995.710 of the Code of Civil Procedure for purposes of
38 compliance with any provision of Article 5 (commencing with
39 Section 7065) shall be one hundred dollars (\$100), which shall be
40 used by the board only to process each deposit filed with the

1 registrar, to cover the reasonable costs to the registrar for holding
2 money or cashier’s checks in trust in interest bearing deposit or
3 share accounts, and to offset the costs of processing payment of
4 lawful claims against a deposit in a civil action.

5 (m) The board shall, by regulation, establish criteria for the
6 approval of expedited processing of applications. Approved
7 expedited processing of applications for licensure or registration,
8 as required by other provisions of law, shall not be subject to this
9 subdivision.

10 ~~SEC. 58.~~

11 *SEC. 72.* Section 7137.5 of the Business and Professions Code
12 is amended to read:

13 7137.5. The sum of ten thousand dollars (\$10,000) shall be
14 transferred from the Contractors License Fund to the Controller
15 for the exclusive use of the California Uniform Construction Cost
16 Accounting Commission.

17 The commission shall prepare a recommendation to the
18 Legislature for a local public agency source to fund the commission
19 beginning July 1, 1991, which will provide revenue supported by
20 the contract activities represented by the commission’s authority.

21 Upon adoption of this funding program, the commission shall
22 reimburse the Contractors License Fund in the amount of ten
23 thousand dollars (\$10,000).

24 ~~SEC. 59.~~

25 *SEC. 73.* Section 7138 of the Business and Professions Code
26 is amended to read:

27 7138. Notwithstanding any other provision of law, a fee paid
28 in connection with a service or application covered by Section
29 7137 shall accrue to the Contractors License Fund as an earned
30 fee and shall not be refunded.

31 ~~SEC. 60.~~

32 *SEC. 74.* Section 7139.1 of the Business and Professions Code
33 is amended to read:

34 7139.1. The Legislature hereby finds and declares all of the
35 following:

36 (a) There is a demand and increasing need for construction
37 management education programs and resources within the
38 postsecondary education system that prepare graduates for the
39 management of construction operations and companies regulated

1 by the Contractors State License Law and enforced by the
2 Contractors State License Board.

3 (b) Although construction management programs do exist within
4 the state university system, these programs are woefully
5 underfunded and insufficiently funded to provide training on
6 state-of-the-art management information systems for either
7 graduates or extension programs for continuing education of
8 licensed contractors. Construction industry associations have
9 provided some assistance through direct grants and scholarships,
10 but the industrywide service of these programs and the need for
11 additional assistance mandates broad based industrywide support.

12 (c) It is the intent of the Legislature that by enabling contractors
13 to designate a portion of their licensure fee and providing a format
14 for contractors to contribute funds to construction management
15 education, this article will receive broad based industry support.
16 In addition, this article allows the contractor to demonstrate the
17 importance of construction management education. This assistance
18 will enable greater development of construction management
19 curricula and will improve the overall quality of construction by
20 providing construction management training to California licensed
21 contractors and their current and future management personnel.

22 ~~SEC. 61.~~

23 *SEC. 75.* Section 7139.2 of the Business and Professions Code
24 is amended to read:

25 7139.2. (a) There is hereby created the Construction
26 Management Education Account (CMEA) as a separate account
27 in the Contractors License Fund for the purposes of construction
28 management education. Funds in the account shall be available
29 for the purposes of this article upon appropriation by the
30 Legislature.

31 (b) The Contractors State License Board shall allow a contractor
32 to make a contribution to the Construction Management Education
33 Account at the time of the contractor license fee payment. The
34 license fee form shall clearly display this alternative on its face
35 and shall clearly inform the licensee that this provision is a
36 contribution to the Construction Management Education Account
37 and is in addition to the fees.

38 (c) The board may accept grants from federal, state, or local
39 public agencies, or from private foundations or individuals, in
40 order to assist it in carrying out its duties, functions, and powers

1 under this article. Grant moneys shall be deposited into the
2 Construction Management Education Account.

3 *SEC. 76. Section 7141.5 of the Business and Professions Code*
4 *is amended to read:*

5 7141.5. The registrar ~~may~~ shall grant the retroactive renewal
6 of a license ~~if~~ if, within 90 days of the expiration of the license,
7 the otherwise eligible licensee requests the retroactive renewal in
8 a petition to the registrar, files an ~~and~~ submits a completed application
9 for renewal on a form prescribed by the registrar, and pays the
10 appropriate renewal fee and delinquency fee prescribed by this
11 chapter. ~~This section shall only apply for a period not to exceed~~
12 ~~90 days from the due date and only upon a showing by the~~
13 ~~contractor that the failure to renew was due to circumstances~~
14 ~~beyond the control of the licensee. For the purposes of this section,~~
15 ~~an application shall be deemed submitted if it is delivered to the~~
16 ~~board's headquarters or postmarked within 90 days of the~~
17 ~~expiration of the license.~~

18 ~~SEC. 62.~~

19 *SEC. 77. Section 7145.5 of the Business and Professions Code*
20 *is amended to read:*

21 7145.5. (a) The registrar may refuse to issue, reinstate,
22 reactivate, or renew a license or may suspend a license for the
23 failure of a licensee to resolve all outstanding final liabilities, which
24 include taxes, additions to tax, penalties, interest, and any fees that
25 may be assessed by the board, the Department of Industrial
26 Relations, the Employment Development Department, the
27 Franchise Tax Board, or the State Board of Equalization.

28 (1) Until the debts covered by this section are satisfied, the
29 qualifying person and any other personnel of record named on a
30 license that has been suspended under this section shall be
31 prohibited from serving in any capacity that is subject to licensure
32 under this chapter, but shall be permitted to act in the capacity of
33 a nonsupervising bona fide employee.

34 (2) The license of any other renewable licensed entity with any
35 of the same personnel of record that have been assessed an
36 outstanding liability covered by this section shall be suspended
37 until the debt has been satisfied or until the same personnel of
38 record disassociate themselves from the renewable licensed entity.

39 (b) The refusal to issue a license or the suspension of a license
40 as provided by this section shall be applicable only if the registrar

1 has mailed a notice preliminary to the refusal or suspension that
2 indicates that the license will be refused or suspended by a date
3 certain. This preliminary notice shall be mailed to the licensee at
4 least 60 days before the date certain.

5 (c) In the case of outstanding final liabilities assessed by the
6 Franchise Tax Board, this section shall be operative within 60 days
7 after the Contractors State License Board has provided the
8 Franchise Tax Board with the information required under Section
9 30, relating to licensing information that includes the federal
10 employer identification number, individual taxpayer identification
11 number, or social security number.

12 (d) All versions of the application for a contractor's license shall
13 include, as part of the application, an authorization by the applicant,
14 in the form and manner mutually agreeable to the Franchise Tax
15 Board and the board, for the Franchise Tax Board to disclose the
16 tax information that is required for the registrar to administer this
17 section. The Franchise Tax Board may from time to time audit
18 these authorizations.

19 (e) In the case of outstanding final liabilities assessed by the
20 State Board of Equalization, this section shall not apply to any
21 outstanding final liability if the licensee has entered into an
22 installment payment agreement for that liability with the State
23 Board of Equalization and is in compliance with the terms of that
24 agreement.

25 ~~SEC. 63.~~

26 *SEC. 78.* Section 7159 of the Business and Professions Code
27 is amended to read:

28 7159. (a) (1) This section identifies the projects for which a
29 home improvement contract is required, outlines the contract
30 requirements, and lists the items that shall be included in the
31 contract, or may be provided as an attachment.

32 (2) This section does not apply to service and repair contracts
33 that are subject to Section 7159.10, if the contract for the applicable
34 services complies with Sections 7159.10 to 7159.14, inclusive.

35 (3) This section does not apply to the sale, installation, and
36 servicing of a fire alarm sold in conjunction with an alarm system,
37 as defined in Section 7590.1, if all costs attributable to making the
38 fire alarm system operable, including sale and installation costs,
39 do not exceed five hundred dollars (\$500), and the licensee
40 complies with the requirements set forth in Section 7159.9.

1 (4) This section does not apply to any costs associated with
2 monitoring a burglar or fire alarm system.

3 (5) Failure by the licensee, their agent or salesperson, or by a
4 person subject to be licensed under this chapter, to provide the
5 specified information, notices, and disclosures in the contract, or
6 to otherwise fail to comply with any provision of this section, is
7 cause for discipline.

8 (b) For purposes of this section, “home improvement contract”
9 means an agreement, whether oral or written, or contained in one
10 or more documents, between a contractor and an owner or between
11 a contractor and a tenant, regardless of the number of residence
12 or dwelling units contained in the building in which the tenant
13 resides, if the work is to be performed in, to, or upon the residence
14 or dwelling unit of the tenant, for the performance of a home
15 improvement, as defined in Section 7151, and includes all labor,
16 services, and materials to be furnished and performed thereunder,
17 if the aggregate contract price specified in one or more
18 improvement contracts, including all labor, services, and materials
19 to be furnished by the contractor, exceeds five hundred dollars
20 (\$500). “Home improvement contract” also means an agreement,
21 whether oral or written, or contained in one or more documents,
22 between a salesperson, whether or not they are a home
23 improvement salesperson, and an owner or a tenant, regardless of
24 the number of residence or dwelling units contained in the building
25 in which the tenant resides, which provides for the sale, installation,
26 or furnishing of home improvement goods or services.

27 (c) In addition to the specific requirements listed under this
28 section, every home improvement contract and any person subject
29 to licensure under this chapter or their agent or salesperson shall
30 comply with all of the following:

31 (1) The writing shall be legible.

32 (2) Any printed form shall be readable. Unless a larger typeface
33 is specified in this article, text in any printed form shall be in at
34 least 10-point typeface and the headings shall be in at least 10-point
35 boldface type.

36 (3) (A) Before any work is started, the contractor shall give the
37 buyer a copy of the contract signed and dated by both the contractor
38 and the buyer. The buyer’s receipt of the copy of the contract
39 initiates the buyer’s rights to cancel the contract pursuant to
40 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

1 (B) The contract shall contain on the first page, in a typeface
2 no smaller than that generally used in the body of the document,
3 both of the following:

4 (i) The date the buyer signed the contract.

5 (ii) The name and address of the contractor to which the
6 applicable “Notice of Cancellation” is to be mailed, immediately
7 preceded by a statement advising the buyer that the “Notice of
8 Cancellation” may be sent to the contractor at the address noted
9 on the contract.

10 (4) The contract shall include a statement that, upon satisfactory
11 payment being made for any portion of the work performed, the
12 contractor, prior to any further payment being made, shall furnish
13 to the person contracting for the home improvement or swimming
14 pool work a full and unconditional release from any potential lien
15 claimant claim or mechanics lien authorized pursuant to Sections
16 8400 and 8404 of the Civil Code for that portion of the work for
17 which payment has been made.

18 (5) A change-order form for changes or extra work shall be
19 incorporated into the contract and shall become part of the contract
20 only if it is in writing and signed by the parties prior to the
21 commencement of any work covered by a change order.

22 (6) The contract shall contain, in close proximity to the
23 signatures of the owner and contractor, a notice stating that the
24 owner or tenant has the right to require the contractor to have a
25 performance and payment bond.

26 (7) If the contract provides for a contractor to furnish joint
27 control, the contractor shall not have any financial or other interest
28 in the joint control.

29 (8) The provisions of this section are not exclusive and do not
30 relieve the contractor from compliance with any other applicable
31 provision of law.

32 (d) A home improvement contract and any changes to the
33 contract shall be in writing and signed by the parties to the contract
34 prior to the commencement of work covered by the contract or an
35 applicable change order and, except as provided in paragraph (8)
36 of subdivision (a) of Section 7159.5, shall include or comply with
37 all of the following:

38 (1) The name, business address, and license number of the
39 contractor.

1 (2) If applicable, the name and registration number of the home
2 improvement salesperson that solicited or negotiated the contract.

3 (3) The following heading on the contract form that identifies
4 the type of contract in at least 10-point boldface type: “Home
5 Improvement.”

6 (4) The following statement in at least 12-point boldface type:
7 “You are entitled to a completely filled in copy of this agreement,
8 signed by both you and the contractor, before any work may be
9 started.”

10 (5) The heading: “Contract Price,” followed by the amount of
11 the contract in dollars and cents.

12 (6) If a finance charge will be charged, the heading: “Finance
13 Charge,” followed by the amount in dollars and cents. The finance
14 charge is to be set out separately from the contract amount.

15 (7) The heading: “Description of the Project and Description
16 of the Significant Materials to be Used and Equipment to be
17 Installed,” followed by a description of the project and a description
18 of the significant materials to be used and equipment to be installed.
19 For swimming pools, the project description required under this
20 paragraph also shall include a plan and scale drawing showing the
21 shape, size, dimensions, and the construction and equipment
22 specifications.

23 (8) If a downpayment will be charged, the details of the
24 downpayment shall be expressed in substantially the following
25 form, and shall include the text of the notice as specified in
26 subparagraph (C):

27 (A) The heading: “Downpayment.”

28 (B) A space where the actual downpayment appears.

29 (C) The following statement in at least 12-point boldface type:

30
31 **“THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10**
32 **PERCENT OF THE CONTRACT PRICE, WHICHEVER IS**
33 **LESS.”**

34
35 (9) If payments, other than the downpayment, are to be made
36 before the project is completed, the details of these payments,
37 known as progress payments, shall be expressed in substantially
38 the following form, and shall include the text of the statement as
39 specified in subparagraph (C):

1 (A) A schedule of progress payments shall be preceded by the
2 heading: “Schedule of Progress Payments.”

3 (B) Each progress payment shall be stated in dollars and cents
4 and specifically reference the amount of work or services to be
5 performed and materials and equipment to be supplied.

6 (C) The section of the contract reserved for the progress
7 payments shall include the following statement in at least 12-point
8 boldface type:

9

10 “The schedule of progress payments must specifically describe
11 each phase of work, including the type and amount of work or
12 services scheduled to be supplied in each phase, along with the
13 amount of each proposed progress payment. IT IS AGAINST THE
14 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR
15 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT
16 YET DELIVERED. HOWEVER, A CONTRACTOR MAY
17 REQUIRE A DOWNPAYMENT.”

18

19 (10) The contract shall address the commencement of work to
20 be performed in substantially the following form:

21 (A) A statement that describes what constitutes substantial
22 commencement of work under the contract.

23 (B) The heading: “Approximate Start Date.”

24 (C) The approximate date on which work will be commenced.

25 (11) The estimated completion date of the work shall be
26 referenced in the contract in substantially the following form:

27 (A) The heading: “Approximate Completion Date.”

28 (B) The approximate date of completion.

29 (12) If applicable, the heading: “List of Documents to be
30 Incorporated into the Contract,” followed by the list of documents
31 incorporated into the contract.

32 (13) The heading: “Note About Extra Work and Change Orders,”
33 followed by the following statement:

34

35 “Extra Work and Change Orders become part of the contract
36 once the order is prepared in writing and signed by the parties prior
37 to the commencement of work covered by the new change order.
38 The order must describe the scope of the extra work or change,
39 the cost to be added or subtracted from the contract, and the effect
40 the order will have on the schedule of progress payments.”

1
 2 (e) Except as provided in paragraph (8) of subdivision (a) of
 3 Section 7159.5, all of the following notices shall be provided to
 4 the owner as part of the contract form as specified or, if otherwise
 5 authorized under this subdivision, may be provided as an
 6 attachment to the contract:

7 (1) A notice concerning commercial general liability insurance.
 8 This notice may be provided as an attachment to the contract if
 9 the contract includes the following statement: “A notice concerning
 10 commercial general liability insurance is attached to this contract.”
 11 The notice shall include the heading “Commercial General Liability
 12 Insurance (CGL),” followed by whichever of the following
 13 statements is both relevant and correct:

14 (A) “(The name on the license or ‘This contractor’) does not
 15 carry commercial general liability insurance.”

16 (B) “(The name on the license or ‘This contractor’) carries
 17 commercial general liability insurance written by (the insurance
 18 company). You may call (the insurance company) at _____
 19 to check the contractor’s insurance coverage.”

20 (C) “(The name on the license or ‘This contractor’) is
 21 self-insured.”

22 (D) “(The name on the license or ‘This contractor’) is a limited
 23 liability company that carries liability insurance or maintains other
 24 security as required by law. You may call (the insurance company
 25 or trust company or bank) at ____ to check on the contractor’s
 26 insurance coverage or security.”

27 (2) A notice concerning workers’ compensation insurance. This
 28 notice may be provided as an attachment to the contract if the
 29 contract includes the statement: “A notice concerning workers’
 30 compensation insurance is attached to this contract.” The notice
 31 shall include the heading “Workers’ Compensation Insurance”
 32 followed by whichever of the following statements is correct:

33 (A) “(The name on the license or ‘This contractor’) has no
 34 employees and is exempt from workers’ compensation
 35 requirements.”

36 (B) “(The name on the license or ‘This contractor’) carries
 37 workers’ compensation insurance for all employees.”

38 (3) A notice that provides the buyer with the following
 39 information about the performance of extra or change-order work:

1 (A) A statement that the buyer may not require a contractor to
2 perform extra or change-order work without providing written
3 authorization prior to the commencement of work covered by the
4 new change order.

5 (B) A statement informing the buyer that extra work or a change
6 order is not enforceable against a buyer unless the change order
7 also identifies all of the following in writing prior to the
8 commencement of work covered by the new change order:

9 (i) The scope of work encompassed by the order.

10 (ii) The amount to be added or subtracted from the contract.

11 (iii) The effect the order will make in the progress payments or
12 the completion date.

13 (C) A statement informing the buyer that the contractor’s failure
14 to comply with the requirements of this paragraph does not
15 preclude the recovery of compensation for work performed based
16 upon legal or equitable remedies designed to prevent unjust
17 enrichment.

18 (4) A notice with the heading “Mechanics Lien Warning” written
19 as follows:

20

21 “MECHANICS LIEN WARNING:

22

23 Anyone who helps improve your property, but who is not paid,
24 may record what is called a mechanics lien on your property. A
25 mechanics lien is a claim, like a mortgage or home equity loan,
26 made against your property and recorded with the county recorder.

27 Even if you pay your contractor in full, unpaid subcontractors,
28 suppliers, and laborers who helped to improve your property may
29 record mechanics liens and sue you in court to foreclose the lien.
30 If a court finds the lien is valid, you could be forced to pay twice
31 or have a court officer sell your home to pay the lien. Liens can
32 also affect your credit.

33 To preserve their right to record a lien, each subcontractor and
34 material supplier must provide you with a document called a
35 ‘Preliminary Notice.’ This notice is not a lien. The purpose of the
36 notice is to let you know that the person who sends you the notice
37 has the right to record a lien on your property if they are not paid.

38 BE CAREFUL. The Preliminary Notice can be sent up to 20
39 days after the subcontractor starts work or the supplier provides

1 material. This can be a big problem if you pay your contractor
2 before you have received the Preliminary Notices.

3 You will not get Preliminary Notices from your prime contractor
4 or from laborers who work on your project. The law assumes that
5 you already know they are improving your property.

6 **PROTECT YOURSELF FROM LIENS.** You can protect
7 yourself from liens by getting a list from your contractor of all the
8 subcontractors and material suppliers that work on your project.
9 Find out from your contractor when these subcontractors started
10 work and when these suppliers delivered goods or materials. Then
11 wait 20 days, paying attention to the Preliminary Notices you
12 receive.

13 **PAY WITH JOINT CHECKS.** One way to protect yourself is
14 to pay with a joint check. When your contractor tells you it is time
15 to pay for the work of a subcontractor or supplier who has provided
16 you with a Preliminary Notice, write a joint check payable to both
17 the contractor and the subcontractor or material supplier.

18 For other ways to prevent liens, visit CSLB’s internet website
19 at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

20 **REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING**
21 **A LIEN PLACED ON YOUR HOME.** This can mean that you
22 may have to pay twice, or face the forced sale of your home to pay
23 what you owe.”
24

25 (5) The following notice shall be provided in at least 12-point
26 typeface:

27
28 “Information about the Contractors State License Board (CSLB):
29 CSLB is the state consumer protection agency that licenses and
30 regulates construction contractors.

31 Contact CSLB for information about the licensed contractor you
32 are considering, including information about disclosable
33 complaints, disciplinary actions, and civil judgments that are
34 reported to CSLB.

35 Use only licensed contractors. If you file a complaint against a
36 licensed contractor within the legal deadline (usually four years),
37 CSLB has authority to investigate the complaint. If you use an
38 unlicensed contractor, CSLB may not be able to help you resolve
39 your complaint. Your only remedy may be in civil court, and you

1 may be liable for damages arising out of any injuries to the
2 unlicensed contractor or the unlicensed contractor’s employees.

3 For more information:

4 Visit CSLB’s internet website at www.cslb.ca.gov

5 Call CSLB at 800-321-CSLB (2752)

6 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

7

8 (6) (A) The notice set forth in subparagraph (B) and entitled
9 “Three-Day Right to Cancel,” shall be provided to the buyer unless
10 the contract is:

11 (i) Negotiated at the contractor’s place of business.

12 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in
13 paragraph (7).

14 (iii) Subject to licensure under the Alarm Company Act (Chapter
15 11.6 (commencing with Section 7590)), provided the alarm
16 company licensee complies with Sections 1689.5, 1689.6, and
17 1689.7 of the Civil Code, as applicable.

18

19 (B) “Three-Day Right to Cancel

20 You, the buyer, have the right to cancel this contract within three
21 business days. You may cancel by emailing, mailing, faxing, or
22 delivering a written notice to the contractor at the contractor’s
23 place of business by midnight of the third business day after you
24 received a signed and dated copy of the contract that includes this
25 notice. Include your name, your address, and the date you received
26 the signed copy of the contract and this notice.

27 If you cancel, the contractor must return to you anything you
28 paid within 10 days of receiving the notice of cancellation. For
29 your part, you must make available to the contractor at your
30 residence, in substantially as good condition as you received them,
31 goods delivered to you under this contract or sale. Or, you may,
32 if you wish, comply with the contractor’s instructions on how to
33 return the goods at the contractor’s expense and risk. If you do
34 make the goods available to the contractor and the contractor does
35 not pick them up within 20 days of the date of your notice of
36 cancellation, you may keep them without any further obligation.
37 If you fail to make the goods available to the contractor, or if you
38 agree to return the goods to the contractor and fail to do so, then
39 you remain liable for performance of all obligations under the
40 contract.”

- 1
- 2 (C) The “Three-Day Right to Cancel” notice required by this
- 3 paragraph shall comply with all of the following:
- 4 (i) The text of the notice is at least 12-point boldface type.
- 5 (ii) The notice is in immediate proximity to a space reserved
- 6 for the owner’s signature.
- 7 (iii) The owner acknowledges receipt of the notice by signing
- 8 and dating the notice form in the signature space.
- 9 (iv) The notice is written in the same language, e.g., Spanish,
- 10 as that principally used in any oral sales presentation.
- 11 (v) The notice may be attached to the contract if the contract
- 12 includes, in at least 12-point boldface type, a checkbox with the
- 13 following statement: “The law requires that the contractor give
- 14 you a notice explaining your right to cancel. Initial the checkbox
- 15 if the contractor has given you a ‘Notice of the Three-Day Right
- 16 to Cancel.’ ”
- 17 (vi) The notice shall be accompanied by a completed form in
- 18 duplicate, captioned “Notice of Cancellation,” which also shall be
- 19 attached to the agreement or offer to purchase and be easily
- 20 detachable, and which shall contain the following statement written
- 21 in the same language, e.g., Spanish, as used in the contract:

22 “Notice of Cancellation”

23 /enter date of transaction/

24 _____
25 (Date)

26

27

28 “You may cancel this transaction, without any penalty or

29 obligation, within three business days from the above date.

30 If you cancel, any property traded in, any payments made by

31 you under the contract or sale, and any negotiable instrument

32 executed by you will be returned within 10 days following receipt

33 by the seller of your cancellation notice, and any security interest

34 arising out of the transaction will be canceled.

35 If you cancel, you must make available to the seller at your

36 residence, in substantially as good condition as when received,

37 any goods delivered to you under this contract or sale, or you may,

38 if you wish, comply with the instructions of the seller regarding

39 the return shipment of the goods at the seller’s expense and risk.

1 If you do make the goods available to the seller and the seller
 2 does not pick them up within 20 days of the date of your notice of
 3 cancellation, you may retain or dispose of the goods without any
 4 further obligation. If you fail to make the goods available to the
 5 seller, or if you agree to return the goods to the seller and fail to
 6 do so, then you remain liable for performance of all obligations
 7 under the contract.”

8
 9 To cancel this transaction, mail or deliver a signed and dated copy of this
 10 cancellation notice, or any other written notice, or send a telegram
 11 to _____,
 12 /name of seller/
 13 at _____
 14 /address of seller’s place of business/
 15 not later than midnight of _____
 16 (Date)

17 I hereby cancel this transaction. _____
 18 (Date)
 19 _____
 20 (Buyer’s signature)

21
 22 (7) (A) The following notice entitled “Seven-Day Right to
 23 Cancel” shall be provided to the buyer for any contract that is
 24 written for the repair or restoration of residential premises damaged
 25 by any sudden or catastrophic event for which a state of emergency
 26 has been declared by the President of the United States or the
 27 Governor, or for which a local emergency has been declared by
 28 the executive officer or governing body of any city, county, or city
 29 and county:

30
 31 “Seven-Day Right to Cancel
 32 You, the buyer, have the right to cancel this contract within seven
 33 business days. You may cancel by emailing, mailing, faxing, or
 34 delivering a written notice to the contractor at the contractor’s
 35 place of business by midnight of the seventh business day after
 36 you received a signed and dated copy of the contract that includes
 37 this notice. Include your name, your address, and the date you
 38 received the signed copy of the contract and this notice.

39 If you cancel, the contractor must return to you anything you
 40 paid within 10 days of receiving the notice of cancellation. For

1 your part, you must make available to the contractor at your
 2 residence, in substantially as good condition as you received them,
 3 goods delivered to you under this contract or sale. Or, you may,
 4 if you wish, comply with the contractor’s instructions on how to
 5 return the goods at the contractor’s expense and risk. If you do
 6 make the goods available to the contractor and the contractor does
 7 not pick them up within 20 days of the date of your notice of
 8 cancellation, you may keep them without any further obligation.
 9 If you fail to make the goods available to the contractor, or if you
 10 agree to return the goods to the contractor and fail to do so, then
 11 you remain liable for performance of all obligations under the
 12 contract.”

13
 14 (B) The “Seven-Day Right to Cancel” notice required by this
 15 subdivision shall comply with all of the following:

- 16 (i) The text of the notice is at least 12-point boldface type.
- 17 (ii) The notice is in immediate proximity to a space reserved
 18 for the owner’s signature.
- 19 (iii) The owner acknowledges receipt of the notice by signing
 20 and dating the notice form in the signature space.
- 21 (iv) The notice is written in the same language, e.g., Spanish,
 22 as that principally used in any oral sales presentation.
- 23 (v) The notice may be attached to the contract if the contract
 24 includes, in at least 12-point boldface type, a checkbox with the
 25 following statement: “The law requires that the contractor give
 26 you a notice explaining your right to cancel. Initial the checkbox
 27 if the contractor has given you a ‘Notice of the Seven-Day Right
 28 to Cancel.’ ”
- 29 (vi) The notice shall be accompanied by a completed form in
 30 duplicate, captioned “Notice of Cancellation,” which shall also be
 31 attached to the agreement or offer to purchase and be easily
 32 detachable, and which shall contain the following statement written
 33 in the same language, e.g., Spanish, as used in the contract:

34
 35 “Notice of Cancellation”

36 /enter date of transaction/
 37 _____

38 (Date)
 39

1 “You may cancel this transaction, without any penalty or
2 obligation, within seven business days from the above date.

3 If you cancel, any property traded in, any payments made by
4 you under the contract or sale, and any negotiable instrument
5 executed by you will be returned within 10 days following receipt
6 by the seller of your cancellation notice, and any security interest
7 arising out of the transaction will be canceled.

8 If you cancel, you must make available to the seller at your
9 residence, in substantially as good condition as when received,
10 any goods delivered to you under this contract or sale, or you may,
11 if you wish, comply with the instructions of the seller regarding
12 the return shipment of the goods at the seller’s expense and risk.

13 If you do make the goods available to the seller and the seller
14 does not pick them up within 20 days of the date of your notice of
15 cancellation, you may retain or dispose of the goods without any
16 further obligation. If you fail to make the goods available to the
17 seller, or if you agree to return the goods to the seller and fail to
18 do so, then you remain liable for performance of all obligations
19 under the contract.”

20

21 To cancel this transaction, mail or deliver a signed and dated copy of this
22 cancellation notice, or any other written notice, or send a telegram

23 to _____,
24 /name of seller/

25 at _____
26 /address of seller’s place of business/

27 not later than midnight of _____.
28 (Date)

29 I hereby cancel this transaction. _____
30 (Date)

31 _____
32 (Buyer’s signature)

33

34 ~~SEC. 64.~~

35 *SEC. 79.* Section 7170 of the Business and Professions Code
36 is amended to read:

37 7170. (a) The Contractors State License Board shall receive
38 and review complaints and consumer questions regarding solar
39 energy systems companies and solar contractors. The board shall

1 also receive complaints received from state agencies regarding
2 solar energy systems companies and solar contractors.

3 (b) Beginning on July 1, 2019, the board annually shall compile
4 a report documenting consumer complaints relating to solar
5 contractors. The report shall be made available publicly on the
6 board's and the Public Utilities Commission's internet websites.

7 The report shall contain all of the following:

8 (1) The number and types of complaints.

9 (2) The ZIP Code where the consumer complaint originated.

10 (3) The disposition of all complaints received against a solar
11 contractor.

12 (c) For purposes of this section, "solar energy system" means
13 a solar energy device to be installed on a residential building that
14 has the primary purpose of providing for the collection and
15 distribution of solar energy for the generation of electricity, that
16 produces at least one kW, and not more than five MW, alternating
17 current rated peak electricity, and that meets or exceeds the
18 eligibility criteria established pursuant to Section 25782 of the
19 Public Resources Code.

20 ~~SEC. 65.~~

21 *SEC. 80.* Section 7303 of the Business and Professions Code
22 is amended to read:

23 7303. (a) Notwithstanding Article 8 (commencing with Section
24 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the
25 Government Code, there is in the Department of Consumer Affairs
26 the State Board of Barbering and Cosmetology in which the
27 administration of this chapter is vested.

28 (b) The board shall consist of nine members. Five members
29 shall be public members, and four members shall represent the
30 professions. The Governor shall appoint three of the public
31 members and the four professional members. The Senate
32 Committee on Rules and the Speaker of the Assembly shall each
33 appoint one public member. Members of the board shall be
34 appointed for a term of four years, except that of the members
35 appointed by the Governor, two of the public members and two
36 of the professions members shall be appointed for an initial term
37 of two years. No board member may serve longer than two
38 consecutive terms.

39 (c) The board may appoint an executive officer who is exempt
40 from civil service. The executive officer shall exercise the powers

1 and perform the duties delegated by the board and vested in the
2 executive officer by this chapter. The appointment of the executive
3 officer is subject to the approval of the director. In the event that
4 a newly authorized board replaces an existing or previous bureau,
5 the director may appoint an interim executive officer for the board
6 who shall serve temporarily until the new board appoints a
7 permanent executive officer.

8 (d) The executive officer shall provide examiners, inspectors,
9 and other personnel necessary to carry out the provisions of this
10 chapter.

11 (e) This section shall remain in effect only until January 1, 2022,
12 and as of that date is repealed. Notwithstanding any other law, the
13 repeal of this section renders the board subject to review by the
14 appropriate policy committees of the Legislature.

15 *SEC. 81. Section 7512.3 of the Business and Professions Code,*
16 *as amended by Section 1 of Chapter 569 of the Statutes of 2017,*
17 *is amended to read:*

18 7512.3. (a) As used in this chapter, “person” includes any
19 individual, firm, company, limited liability company, association,
20 organization, partnership, and corporation.

21 (b) This section shall remain in effect only until January 1, ~~2021,~~
22 ~~2024,~~ and as of that date is repealed.

23 *SEC. 82. Section 7512.3 of the Business and Professions Code,*
24 *as amended by Section 2 of Chapter 569 of the Statutes of 2017,*
25 *is amended to read:*

26 7512.3. (a) As used in this chapter, “person” includes any
27 individual, firm, company, association, organization, partnership,
28 and corporation.

29 (b) This section shall become operative on January 1, ~~2021,~~
30 ~~2024.~~

31 *SEC. 83. Section 7512.14 of the Business and Professions Code*
32 *is amended to read:*

33 7512.14. (a) As used in this chapter, “member” means an
34 individual who is a member of a limited liability company as
35 specified in Section 17704.01 of the Corporations Code.

36 (b) This section shall remain in effect only until January 1, ~~2021,~~
37 ~~2024,~~ and as of that date is repealed.

38 *SEC. 84. Section 7512.15 of the Business and Professions Code*
39 *is amended to read:*

1 7512.15. (a) As used in this chapter, “manager” means an
2 individual designated under an operating agreement of a
3 manager-managed limited liability company who is responsible
4 for performing the management functions for the limited liability
5 company specified in subdivision (c) of Section 17704.07 of the
6 Corporations Code.

7 (b) This section shall remain in effect only until January 1, ~~2021~~,
8 2024, and as of that date is repealed.

9 *SEC. 85. Section 7520.3 of the Business and Professions Code*
10 *is amended to read:*

11 7520.3. (a) As a condition of the issuance, reinstatement,
12 reactivation, or continued valid use of a license under this chapter,
13 a limited liability company shall, in accordance with this section,
14 maintain a policy or policies of insurance against liability imposed
15 on or against it by law for damages arising out of claims based
16 upon acts, errors, or omissions arising out of the private investigator
17 services it provides.

18 (b) The total aggregate limit of liability under the policy or
19 policies of insurance required under this section shall be as follows:

20 (1) For a limited liability company licensee with five or fewer
21 persons named as members pursuant to subdivision (i) of Section
22 7525.1, the aggregate limit shall not be less than one million dollars
23 (\$1,000,000).

24 (2) For a limited liability company licensee with more than five
25 persons named as members pursuant to subdivision (i) of Section
26 7525.1, an additional one hundred thousand dollars (\$100,000) of
27 insurance shall be obtained for each person named as members of
28 the licensee except that the maximum amount of insurance is not
29 required to exceed five million dollars (\$5,000,000) in any one
30 designated period, less amounts paid in defending, settling, or
31 discharging claims as set forth under this section.

32 (c) Prior to the issuance, reinstatement, or reactivation of a
33 limited liability company license as provided under this chapter,
34 the applicant or licensee shall, in the manner prescribed by the
35 bureau, submit the information and documentation required by
36 this section and requested by the bureau, demonstrating compliance
37 with the financial security requirements specified by this section.

38 (d) For any insurance policy secured by a licensee in satisfaction
39 of this section, a Certificate of Liability Insurance, signed by an
40 authorized agent or employee of the insurer, shall be submitted

1 electronically or otherwise to the bureau. The insurer issuing the
2 certificate shall report to the bureau the following information for
3 any policy required under this section: name, license number,
4 policy number, dates that coverage is scheduled to commence and
5 lapse, and cancellation date if applicable. The insurer shall list the
6 bureau as the certificate holder for the purposes of receiving
7 notifications related to the policy's status.

8 (e) (1) If a licensee fails to maintain sufficient insurance as
9 required by this section, or fails to provide proof of the required
10 insurance upon request by the bureau, the license is subject to
11 suspension and shall be automatically suspended pursuant to this
12 subdivision until the date that the licensee provides proof to the
13 bureau of compliance with the insurance coverage requirement.

14 (2) Prior to an automatic suspension, the bureau shall notify the
15 licensee, in writing, that it has 30 days to provide proof to the
16 bureau of having the required insurance or the license shall be
17 automatically suspended.

18 (3) If the licensee fails to provide proof of insurance coverage
19 within this period, the bureau may automatically suspend the
20 license.

21 (f) If the license of a limited liability company is suspended
22 pursuant to subdivision (e), each member of the limited liability
23 company shall be personally liable up to one million dollars
24 (\$1,000,000) each for damages resulting to third parties in
25 connection with the company's performance, during the period of
26 suspension, of any act or contract when a license is required by
27 this chapter.

28 (g) On and after July 1, 2018, a licensee organized as a limited
29 liability company shall report a paid or pending claim against its
30 liability insurance to the bureau, which shall post a notice of the
31 claim on the Department of Consumer Affairs BreEZe License
32 Verification Internet Web page.

33 (h) This section shall remain in effect only until January 1, ~~2021,~~
34 ~~2024,~~ and as of that date is repealed.

35 *SEC. 86. Section 7525.1 of the Business and Professions Code,*
36 *as amended by Section 11 of Chapter 569 of the Statutes of 2017,*
37 *is amended to read:*

38 7525.1. An application shall be verified and shall include:

- 39 (a) The full name and business address of the applicant.
- 40 (b) The name under which the applicant intends to do business.

1 (c) A statement as to the general nature of the business in which
2 the applicant intends to engage.

3 (d) A verified statement of ~~his or her~~ *their* experience
4 qualifications.

5 (e) (1) If the applicant is an individual, a qualified manager, a
6 partner of a partnership, an officer of a corporation designated in
7 subdivision (h), or a member, officer, or manager of a limited
8 liability company designated in subdivision (i), one personal
9 identification form provided by the bureau upon which shall appear
10 a photograph taken within one year immediately preceding the
11 date of the filing of the application together with two legible sets
12 of fingerprints, one set of which shall be forwarded to the Federal
13 Bureau of Investigation for purposes of a background check, on a
14 form approved by the Department of Justice, and a personal
15 description of each person, respectively. The identification form
16 shall include residence addresses and employment history for the
17 previous five years and be signed under penalty of perjury.

18 (2) The bureau may impose a fee not to exceed three dollars
19 (\$3) for processing classifiable fingerprint cards submitted by
20 applicants, excluding those submitted into an electronic fingerprint
21 system using electronic fingerprint technology.

22 (f) In addition, if the applicant for a license is an individual, the
23 application shall list all other names known as or used during the
24 past 10 years and shall state that the applicant is to be personally
25 and actively in charge of the business for which the license is
26 sought. If any other qualified manager is to be actively in charge
27 of the business, the application shall be subscribed, verified, and
28 signed by the applicant, under penalty of perjury. If any other
29 person is to be actively in charge of the business, the application
30 shall also be subscribed, verified, and signed by that person under
31 penalty of perjury.

32 (g) If the applicants for a license are copartners, the application
33 shall state the true names and addresses of all partners and the
34 name of the partner to be actively in charge of the business for
35 which the license is sought and list all other names known as or
36 used during the past 10 years. If a qualified manager other than a
37 partner is to be actively in charge of the business, then the
38 application shall be subscribed, verified, and signed by all of the
39 partners under penalty of perjury. If any other person is to be
40 actively in charge of the business, the application shall also be

1 subscribed, verified, and signed by that person, under penalty of
2 perjury, under penalty of perjury by all of the partners and the
3 qualified manager, or by all of the partners or the qualified
4 manager.

5 (h) If the applicant for a license is a corporation, the application
6 shall state the true names and complete residence addresses of the
7 chief executive officer, secretary, chief financial officer, and any
8 other corporate officer who will be active in the business to be
9 licensed. The application shall also state the name and address of
10 the designated person to be actively in charge of the business for
11 which the license is sought. The application shall be subscribed,
12 verified, and signed by a duly authorized officer of the applicant
13 and by the qualified manager thereof, under penalty of perjury.

14 (i) If the applicant for a license is a limited liability company,
15 the application shall state the true name and complete residence
16 address of each member, manager, and any officer who will be
17 active in the business to be licensed. A certified copy of the articles
18 of organization, as filed by the Secretary of State, shall be supplied
19 to the bureau upon request. In the case of a manager-managed
20 limited liability company, the application shall be subscribed,
21 verified, and signed by a manager; otherwise, in the case of a
22 member-managed limited liability company, the application shall
23 be subscribed, verified, and signed by a duly authorized member
24 of the applicant and by the qualified manager thereof. The
25 application shall also state whether any of the members, managers,
26 officers, or the qualified manager has ever used an alias.

27 (j) Any other information, evidence, statements, or documents
28 as may be required by the director.

29 (k) At the discretion of the applicant, a valid email address.

30 (l) This section shall remain in effect only until January 1, ~~2021~~,
31 2024, and as of that date is repealed.

32 *SEC. 87. Section 7525.1 of the Business and Professions Code,*
33 *as amended by Section 12 of Chapter 569 of the Statutes of 2017,*
34 *is amended to read:*

35 7525.1. An application shall be verified and shall include:

36 (a) The full name and business address of the applicant.

37 (b) The name under which the applicant intends to do business.

38 (c) A statement as to the general nature of the business in which
39 the applicant intends to engage.

1 (d) A verified statement of ~~his or her~~ *their* experience
2 qualifications.

3 (e) (1) If the applicant is an individual, a qualified manager, a
4 partner of a partnership, or an officer of a corporation designated
5 in subdivision (h), one personal identification form provided by
6 the bureau upon which shall appear a photograph taken within one
7 year immediately preceding the date of the filing of the application
8 together with two legible sets of fingerprints, one set of which
9 shall be forwarded to the Federal Bureau of Investigation for
10 purposes of a background check, on a form approved by the
11 Department of Justice, and a personal description of each person,
12 respectively. The identification form shall include residence
13 addresses and employment history for the previous five years and
14 be signed under penalty of perjury.

15 (2) The bureau may impose a fee not to exceed three dollars
16 (\$3) for processing classifiable fingerprint cards submitted by
17 applicants, excluding those submitted into an electronic fingerprint
18 system using electronic fingerprint technology.

19 (f) In addition, if the applicant for a license is an individual, the
20 application shall list all other names known as or used during the
21 past 10 years and shall state that the applicant is to be personally
22 and actively in charge of the business for which the license is
23 sought. If any other qualified manager is to be actively in charge
24 of the business, the application shall be subscribed, verified, and
25 signed by the applicant, under penalty of perjury. If any other
26 person is to be actively in charge of the business, the application
27 shall also be subscribed, verified, and signed by that person under
28 penalty of perjury.

29 (g) If the applicants for a license are copartners, the application
30 shall state the true names and addresses of all partners and the
31 name of the partner to be actively in charge of the business for
32 which the license is sought and list all other names known as or
33 used during the past 10 years. If a qualified manager other than a
34 partner is to be actively in charge of the business, then the
35 application shall be subscribed, verified, and signed by all of the
36 partners under penalty of perjury. If any other person is to be
37 actively in charge of the business, the application shall also be
38 subscribed, verified, and signed under penalty of perjury by that
39 person, by all of the partners and the qualified manager, or by all
40 of the partners or the qualified manager.

1 (h) If the applicant for a license is a corporation, the application
2 shall state the true names and complete residence addresses of the
3 chief executive officer, secretary, chief financial officer, and any
4 other corporate officer who will be active in the business to be
5 licensed. The application shall also state the name and address of
6 the designated person to be actively in charge of the business for
7 which the license is sought. The application shall be subscribed,
8 verified, and signed by a duly authorized officer of the applicant
9 and by the qualified manager thereof, under penalty of perjury.

10 (i) Any other information, evidence, statements, or documents
11 as may be required by the director.

12 (j) At the discretion of the applicant, a valid email address.

13 (k) This section shall become operative on January 1, ~~2021~~.
14 2024.

15 *SEC. 88. Section 7529 of the Business and Professions Code,*
16 *as amended by Section 2 of Chapter 326 of the Statutes of 2019,*
17 *is amended to read:*

18 ~~7529. (a) (1) Upon the issuance of a license, a pocket card of~~
19 ~~the size, design, and content as may be determined by the director~~
20 ~~or the director's designee shall be issued by the bureau to each~~
21 ~~licensee, as follows:~~

22 (A) ~~If the licensee is an individual, the pocket card shall be~~
23 ~~issued to the licensee and to the licensee's qualified manager.~~

24 (B) ~~If the licensee is a partnership, the pocket card shall be~~
25 ~~issued to each partner of the partnership licensee active in the~~
26 ~~business and to the licensee's qualified manager.~~

27 (C) ~~If the licensee is a corporation, the pocket card shall be~~
28 ~~issued to each officer active in the business and to the licensee's~~
29 ~~qualified manager.~~

30 (D) ~~If the licensee is a limited liability company, the pocket~~
31 ~~card shall be issued to each member, officer, and manager of the~~
32 ~~licensee active in the business and to the licensee's qualified~~
33 ~~manager.~~

34 (2) ~~The pocket card is evidence that the licensee is licensed~~
35 ~~pursuant to this chapter. The card shall contain a photograph of~~
36 ~~the licensee, or bearer of the card, if the licensee is other than an~~
37 ~~individual. The card shall clearly state that the person is licensed~~
38 ~~as a private investigator or is the qualified manager, officer,~~
39 ~~member, or manager of the licensee. The pocket card is to be~~
40 ~~composed of a durable material and may incorporate~~

1 technologically advanced security features. The bureau may charge
2 a fee sufficient to reimburse the department's costs for furnishing
3 the pocket card. The fee charged shall not exceed the actual direct
4 costs for system development, maintenance, and processing
5 necessary to provide this service and shall not exceed sixteen
6 dollars (\$16). When the position, office, or association with a
7 licensee belonging to a person to whom a card is issued is
8 terminated, the person shall surrender the card to the licensee and,
9 within five days thereafter, the licensee shall mail or deliver the
10 card to the bureau for cancellation. Every person, while engaged
11 in any activity for which licensure is required, shall display the
12 person's valid pocket card as provided by regulation.

13 ~~(3) This subdivision shall become inoperative on January 1,~~
14 ~~2021.~~

15 ~~(b)~~

16 7529. (a) (1) Upon the issuance of and with each biennial
17 renewal of a license, a license in the form of an enhanced photo
18 identification card of the size, design, and content as may be
19 determined by the director or the director's designee shall be issued
20 by the bureau to each licensee, as follows:

21 (A) If the licensee is an individual, the enhanced photo
22 identification card shall be issued to the licensee and to the
23 licensee's qualified manager.

24 (B) If the licensee is a partnership, the enhanced photo
25 identification card shall be issued to each partner of the partnership
26 licensee active in the business and to the licensee's qualified
27 manager.

28 (C) If the licensee is a corporation, the enhanced photo
29 identification card shall be issued to each officer active in the
30 business and to the licensee's qualified manager.

31 (D) If the licensee is a limited liability company, the enhanced
32 photo identification card shall be issued to each member, officer,
33 and manager of the licensee active in the business and to the
34 licensee's qualified manager.

35 (2) The enhanced photo identification card is evidence that the
36 licensee is licensed pursuant to this chapter. The card shall contain
37 the name of the licensee, license expiration date, and a photograph
38 of the licensee. The enhanced photo identification card shall clearly
39 state that the person is licensed as a private investigator or is the
40 qualified manager or officer of the licensee. The enhanced photo

1 identification card is to be composed of a durable material and
2 may incorporate technologically advanced security features. The
3 bureau may recover its costs in an amount sufficient to reimburse
4 the department's costs for furnishing the enhanced photo
5 identification card. The fee charged shall not exceed the actual
6 direct costs for system development, maintenance, and processing
7 necessary to provide this service. The total amount of costs shall
8 be recovered by including that amount in the fee charged for the
9 initial application of and renewal of licensure. When the position,
10 office, or association with a licensee belonging to a person to whom
11 a card is issued is terminated, the person shall surrender the card
12 to the licensee and, within five days thereafter, the licensee shall
13 mail or deliver the card to the bureau for cancellation. Every
14 person, while engaged in any activity for which licensure is
15 required, shall display the person's valid enhanced photo
16 identification card as provided by regulation.

17 ~~(3) This subdivision shall become operative only if the January~~
18 ~~1, 2021, repeal date for this section established in subdivision (c)~~
19 ~~is deleted or extended, and in that event shall become operative~~
20 ~~on January 1, 2021.~~

21 (e)

22 (b) This section shall remain in effect only until January 1, 2021,
23 2024, and as of that date is repealed, unless a later enacted statute
24 deletes or extends that date. *repealed.*

25 *SEC. 89. Section 7529 of the Business and Professions Code,*
26 *as amended by Section 3 of Chapter 326 of the Statutes of 2019,*
27 *is amended to read:*

28 7529. (a) Upon the issuance of and with each biennial renewal
29 of a license, a license in the form of an enhanced photo
30 identification card of the size, design, and content as may be
31 determined by the director or the director's designee shall be issued
32 by the bureau to each licensee, as follows:

33 (1) If the licensee is an individual, the enhanced photo
34 identification card shall be issued to the licensee and to the
35 licensee's qualified manager.

36 (2) If the licensee is a partnership, the enhanced photo
37 identification card shall be issued to each partner of the partnership
38 licensee active in the business and to the licensee's qualified
39 manager.

1 (3) If the licensee is a corporation, the enhanced photo
2 identification card shall be issued to each officer active in the
3 business and to the licensee's qualified manager.

4 (b) The enhanced photo identification card is evidence that the
5 licensee is licensed pursuant to this chapter. The card shall contain
6 the name of the licensee, license expiration date, and a photograph
7 of the licensee. The enhanced photo identification card shall clearly
8 state that the person is licensed as a private investigator or is the
9 qualified manager or officer of the licensee. The enhanced photo
10 identification card is to be composed of a durable material and
11 may incorporate technologically advanced security features. The
12 bureau may recover its costs in an amount sufficient to reimburse
13 the department's costs for furnishing the enhanced photo
14 identification card. The fee charged shall not exceed the actual
15 direct costs for system development, maintenance, and processing
16 necessary to provide this service. The total amount of costs shall
17 be recovered by including that amount in the fee charged for the
18 initial application of and renewal of licensure. When the position,
19 office, or association with a licensee belonging to a person to whom
20 a card is issued is terminated, the person shall surrender the card
21 to the licensee and, within five days thereafter, the licensee shall
22 mail or deliver the card to the bureau for cancellation. Every
23 person, while engaged in any activity for which licensure is
24 required, shall display the person's valid enhanced photo
25 identification card as provided by regulation.

26 (c) This section shall become operative on January 1, ~~2021~~.
27 2024.

28 *SEC. 90. Section 7533.5 of the Business and Professions Code,*
29 *as amended by Section 21 of Chapter 569 of the Statutes of 2017,*
30 *is amended to read:*

31 7533.5. (a) A licensee shall notify the bureau within 30 days
32 of any change in its corporate officers required to be named
33 pursuant to subdivision (h) of Section 7525.1 or members or
34 managers required to be named pursuant to subdivision (i) of
35 Section 7525.1, and of any addition of a new partner.

36 (b) Applications, on forms prescribed by the director, shall be
37 submitted by all new officers, members or managers, and partners.
38 The director may suspend or revoke a license issued under this
39 chapter if the director determines that the new officer, member or
40 manager, or partner of a licensee has committed any of the acts

1 constituting grounds to deny an application for a license or to take
2 disciplinary action against a licensee pursuant to Section 7538 or
3 7538.5, respectively.

4 (c) This section shall remain in effect only until January 1, ~~2021~~,
5 2024, and as of that date is repealed.

6 *SEC. 91. Section 7533.5 of the Business and Professions Code,*
7 *as amended by Section 22 of Chapter 569 of the Statutes of 2017,*
8 *is amended to read:*

9 7533.5. (a) A licensee shall notify the bureau within 30 days
10 of any change in its corporate officers required to be named
11 pursuant to subdivision (h) of Section 7525.1, and of any addition
12 of a new partner.

13 (b) Applications, on forms prescribed by the director, shall be
14 submitted by all new officers and partners. The director may
15 suspend or revoke a license issued under this chapter if the director
16 determines that the new officer or partner of a licensee has
17 committed any of the acts constituting grounds to deny an
18 application for a license or to take disciplinary action against a
19 licensee pursuant to Section 7538 or 7538.5, respectively.

20 (c) This section shall become operative on January 1, ~~2021~~.
21 2024.

22 *SEC. 92. Section 7538 of the Business and Professions Code,*
23 *as amended by Section 25 of Chapter 569 of the Statutes of 2017,*
24 *is amended to read:*

25 7538. (a) After a hearing the director may deny a license unless
26 the applicant makes a showing satisfactory to the director that the
27 applicant, if an individual, and the applicant's qualified manager
28 have not, or, if the applicant is a person other than an individual,
29 that its qualified manager and each of its officers, partners,
30 members, or managers have not:

31 (1) Committed any act that, if committed by a licensee, would
32 be a ground for the suspension or revocation of a license under
33 this chapter.

34 (2) Committed any act constituting dishonesty or fraud.

35 (3) Committed any act or crime constituting grounds for denial
36 of licensure under Section 480, including illegally using, carrying,
37 or possessing a deadly weapon.

38 (4) Been refused a license under this chapter or had a license
39 revoked.

1 (5) Been an officer, partner, qualified manager, member, or
2 manager of any person who has been refused a license under this
3 chapter or whose license has been revoked.

4 (6) While unlicensed committed, or aided and abetted the
5 commission of, any act for which a license is required by this
6 chapter.

7 (7) Knowingly made any false statement in ~~his or her~~ *their*
8 application.

9 (b) This section shall remain in effect only until January 1, ~~2021~~,
10 ~~2024~~, and as of that date is repealed.

11 *SEC. 93. Section 7538 of the Business and Professions Code,*
12 *as amended by Section 26 of Chapter 569 of the Statutes of 2017,*
13 *is amended to read:*

14 7538. (a) After a hearing the director may deny a license unless
15 the applicant makes a showing satisfactory to the director that the
16 applicant, if an individual, and the applicant’s qualified manager
17 have not, or, if the applicant is a person other than an individual,
18 that its qualified manager and each of its officers and partners have
19 not:

20 (1) Committed any act that, if committed by a licensee, would
21 be a ground for the suspension or revocation of a license under
22 this chapter.

23 (2) Committed any act constituting dishonesty or fraud.

24 (3) Committed any act or crime constituting grounds for denial
25 of licensure under Section 480, including illegally using, carrying,
26 or possessing a deadly weapon.

27 (4) Been refused a license under this chapter or had a license
28 revoked.

29 (5) Been an officer, partner, or qualified manager of any person
30 who has been refused a license under this chapter or whose license
31 has been revoked.

32 (6) While unlicensed committed, or aided and abetted the
33 commission of, any act for which a license is required by this
34 chapter.

35 (7) Knowingly made any false statement in ~~his or her~~ *their*
36 application.

37 (b) This section shall become operative on January 1, ~~2021~~.
38 ~~2024~~.

1 *SEC. 94. Section 7538.5 of the Business and Professions Code,*
2 *as amended by Section 27 of Chapter 569 of the Statutes of 2017,*
3 *is amended to read:*

4 7538.5. (a) The director may refuse to issue any license
5 provided for in this chapter to any of the following:

6 (1) An individual who has had any license revoked, has a license
7 currently under suspension, or failed to renew ~~his or her~~ *their*
8 license while under suspension.

9 (2) An individual who, while acting as a partner of a partnership,
10 an officer or director of a corporation, or a member, manager, or
11 officer of a limited liability company, had ~~his or her~~ *their* license
12 revoked, has a license currently under suspension, or failed to
13 renew ~~his or her~~ *their* license while under suspension.

14 (3) An individual who, while acting as a partner of the
15 partnership, an officer, director of the corporation, or a member,
16 manager, or officer of a limited liability company meets both of
17 the following conditions:

18 (A) ~~He or she~~ *The individual* was a partner of any partnership,
19 an officer or director of any corporation, or a member, manager,
20 or officer of any limited liability company whose license was
21 revoked, is currently under suspension, or was not renewed while
22 under suspension.

23 (B) While acting as a partner, officer, director, member, or
24 manager, ~~he or she~~ *they* participated in any of the prohibited acts
25 for which the license was revoked or suspended.

26 (4) An individual who is serving or has served as the qualified
27 manager for any licensee that has had its license revoked, is
28 currently under suspension, or failed to renew while under
29 suspension.

30 (b) This section shall remain in effect only until January 1, ~~2021,~~
31 ~~2024,~~ and as of that date is repealed.

32 *SEC. 95. Section 7538.5 of the Business and Professions Code,*
33 *as amended by Section 8 of Chapter 92 of the Statutes of 2018, is*
34 *amended to read:*

35 7538.5. (a) The director may refuse to issue any license
36 provided for in this chapter to any of the following:

37 (1) An individual who has had any license revoked, has a license
38 currently under suspension, or failed to renew ~~his or her~~ *their*
39 license while under suspension.

1 (2) An individual who, while acting as a partner of a partnership,
2 or an officer or director of a corporation, had ~~his or her~~ *their* license
3 revoked, has a license currently under suspension, or failed to
4 renew ~~his or her~~ *their* license while under suspension.

5 (3) An individual, who, while acting as a partner of the
6 partnership, or an officer or director of the corporation, meets both
7 of the following conditions:

8 (A) ~~He or she~~ *The individual* was a partner of any partnership,
9 or an officer or director of any corporation, whose license was
10 revoked, is currently under suspension, or was not renewed while
11 under suspension.

12 (B) ~~He or she~~ *The individual*, while acting as a partner, officer,
13 or director, participated in any of the prohibited acts for which the
14 license was revoked or suspended.

15 (4) An individual who is serving or has served as the qualified
16 manager for any licensee that has had its license revoked, is
17 currently under suspension, or failed to renew while under
18 suspension.

19 (b) This section shall become operative on January 1, ~~2021~~.
20 2024.

21 *SEC. 96. Section 7539 of the Business and Professions Code,*
22 *as amended by Section 29 of Chapter 569 of the Statutes of 2017,*
23 *is amended to read:*

24 7539. (a) Any licensee or officer, director, partner, member,
25 manager, or qualified manager of a licensee may divulge to any
26 law enforcement officer or district attorney, or ~~his or her~~ *their*
27 representative, any information ~~he or she~~ *they* may acquire as to
28 any criminal offense, but ~~he or she~~ *they* shall not divulge to any
29 other person, except as otherwise required by law, any information
30 acquired by ~~him or her~~ *them* except at the direction of the employer
31 or client for whom the information was obtained.

32 (b) A licensee or officer, director, partner, member, manager,
33 qualified manager, or employee of a licensee shall not knowingly
34 make any false report to ~~his or her~~ *their* employer or client for
35 whom information was being obtained.

36 (c) A written report shall not be submitted to a client except by
37 the licensee, qualified manager, or a person authorized by one or
38 either of them, and the person submitting the report shall exercise
39 diligence in ascertaining whether or not the facts and information
40 in the report are true and correct.

1 (d) A licensee, or officer, director, partner, manager, member,
2 qualified manager, or employee of a licensee shall not use a badge
3 in connection with the official activities of the licensee's business.

4 (e) A licensee, or officer, director, partner, manager, member,
5 qualified manager, or employee of a licensee, shall not use a title,
6 or wear a uniform, or use an insignia, or use an identification card,
7 or make any statement with the intent to give an impression that
8 ~~he or she is~~ *they are* connected in any way with the federal
9 government, a state government, or any political subdivision of a
10 state government.

11 (f) A licensee, or officer, partner, manager, member, qualified
12 manager, or employee of a licensee shall not use any identification
13 to indicate that ~~he or she is~~ *they are* licensed as a private
14 investigator other than the official identification card issued by
15 the bureau or the business card regularly used by the business.
16 However, a licensee may issue an employer identification card.

17 (g) A licensee, or officer, director, partner, manager, member,
18 qualified manager, or employee of a licensee, shall not enter any
19 private building or portion thereof, except premises commonly
20 accessible to the public, without the consent of the owner or of the
21 person in legal possession thereof.

22 (h) A licensee shall not permit an employee or agent in ~~his or~~
23 ~~her~~ *their* own name to advertise, engage clients, furnish reports or
24 present bills to clients, or in any manner conduct business for which
25 a license is required under this chapter. All business of the licensee
26 shall be conducted in the name of and under the control of the
27 licensee.

28 (i) A licensee, or officer, director, partner, manager, member,
29 qualified manager, or employee of a licensee shall not knowingly
30 and directly solicit employment from any person who has directly
31 sustained bodily injury or from that person's spouse or other family
32 member to obtain authorization on behalf of the injured person as
33 an investigator to investigate the accident or act that resulted in
34 injury or death to that person or damage to the property of that
35 person. Nothing in this subdivision shall prohibit the soliciting of
36 employment from that injured person's attorney, insurance
37 company, self-insured administrator, insurance adjuster, employer,
38 or any other person having an indirect interest in the investigation
39 of the injury. This subdivision shall not apply to any business agent
40 or attorney employed by a labor organization. A licensee, or officer,

1 director, partner, manager, member, or qualified manager of a
2 licensee shall not pay or compensate any of ~~his or her~~ *their*
3 employees or agents on the basis of a bonus, bounty, or quota
4 system whereby a premium is placed on the number of employer
5 or client rule violations or infractions purportedly discovered as a
6 result of any investigation made by a licensee.

7 (j) A licensee shall not use a fictitious business name in
8 connection with the official activities of the licensee's business,
9 except as provided by the bureau.

10 (k) This section shall remain in effect only until January 1, ~~2021,~~
11 ~~2024~~, and as of that date is repealed.

12 *SEC. 97. Section 7539 of the Business and Professions Code,*
13 *as amended by Section 9 of Chapter 92 of the Statutes of 2018, is*
14 *amended to read:*

15 7539. (a) A licensee or officer, director, partner, or qualified
16 manager of a licensee may divulge to any law enforcement officer
17 or district attorney, or ~~his or her~~ *their* representative, any
18 information ~~he or she~~ *they* may acquire as to any criminal offense,
19 but ~~he or she~~ *they* shall not divulge to any other person, except as
20 otherwise required by law, any information acquired by ~~him or~~
21 ~~her~~ *them* except at the direction of the employer or client for whom
22 the information was obtained.

23 (b) A licensee or officer, director, partner, qualified manager,
24 or employee of a licensee shall not knowingly make any false
25 report to ~~his or her~~ *their* employer or client for whom information
26 was being obtained.

27 (c) A written report shall not be submitted to a client except by
28 the licensee, qualified manager, or a person authorized by one or
29 either of them, and the person submitting the report shall exercise
30 diligence in ascertaining whether or not the facts and information
31 in the report are true and correct.

32 (d) A licensee, or officer, director, partner, qualified manager,
33 or employee of a licensee shall not use a badge in connection with
34 the official activities of the licensee's business.

35 (e) A licensee, or officer, director, partner, qualified manager,
36 or employee of a licensee, shall not use a title, or wear a uniform,
37 or use an insignia, or use an identification card, or make any
38 statement with the intent to give an impression that ~~he or she is~~
39 *they are* connected in any way with the federal government, a state
40 government, or any political subdivision of a state government.

1 (f) A licensee, or officer, partner, qualified manager, or
2 employee of a licensee shall not use any identification to indicate
3 that ~~he or she is~~ *they are* licensed as a private investigator other
4 than the official identification card issued by the bureau or the
5 business card regularly used by the business. However, a licensee
6 may issue an employer identification card.

7 (g) A licensee, or officer, director, partner, qualified manager,
8 or employee of a licensee, shall not enter any private building or
9 portion thereof, except premises commonly accessible to the public,
10 without the consent of the owner or of the person in legal
11 possession thereof.

12 (h) A licensee shall not permit an employee or agent in ~~his or~~
13 ~~her~~ *their* own name to advertise, engage clients, furnish reports or
14 present bills to clients, or in any manner conduct business for which
15 a license is required under this chapter. All business of the licensee
16 shall be conducted in the name of and under the control of the
17 licensee.

18 (i) A licensee, or officer, director, partner, qualified manager,
19 or employee of a licensee, shall not knowingly and directly solicit
20 employment from any person who has directly sustained bodily
21 injury or from that person's spouse or other family member to
22 obtain authorization on behalf of the injured person as an
23 investigator to investigate the accident or act that resulted in injury
24 or death to that person or damage to the property of that person.
25 This subdivision does not prohibit the soliciting of employment
26 from that injured person's attorney, insurance company,
27 self-insured administrator, insurance adjuster, employer, or any
28 other person having an indirect interest in the investigation of the
29 injury. This subdivision does not apply to any business agent or
30 attorney employed by a labor organization. A licensee, officer,
31 director, partner, or qualified manager of a licensee shall not pay
32 or compensate any of ~~his or her~~ *their* employees or agents on the
33 basis of a bonus, bounty, or quota system whereby a premium is
34 placed on the number of employer or client rule violations or
35 infractions purportedly discovered as a result of any investigation
36 made by a licensee.

37 (j) A licensee shall not use a fictitious business name in
38 connection with the official activities of the licensee's business,
39 except as provided by the bureau.

1 (k) This section shall become operative on January 1, ~~2021~~.
2 2024.

3 ~~SEC. 66.~~

4 *SEC. 98.* Section 8516 of the Business and Professions Code
5 is amended to read:

6 8516. (a) This section, and Section 8519, apply only to wood
7 destroying pests or organisms.

8 (b) A registered company or licensee shall not commence work
9 on a contract, or sign, issue, or deliver any documents expressing
10 an opinion or statement relating to the absence or presence of wood
11 destroying pests or organisms until an inspection has been made
12 by a licensed Branch 3 field representative or operator employed
13 by a registered company, except as provided in Section 8519.5.
14 The address of each property inspected or upon which work is
15 completed shall be reported on a form prescribed by the board and
16 shall be filed with the board no later than 10 business days after
17 the commencement of an inspection or upon completed work.

18 Every property inspected pursuant to this subdivision or Section
19 8518 shall be assessed a filing fee pursuant to Section 8674.

20 Failure of a registered company to report and file with the board
21 the address of any property inspected or work completed pursuant
22 to Section 8518 or this section is grounds for disciplinary action
23 and shall subject the registered company to a fine of not more than
24 two thousand five hundred dollars (\$2,500). The address of an
25 inspection report prepared for use by an attorney for litigation
26 purposes shall not be required to be reported to the board and shall
27 not be assessed a filing fee.

28 A written inspection report conforming to this section and a form
29 approved by the board shall be prepared and delivered to the person
30 requesting the inspection and the property owner, or to the property
31 owner’s designated agent, within 10 business days from the start
32 of the inspection, except that an inspection report prepared for use
33 by an attorney for litigation purposes is not required to be reported
34 to the board or the property owner. An inspection report may be
35 a complete, limited, supplemental, or reinspection report, as defined
36 by Section 1993 of Title 16 of the California Code of Regulations.
37 The report shall be delivered before work is commenced on any
38 property. The registered company shall retain for three years all
39 inspection reports, field notes, and activity forms.

1 Reports shall be made available for inspection and reproduction
2 to the executive officer of the board or their duly authorized
3 representative during business hours. All inspection reports or
4 copies thereof shall be submitted to the board upon demand within
5 two business days. The following shall be set forth in the report:

6 (1) The start date of the inspection and the name of the licensed
7 field representative or operator making the inspection.

8 (2) The name and address of the person or firm ordering the
9 report.

10 (3) The name and address of the property owner and any person
11 who is a party in interest.

12 (4) The address or location of the property.

13 (5) A general description of the building or premises inspected.

14 (6) A foundation diagram or sketch of the structure or structures
15 or portions of the structure or structures inspected, including the
16 approximate location of any infested or infected areas evident, and
17 the parts of the structure where conditions that would ordinarily
18 subject those parts to attack by wood destroying pests or organisms
19 exist. Reporting of the infested or infected wood members, or parts
20 of the structure identified, shall be listed in the inspection report
21 to clearly identify them, as is typical in standard construction
22 components, including, but not limited to, siding, studs, rafters,
23 floor joists, fascia, subfloor, sheathing, and trim boards.

24 (7) Information regarding the substructure, foundation walls
25 and footings, porches, patios and steps, air vents, abutments, attic
26 spaces, roof framing that includes the eaves, rafters, fascias,
27 exposed timbers, exposed sheathing, ceiling joists, and attic walls,
28 or other parts subject to attack by wood destroying pests or
29 organisms. Conditions usually deemed likely to lead to infestation
30 or infection, such as earth-wood contacts, excessive cellulose
31 debris, faulty grade levels, excessive moisture conditions, evidence
32 of roof leaks, and insufficient ventilation are to be reported.

33 (8) One of the following statements, as appropriate, printed in
34 bold type:

35 (A) The exterior surface of the roof was not inspected. If you
36 want the water tightness of the roof determined, you should contact
37 a roofing contractor who is licensed by the Contractors State
38 License Board.

39 (B) The exterior surface of the roof was inspected to determine
40 whether or not wood destroying pests or organisms are present.

1 (9) Indication or description of any areas that are inaccessible
2 or not inspected with recommendation for further inspection if
3 practicable. If, after the report has been made in compliance with
4 this section, authority is given later to open inaccessible areas, a
5 supplemental report on conditions in these areas shall be made.

6 (10) Recommendations for corrective measures.

7 (11) Information regarding the pesticide or pesticides to be used
8 for their control or prevention as set forth in subdivision (a) of
9 Section 8538.

10 (12) The inspection report shall clearly disclose that if requested
11 by the person ordering the original report, a reinspection of the
12 structure will be performed if an estimate or bid for making repairs
13 was given with the original inspection report, or thereafter.

14 An estimate or bid shall be given separately allocating the costs
15 to perform each and every recommendation for corrective measures
16 as specified in subdivision (c) with the original inspection report
17 if the person who ordered the original inspection report so requests,
18 and if the registered company is regularly in the business of
19 performing each corrective measure.

20 If no estimate or bid was given with the original inspection
21 report, or thereafter, then the registered company shall not be
22 required to perform a reinspection.

23 A reinspection shall be an inspection of those items previously
24 listed on an original report to determine if the recommendations
25 have been completed. Each reinspection shall be reported on an
26 original inspection report form and shall be labeled "Reinspection."
27 Each reinspection shall also identify the original report by date.

28 After four months from an original inspection, all inspections
29 shall be original inspections and not reinspections.

30 Any reinspection shall be performed for not more than the price
31 of the registered company's original inspection price and shall be
32 completed within 10 business days after a reinspection has been
33 ordered.

34 (13) The inspection report shall contain the following statement,
35 printed in boldface type:

36
37 "NOTICE: Reports on this structure prepared by various
38 registered companies should list the same findings (i.e. termite
39 infestations, termite damage, fungus damage, etc.). However,
40 recommendations to correct these findings may vary from company

1 to company. You have a right to seek a second opinion from
2 another company.”

3
4 (c) At the time a report is ordered, the registered company or
5 licensee shall inform the person or entity ordering the report, that
6 a separate report is available pursuant to this subdivision. If a
7 separate report is requested at the time the inspection report is
8 ordered, the registered company or licensee shall separately identify
9 on the report each recommendation for corrective measures as
10 follows:

- 11 (1) The infestation or infection that is evident.
- 12 (2) The conditions that are present that are deemed likely to
13 lead to infestation or infection.

14 If a registered company or licensee fails to inform as required
15 by this subdivision and a dispute arises, or if any other dispute
16 arises as to whether this subdivision has been complied with, a
17 separate report shall be provided within 24 hours of the request
18 but, in no event, later than the next business day, and at no
19 additional cost.

20 (d) When a corrective condition is identified, either as paragraph
21 (1) or (2) of subdivision (c), and the property owner or the property
22 owner’s designated agent chooses not to correct those conditions,
23 the registered company or licensee shall not be liable for damages
24 resulting from a failure to correct those conditions or subject to
25 any disciplinary action by the board. Nothing in this subdivision,
26 however, shall relieve a registered company or a licensee of any
27 liability resulting from negligence, fraud, dishonest dealing, other
28 violations pursuant to this chapter, or contractual obligations
29 between the registered company or licensee and the responsible
30 parties.

31 (e) The inspection report form prescribed by the board shall
32 separately identify the infestation or infection that is evident and
33 the conditions that are present that are deemed likely to lead to
34 infestation or infection. If a separate form is requested, the form
35 shall explain the infestation or infection that is evident and the
36 conditions that are present that are deemed likely to lead to
37 infestation or infection and the difference between those conditions.
38 In no event, however, shall conditions deemed likely to lead to
39 infestation or infection be characterized as actual “defects” or as
40 actual “active” infestations or infections or in need of correction

1 as a precondition to issuing a certification pursuant to Section
2 8519.

3 (f) The report and any contract entered into shall also state
4 specifically when any guarantee for the work is made, and if so,
5 the specific terms of the guarantee and the period of time for which
6 the guarantee shall be in effect. If a guarantee extends beyond three
7 years, the registered company shall maintain all original inspection
8 reports, field notes, activity forms, and notices of completion for
9 the duration of the guarantee period and for one year after the
10 guarantee expires.

11 (g) For purposes of this section, “control service agreement”
12 means an agreement, including extended warranties, to have a
13 licensee conduct over a period of time regular inspections and
14 other activities related to the control or eradication of wood
15 destroying pests and organisms. Under a control service agreement
16 a registered company shall refer to the original report and contract
17 in a manner as to identify them clearly, and the report shall be
18 assumed to be a true report of conditions as originally issued,
19 except it may be modified after a control service inspection. A
20 registered company is not required to issue a report as outlined in
21 paragraphs (1) to (11), inclusive, of subdivision (b) after each
22 control service inspection. If after control service inspection, no
23 modification of the original report is made in writing, then it will
24 be assumed that conditions are as originally reported. A control
25 service contract shall state specifically the particular wood
26 destroying pests or organisms and the portions of the buildings or
27 structures covered by the contract.

28 (h) A registered company or licensee may enter into and
29 maintain a control service agreement provided the following
30 requirements are met:

31 (1) The control service agreement shall be in writing, signed by
32 both parties, and shall specifically include the following:

33 (A) The wood destroying pests and organisms covered by the
34 control service agreement.

35 (B) Any wood destroying pest or organism that is not covered
36 must be specifically listed.

37 (C) The type and manner of treatment to be used to correct the
38 infestations or infections.

39 (D) The structures or buildings, or portions thereof, covered by
40 the agreement, including a statement specifying whether the

1 coverage for purposes of periodic inspections is limited or full.
2 Any exclusions from those described in the original report must
3 be specifically listed.

4 (E) A reference to the original inspection report.

5 (F) The frequency of the inspections to be provided, the fee to
6 be charged for each renewal, and the duration of the agreement.

7 (G) Whether the fee includes structural repairs.

8 (H) If the services provided are guaranteed, and, if so, the terms
9 of the guarantee.

10 (I) A statement that all corrections of infestations or infections
11 covered by the control service agreement shall be completed within
12 six months of discovery, unless otherwise agreed to in writing by
13 both parties.

14 (2) The original inspection report, the control service agreement,
15 and completion report shall be maintained for three years after the
16 cancellation of the control service agreement.

17 (3) Inspections made pursuant to a control service agreement
18 shall be conducted by a Branch 3 licensee. Section 8506.1 does
19 not modify this provision.

20 (4) A full inspection of the property covered by the control
21 service agreement shall be conducted and a report filed pursuant
22 to subdivision (b) at least once every three years from the date that
23 the agreement was entered into, unless the consumer cancels the
24 contract within three years from the date the agreement was entered
25 into.

26 (5) Under a control service agreement, a written report shall be
27 required for the correction of any infestation or infection unless
28 all of the following conditions are met:

29 (A) The infestation or infection has been previously reported.

30 (B) The infestation or infection is covered by the control service
31 agreement.

32 (C) There is no additional charge for correcting the infestation
33 or infection.

34 (D) Correction of the infestation or infection takes place within
35 45 days of its discovery.

36 (E) Correction of the infestation or infection does not include
37 fumigation.

38 (6) All notice requirements pursuant to Section 8538 shall apply
39 to all pesticide treatments conducted under control service
40 agreements.

1 (i) All work recommended by a registered company, where an
2 estimate or bid for making repairs was given with the original
3 inspection report, or thereafter, shall be recorded on this report or
4 a separate work agreement and shall specify a price for each
5 recommendation. This information shall be provided to the person
6 requesting the inspection, and shall be retained by the registered
7 company with the inspection report copy for three years.

8 ~~SEC. 67.~~

9 *SEC. 99.* Section 10050 of the Business and Professions Code
10 is amended to read:

11 10050. (a) (1) There is in the Business, Consumer Services,
12 and Housing Agency a Department of Real Estate, the chief officer
13 of which department is named the Real Estate Commissioner.

14 (2) Notwithstanding any other law, the powers and duties of the
15 department, as set forth in this part and Chapter 1 (commencing
16 with Section 11000) of Part 2, shall be subject to review by the
17 appropriate policy committees of the Legislature. The review shall
18 be performed as if this part and that chapter were scheduled to be
19 repealed as of January 1, 2022.

20 (b) It shall be the principal responsibility of the commissioner
21 to enforce all laws in this part and Chapter 1 (commencing with
22 Section 11000) of Part 2 in a manner that achieves the maximum
23 protection for the buyers of real property and those persons dealing
24 with real estate licensees.

25 (c) Wherever the term “commissioner” is used in this division,
26 it means the Real Estate Commissioner.

27 (d) This section shall become operative on July 1, 2018.

28 ~~SEC. 68.~~

29 *SEC. 100.* Section 11301 of the Business and Professions Code
30 is amended to read:

31 11301. (a) (1) There is hereby created within the Department
32 of Consumer Affairs a Bureau of Real Estate Appraisers to
33 administer and enforce this part.

34 (2) Notwithstanding any other law, the powers and duties of the
35 bureau, as set forth in this part, shall be subject to review by the
36 appropriate policy committees of the Legislature. The review shall
37 be performed as if this part were scheduled to be repealed as of
38 January 1, 2022.

1 (b) Whenever the term “Office of Real Estate Appraisers”
2 appears in any other law, it means the “Bureau of Real Estate
3 Appraisers.”

4 ~~SEC. 69.~~

5 *SEC. 101.* Section 16100 of the Business and Professions Code
6 is amended to read:

7 16100. (a) The board of supervisors may in the exercise of its
8 police powers, and for the purpose of regulation, as herein
9 provided, and not otherwise, license any kind of business not
10 prohibited by law, transacted and carried on within the limits of
11 its jurisdiction, including all shows, exhibitions, and lawful games,
12 and may fix the rate of the license fee and provide for its collection
13 by suit or otherwise.

14 (b) No license fee levied pursuant to subdivision (a) that is
15 measured by the licensee’s income or gross receipts, whether levied
16 by a charter or general law county, shall apply to any nonprofit
17 organization that is exempted from taxes by Chapter 4
18 (commencing with Section 23701) of Part 11 of Division 2 of the
19 Revenue and Taxation Code or Subchapter F (commencing with
20 Section 501) of Chapter 1 of Subtitle A of the Internal Revenue
21 Code of 1986, or the successor of either, or to any minister,
22 clergyman, Christian Science practitioner, rabbi, or priest of any
23 religious organization that has been granted an exemption from
24 federal income tax by the United States Commissioner of Internal
25 Revenue as an organization described in Section 501(c)(3) of the
26 Internal Revenue Code or a successor to that section.

27 (c) Before a county issues a business license to a person to
28 conduct business as a contractor, as defined by Section 7026, the
29 county shall verify that the person is licensed by the Contractors
30 State License Board.

31 ~~SEC. 70.~~

32 *SEC. 102.* Section 19164 of the Business and Professions Code
33 is amended to read:

34 19164. The bureau may, by regulation, establish insulation
35 material standards governing the quality of all insulation material
36 sold or installed within this state, including those properties that
37 affect the safety and thermal performance of insulation material
38 during application and in the use intended. The standards shall
39 specify the initial performance of the insulation material and the
40 performance expected during the design life of the insulation

1 material. Until the bureau has adopted these regulations, the
2 regulations of the State Energy Resources Conservation and
3 Development Commission in effect on the effective date of this
4 section relating to those standards shall remain in full force and
5 effect. However, wherever those regulations specify that the
6 commission shall perform an act, the bureau instead shall perform
7 the act.

8 Prior to establishing the standards and procedures required by
9 this chapter, the bureau shall conduct at least two public hearings,
10 and shall invite the State Energy Resources Conservation and
11 Development Commission, the State Fire Marshal, manufacturers,
12 distributors, and licensed installers of insulation materials, and
13 appropriate members of the public to participate in the hearings.
14 Immediately upon adoption of the standards and procedures, the
15 bureau shall provide a copy of the standards to the State Energy
16 Resources Conservation and Development Commission, and the
17 Contractors State License Board. Within 30 days after receipt of
18 the bureau's standards, the Contractors State License Board shall
19 notify all state licensed contractors who install insulation of the
20 standards.

21 Insulation standards adopted by the bureau, pursuant to this
22 section, and by the State Energy Resources Conservation and
23 Development Commission, pursuant to Section 25402 of the Public
24 Resources Code, which are building standards, as defined in
25 Section 25488.5 of the Public Resources Code, shall be submitted
26 to the California Building Standards Commission for approval
27 pursuant to, and are governed by, the California Building Standards
28 Law (Part 2.5 (commencing with Section 18901) of Division 13
29 of the Health and Safety Code). The building standards adopted
30 by the bureau and published in the California Building Standards
31 Code shall comply with, and be enforced as provided in, this
32 section.

33 *SEC. 103. Section 1670.8.5 is added to the Civil Code, to read:*
34 *1670.8.5. (a) A contract or proposed contract for the provision*
35 *of a consumer service by a licensee regulated by a licensing board*
36 *shall not include a provision limiting the consumer's ability to file*
37 *a complaint with that board or to participate in the board's*
38 *investigation into the licensee.*

39 *(b) Any waiver of the provisions of this section is contrary to*
40 *public policy, and is void and unenforceable.*

1 (c) For purposes of this section, the following terms apply:

2 (1) “Consumer service” means any service that is obtained for
3 use primarily for personal, family, or household purposes.

4 (2) “Licensing board” means any entity described in Section
5 101 of the Business and Professions Code, the State Bar of
6 California, the Department of Real Estate, or any other state
7 agency that issues a license, certificate, or registration authorizing
8 a person to engage in a business or profession.

9 (d) Violation of this section by a licensee shall constitute
10 unprofessional conduct subject to discipline by the licensee’s
11 licensing board.

12 ~~SEC. 71.~~

13 SEC. 104. Section 94950 of the Education Code is amended
14 to read:

15 94950. This chapter shall remain in effect only until January
16 1, 2022, and as of that date is repealed.

17 ~~SEC. 72.~~

18 SEC. 105. No reimbursement is required by this act pursuant
19 to Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

AGENDA ITEM I: PRESENTATION ON QUALIFIED STORMWATER POLLUTION PREVENTION PLAN DEVELOPER (QSD) CERTIFICATION BY CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

Summary

At the November 8, 2019 Landscape Architects Technical Committee (LATC) meeting the members discussed the QSD certification requirements and process for landscape architects as a result of receiving correspondence from a licensee. Staff shared, based on its preliminary research, the State Water Resources Control Board's (State Water Board) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Land Disturbance (Construction General Permit) includes certification training for Storm Water Pollution Prevention Plans (SWPPP). The Construction General Permit requires that a QSD possess one of eight underlying professional licenses or certifications, which includes a landscape architect, and have attended a State Water Board-sponsored or approved QSD training program.

The Committee members expressed further interest and requested a presentation at a future meeting on the extent of the QSD certification training program, requirements to become QSD certified, importance of being QSD certified, and how landscape architects can become QSD certified.

At today's meeting, State Water Board staff and Qualified Industrial Storm Water Practitioner, Brandon Roosenboom, will provide a presentation on QSD certification including the additional information requested by the Committee.

Action Requested

Discuss and possible action on QSD certification.

Attachment

QSD Certification PowerPoint Presentation



QUALIFIED SWPPP DEVELOPER & PRACTITIONER OVERVIEW

BRANDON ROOSENBOOM
WATER RESOURCE CONTROL ENGINEER
STATE WATER RESOURCES CONTROL BOARD



OVERVIEW

- Background on the Construction Stormwater General Permit
- Role of the Qualified SWPPP Developer/Practitioner
- Process of Becoming a Qualified SWPPP Developer/Practitioner
- Landscape Architects in Relation to the Certification
- Questions

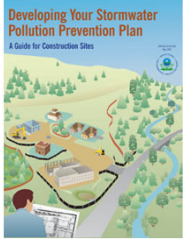
2

BACKGROUND

- The 2009 Construction Stormwater General Permit (CGP) regulates discharges of pollutants in stormwater associated with construction activities
- The CGP is required for construction projects that disturb one or more acres of land or less than one acre but part of a larger common plan of development
- The CGP requires the development of a Stormwater Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer

3

QUALIFIED SWPPP DEVELOPER (QSD)



- The SWPPP must be written, amended, and signed/certified by a QSD
- The QSD is expected to be knowledgeable in identifying pollutant sources and implementing best management practices to address the pollutants
- The QSD is also expected to prepare a monitoring program to visually inspect the site and analyze stormwater discharges for pollutants
- QSDs can all perform the duties required of the QSP

4

QUALIFIED SWPPP PRACTITIONER (QSP)

- QSPs are responsible for implementing the elements described in the SWPPP
- Rain Event Action Plans are prepared by QSPs
- QSPs conduct inspections, maintain best management practices, and sample stormwater discharges
- QSPs train site personnel on the principles of stormwater protection and can delegate responsibilities to trained personnel



5

QSD/QSP TRAINING PROGRAM

There are 4 steps to becoming a QSD/QSP

1. Take a QSD/QSP training course offered by a Trainer of Record
2. Register to take the QSD and/or QSP exam through the Office of Water Programs
3. Take and pass the QSD and/or QSP exam with a score of 70% or higher
4. Provide information underlying certification or registration

More information about the QSD/QSP Training Program can be found on the [CASQA website](https://www.casqa.org/resources/qsp-qsd-qualification) (<https://www.casqa.org/resources/qsp-qsd-qualification>)

6

QSD/QSP TRAINING PROGRAM

The underlying prerequisites include:

Prerequisite Certification or Registration	Type
California Registered Professional Civil Engineer	QSD/QSP
California Registered Professional Geologist or Engineering Geologist	QSD/QSP
California Registered Landscape Architect	QSD/QSP
Professional Hydrologist registered through the American Institute of Hydrology	QSD/QSP
Certified Professional in Erosion and Sediment Control (CPESC)	QSD/QSP
Certified Professional in Storm Water Quality (CPSWQ)	QSD/QSP
Professional in Erosion and Sediment Control – Level 3 through NICET	QSD/QSP
Certified Erosion, Sediment, and Storm Water Inspector	QSP
Certified Inspector of Sediment and Erosion Control (CISEC)	QSP

7

LANDSCAPE ARCHITECTS AS QSD/QSPS

- Being a California Registered Landscape Architect is one of the acceptable underlying certifications or registrations for the QSD/QSP
- Through their education and experience, California Registered Landscape Architects are expected to be familiar with stormwater hydrological principles
- California Registered Landscape Architects are still required to take the QSD/QSP training course and exam to earn the certification

8

QUESTIONS?



9

CONTACT

Brandon Roosenboom
brandon.roosenboom@waterboards.ca.gov
(916) 341-5566

Web Resources:
stormwater@waterboards.ca.gov
[Construction Stormwater Program Webpage](#)

10

AGENDA ITEM J: UPDATE ON INTRA-DEPARTMENTAL CONTRACTS (IDC) WITH THE OFFICE OF PROFESSIONAL EXAMINATION SERVICES (OPES) FOR LANDSCAPE ARCHITECTS CALIFORNIA SUPPLEMENTAL EXAMINATION (CSE) WRITTEN EXAMINATION DEVELOPMENT, AND REVIEW OF LARE AND LINKAGE STUDY

Summary

OPES is charged with providing professional psychometric services to Department of Consumer Affairs' boards and bureaus. These services include all aspects of the examination validation process, such as Occupational Analyses (OA), examination development, test scoring and statistical analyses, and national examination reviews. The purpose of a licensure examination is to identify individuals who have the minimum knowledge and skills to perform job tasks safely and competently. The content of the CSE should be based upon the results of an OA to ensure that the examination assesses the most critical competencies of the job.

The Landscape Architects Technical Committee's (LATC) current IDC with OPES for CSE development expired on June 30, 2020. Staff coordinated with OPES on the development of a new IDC for continued examination development which commenced on July 1, 2020 and continues through June 30, 2021.

The national examination, LARE is administered by the Council of Landscape Architectural Registration Boards (CLARB). To evaluate the LARE for continued use in California, OPES must periodically conduct an independent review and evaluation of the LARE. The review process requires that a linkage study be performed to demonstrate the extent to which the content of the LARE reflects the content identified in the most recent California OA of landscape architects. Since CLARB is in the process of conducting a task analysis, OPES will commence the linkage study of the CSE and LARE in early 2021, to evaluate based on the most recent national task analysis.

Staff coordinated with OPES on the development of the OA IDC to review the LARE and conduct the related linkage study. The OA IDC will also continue through June 30, 2021.

Attachments

1. IDC CSE Development
2. IDC OA and Linkage Study

INTRA-DEPARTMENTAL CONTRACT

CONTRACT NUMBER IAC #75734	AMENDMENT NUMBER
--------------------------------------	------------------

- This Contract is entered into between the Board/Bureau/Divisions named below
REQUESTING BOARD/BUREAU/DIVISION'S NAME
California Architects Board/Landscape Architects Technical Committee (Committee)
PROVIDING BOARD/BUREAU/DIVISION'S NAME
Office of Professional Examination Services (OPES)
- The term of this Contract is: **July 1, 2020 through June 30, 2021**
- The maximum amount of this Contract is: **\$26,760**
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Contract:

**Landscape Architects
California Supplemental Examination
Written Examination Development**

- | | |
|---|---------|
| Exhibit A – Scope of Work | 1 Page |
| • Attachment I - Project Plan | 1 Page |
| • Attachment II - Roles and Responsibilities | 3 Pages |
| Exhibit B – Budget Detail and Payment Provision | 1 Page |
| • Attachment I - Cost Sheet - Global Costs | 2 Pages |
| Exhibit C – General Terms and Conditions | 1 Page |
| Exhibit D – Special Terms and Conditions | 1 Page |

IN WITNESS WHEREOF, this Contract has been executed by the parties hereto.

DEPARTMENT OF CONSUMER AFFAIRS	Department of Consumer Affairs Contracts Unit Use Only
REQUESTING BOARD/BUREAU/DIVISION'S NAME California Architects Board/Landscape Architects Technical Committee	
BY (Authorized Signature)  DATE SIGNED 2/10/20	
PRINTED NAME AND TITLE OF PERSON SIGNING Laura Zuniga, Executive Officer	
ADDRESS 2420 Del Paso Road, Suite 105 Sacramento, CA 95834	
BUDGET OFFICER'S SIGNATURE  DATE SIGNED 2/24/2020	
DEPARTMENT OF CONSUMER AFFAIRS	
PROVIDING BOARD/BUREAU/DIVISION'S NAME Office of Professional Examination Services	
BY (Authorized Signature)  DATE SIGNED 2/15/2020	
PRINTED NAME AND TITLE OF PERSON SIGNING Heidi Lincer, Chief	
ADDRESS 2420 Del Paso Road, Suite 265 Sacramento, CA 95834	
BUDGET OFFICER'S SIGNATURE  DATE SIGNED 2/24/2020	

EXHIBIT A

SCOPE OF WORK

1. The Office of Professional Examination Services (OPES) agrees to provide the following services:

Develop new items for Landscape Architect Technical Committee California Supplemental Examination, review existing items, construct one new form of the exam and establish passing score for one form of the written examination.

2. The Landscape Architects Technical Committee (Committee) agrees to provide the following services:

See attached: I. Project Plan
II. Roles and Responsibilities

3. The project representatives during the term of this agreement will be:

Requesting Committee:

Name: Laura Zuniga
Phone: (916) 575-7222
Fax: (916) 575-7285

Office of Professional Examination Services:

Name: Heidi Lincer
Phone: (916) 575-7240
Fax: (916) 419-1697

Direct all agreement inquiries to:

**Department of Consumer Affairs
Contracts Unit:**

Address: 1625 North Market Blvd. Suite S-103
Sacramento, CA 95834
Phone: (916) 574-7277
Fax: (916) 574-8658

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75734
PROJECT PLAN
for
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECTS CALIFORNIA SUPPLEMENTAL EXAMINATION
WRITTEN EXAMINATION DEVELOPMENT
FISCAL YEAR 2020-21

Project Objectives: *Develop new items for Landscape Architect Technical Committee California Supplemental Examination, review existing items, construct one new form of the exam and establish passing score for one form of the written examination.*

Proposed Completion Date: June 30, 2021

LATC Contact: Kourtney Nation
(916) 575-7237

OPES Contact: Brian Knox
(916) 575-7273

MAJOR PROJECT EVENTS	TARGET DATE	RESPONSIBILITY
1. Item Writing/Review Workshop Recruit SMEs for 2-day workshop Provide list of SMEs to OPES Conduct workshop with SMEs Perform post workshop activities	June 2020 July 2020 August 28-29, 2020 August 2020	Board Board OPES OPES
2. Item Writing/Review Workshop Recruit SMEs for 2-day workshop Provide list of SMEs to OPES Conduct workshop with SMEs Perform post workshop activities	June 2020 August 2020 September 18-19, 2020 September 2020	Board Board OPES OPES
3. Exam Construction Workshop Recruit SMEs for 2-day workshop Provide list of SMEs to OPES Conduct workshop with SMEs Perform post workshop activities	July 2020 September 2020 October 23-24, 2020 October 2020	Board Board OPES OPES
4. Passing Score Workshop Recruit SMEs for 2-day workshop Provide list of SMEs to OPES Conduct workshop with SMEs Analyze data, prepare passing score memo	September 2020 November 2020 December 4-5, 2020 December 2020	Board Board OPES OPES
5. Publish Examination Prepare final copies for one form of examination Prepare examination for CBT	May 2021 June 2021	OPES OPES

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75734
ROLES AND RESPONSIBILITIES
for
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECTS CALIFORNIA SUPPLEMENTAL EXAMINATION
WRITTEN EXAMINATION DEVELOPMENT
FISCAL YEAR 2020-21

INTRODUCTION

The Office of Professional Examination Services (OPES) of the Department of Consumer Affairs (DCA) provides psychometric consulting in examination development and occupational analysis to DCA's regulatory entities through Intra-Agency Contract (IAC) agreements.

The purpose of a licensure examination is to identify individuals who have the minimum knowledge and skills to perform job tasks safely and competently. An occupational analysis (OA) of the profession is required to determine the most critical job tasks and knowledge. The OA must be conducted prior to examination development and reviewed every 5-7 years. To ensure legal defensibility, the content of the examination must be based on the results of a current OA.

The examination development process is conducted in several workshops and requires a total of 30 licensed landscape architects to serve as expert consultants known as subject matter experts (SMEs). A minimum of 6 SMEs, with a goal of 8-10 SMEs, are needed for each workshop. The SMEs in each workshop should be different to ensure objectivity of the examination development process and to ensure that all aspects of the profession are represented.

The examination development services to be provided will include: item writing and review, examination construction, and passing score processes.

ROLE OF THE LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

The primary role of the Landscape Architects Technical Committee (Committee) is to recruit a representative sample of SMEs for development of the examination. The Committee should also inform SMEs about the nature of their participation and the OPES security requirements.

The selection of SMEs critically affects the quality and defensibility of a licensure examination program. The SMEs selected to participate in an examination development workshop panel should:

- reflect the landscape architect profession in terms of geographic location, practice specialty area, ethnicity, and gender;
- be currently working in the field and have up-to-date skills; and
- maintain a license in good standing that is not retired nor inactive.

Additionally, approximately half of all SMEs in each workshop should have received their license within the past 5 years to ensure that an entry-level perspective is maintained. It is essential that a Committee representative consult with OPES before beginning SME recruitment.

Due to potential conflict of interest, undue influence, security considerations, or all of the above, board members, committee members, and instructors shall not serve as SMEs for, nor participate in, any aspect of licensure examination development or administration, pursuant to DCA Policy OPES 18-01.

In addition, the Committee has the responsibility to acquire any reference materials to be used by the SMEs in the development of examination items.

The nature of the work performed by OPES can result in unanticipated changes. For example, work may be completed ahead of or behind schedule. Flexibility on the part of both parties is essential to the success of the contract.

ROLE OF THE OFFICE OF PROFESSIONAL EXAMINATION SERVICES

The primary role of OPES is to develop the written examination. OPES will link the examination to the results of an occupational analysis to ensure the content validity of the examination. During the workshops, OPES will work with the SMEs to develop items, review items, construct an examination, and establish the passing score for one examinations.

Following each workshop, OPES and Committee staff will review the performance of each SME to determine those who should be invited back. The Committee agrees to recruit SMEs so as to build a competent pool of representative, productive participants.

SECURITY

OPES has implemented various controls to ensure the integrity, security, and appropriate level of confidentiality of licensure examination programs. These controls include prohibiting certain items, such as electronic devices and items that could potentially conceal recording devices, in all workshops.

SMEs are required to:

- provide valid photo identification;
- allow for electronic devices to be secured in the reception area during workshops; and
- sign one or more agreements accepting responsibility for maintaining strict confidentiality of licensure examination material and information to which they have access.

Any person who fails to comply with OPES' security requirements will not be allowed to participate in licensure examination workshops. In addition, any person who subverts or attempts to subvert a licensure examination will face serious consequences, which may include loss of licensure, criminal charges per Business and Professions Code section 123, or both.

OPES will notify the Committee of any SME whose conduct during a workshop violates policy or whose presence is disruptive. OPES reserves the right to immediately dismiss any SME whose presence poses a security risk. OPES will take steps to manage disruptive behavior; however, if such behavior persists or prevents other SMEs from completing their tasks, or both, OPES may dismiss the person from the workshop.

SUMMARY OF EVENTS

- Committee recruits two panels of SMEs to serve as item writers/reviewers for two workshops.
- OPES works with SMEs to develop and review new items.
- Committee recruits one panel of SMEs to select items to construct new examination form for one workshop.
- OPES works with SMEs to select items to construct the new form.
- Committee recruits one panel of SMEs to serve as judges in one passing score workshop. The SMEs should be different SMEs than the examination construction participants to ensure objectivity of the passing score ratings.
- OPES works with SMEs to establish the passing scores. OPES analyzes the ratings and prepares a passing score memo.

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered and upon receipt and approval of the invoices, the Landscape Architects Technical Committee (Committee) agrees to compensate the Office of Professional Examination Services (OPES) for services rendered and expenditures incurred.
- B. Invoices shall include the agreement number and shall be submitted on a quarterly basis for the cost of services completed as identified in Exhibit B, Attachment I; any related travel expenses will be billed as actuals. Signed/approved invoices from the Committee will be due to OPES fifteen (15) working days from the date of invoice billings. OPES will then submit the approved invoices to the Department of Consumer Affairs for processing and payment. Invoices will be submitted to:

California Architects Board/Landscape Architects Technical Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
- C. The Committee will reimburse OPES for the partial performance (e.g. workshop preparation, rescheduling) of any services provided by OPES if the Committee does not demonstrate in good faith their roles/responsibilities as defined by Attachment II – Roles and Responsibilities.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to OPES or to furnish any other considerations under this Agreement and OPES shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to OPES to reflect the reduced amount.

3. Payment

- A. Costs for this Agreement shall be computed in accordance with State Administrative Manual Sections 8752 and 8752.1.
- B. Nothing herein contained shall preclude advance payments pursuant to Article 1, Chapter 3, Part 1, Division 3, Title 2 of the Government Code of the State of California.

4. Cost

- A. Costs for this Agreement shall be subject to any collective bargaining agreements negotiated in Fiscal Year 2005/2006 or thereafter.

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75734
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECTS CALIFORNIA SUPPLEMENTAL EXAMINATION
WRITTEN EXAMINATION DEVELOPMENT COSTS
FISCAL YEAR 2020-21

1.	Item Writing/Review Workshop	\$ 4,744
2.	Item Writing/Review Workshop	\$ 4,744
3.	Exam Construction Workshop	\$ 5,320
4.	Passing Score Workshop	\$ 4,208
5.	Publish Examination	\$ 2,264
	Administrative Support	\$ 5,480
	TOTAL	\$26,760

Index/PCA/Object Code 6000/60000/427.10

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. **Approval:**

This Contract is not valid until signed by both parties.

2. **Payment:**

Costs for this Contract shall be computed in accordance with State Administrative Manual Section 8752 and 8752.1.

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. **Mutual Cooperation**

The Office of Professional Examination Services (OPES) is entering into a partnership where mutual cooperation is the overriding principle.

2. **Evaluation**

OPES and the Landscape Architects Technical Committee (Committee) reserve the right to evaluate progress, make midcourse corrections as needed, and to negotiate changes to the agreement as necessary to ensure a high quality examination program. This may affect the cost of the analysis.

3. **Examination Criteria**

The primary responsibility of OPES is to develop examinations that are psychometrically sound, legally defensible and job-related.

4. **Good Faith Agreement**

In good faith, OPES believes the project steps accurately describe the work to be performed and that the costs are reasonable. This agreement will remain in effect until the work is completed.

INTRA-DEPARTMENTAL CONTRACT

CONTRACT NUMBER IAC #75735	AMENDMENT NUMBER
--------------------------------------	------------------

- This Contract is entered into between the Board/Bureau/Divisions named below
REQUESTING BOARD/BUREAU/DIVISION'S NAME
California Architects Board/Landscape Architects Technical Committee (Committee)
PROVIDING BOARD/BUREAU/DIVISION'S NAME
Office of Professional Examination Services (OPES)
- The term of this Contract is: **July 1, 2020 through June 30, 2021**
- The maximum amount of this Contract is: **\$25,674**
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Contract:

**Landscape Architect
 Review of Landscape Architect Registration
 Examination (LARE) and Linkage Study**

Exhibit A – Scope of Work	1 Page
• Attachment I - Project Plan	1 Page
• Attachment II - Roles and Responsibilities	3 Pages
Exhibit B – Budget Detail and Payment Provision	1 Page
• Attachment I - Cost Sheet - Global Costs	2 Pages
Exhibit C – General Terms and Conditions	1 Page
Exhibit D – Special Terms and Conditions	1 Page

IN WITNESS WHEREOF, this Contract has been executed by the parties hereto.

DEPARTMENT OF CONSUMER AFFAIRS	Department of Consumer Affairs Contracts Unit Use Only
<small>REQUESTING BOARD/BUREAU/DIVISION'S NAME</small> California Architects Board/Landscape Architects Technical Committee	
<small>BY (Authorized Signature)</small>	<small>DATE SIGNED</small>
<small>PRINTED NAME AND TITLE OF PERSON SIGNING</small> Laura Zuniga, Executive Officer	
<small>ADDRESS</small> 2420 Del Paso Road, Suite 105 Sacramento, CA 95834	
<small>BUDGET OFFICER'S SIGNATURE</small>	
DEPARTMENT OF CONSUMER AFFAIRS	
<small>PROVIDING BOARD/BUREAU/DIVISION'S NAME</small> Office of Professional Examination Services	
<small>BY (Authorized Signature)</small>	<small>DATE SIGNED</small>
<small>PRINTED NAME AND TITLE OF PERSON SIGNING</small> Heidi Lincer, Chief	
<small>ADDRESS</small> 2420 Del Paso Road, Suite 265 Sacramento, CA 95834	
<small>BUDGET OFFICER'S SIGNATURE</small>	

EXHIBIT A

SCOPE OF WORK

1. The Office of Professional Examination Services (OPES) agrees to provide the following services:
Review National Examination and perform linkage study using California Occupational Analysis (OA).
2. The Landscape Architects Technical Committee (Committee) agrees to provide the following services:
See attached: I. Project Plan
II. Roles and Responsibilities
3. The project representatives during the term of this agreement will be:

Requesting Committee:

Name: Laura Zuniga
Phone: (916) 575-7222
Fax: (916) 575-7285

Office of Professional Examination Services:

Name: Heidi Lincer
Phone: (916) 575-7240
Fax: (916) 419-1697

Direct all agreement inquiries to:

**Department of Consumer Affairs
Contracts Unit:**

Address: 1625 North Market Blvd. Suite S-103
Sacramento, CA 95834
Phone: (916) 574-7277
Fax: (916) 574-8658

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75735
PROJECT PLAN
for
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECTS
REVIEW of LARE and LINKAGE STUDY
FISCAL YEAR 2020-21

Project Objectives:	<i>Review LARE and perform linkage study using California Occupational Analysis.</i>
Proposed Completion Date:	June 30, 2021
Committee Contact:	Kourtney Nation (916) 575-7237
OPES Contact:	Brian Knox (916) 575-7273

MAJOR PROJECT EVENTS	TARGET DATE	RESPONSIBILITY
1. Review Background Information > Review LARE information > Review The Council of Landscape Architectural Registration Boards OA > Review LARE development and administration procedures	July 2020	Committee/OPES OPES OPES
2. Review Psychometric Quality of National Examination > Evaluate psychometric quality of LARE	August 2020	OPES
3. Linkage Study of National Examination Plan and CA OA Results > Recruit SMEs for 2-day workshop > Provide list of SMEs to OPES > Conduct workshop with SMEs > Evaluate workshop findings	August 2020 September 2020 October 9-10 2020 October 2020	Committee Committee OPES/SMEs OPES
4. Data Analysis > Analyze Linkage Study results	October 2020	OPES
5. Submit Report > Prepare draft of LARE and Linkage Study report > Finalize report > Prepare, print, and submit final audit report	November 2020 December 2020 December 2020	OPES OPES OPES

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75735
ROLES AND RESPONSIBILITIES
for
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECTS
REVIEW OF LARE and LINKAGE STUDY
FISCAL YEAR 2020-21

INTRODUCTION

The Office of Professional Examination Services (OPES) of the Department of Consumer Affairs (DCA) provides psychometric consulting in examination development and occupational analysis to DCA's regulatory entities through Intra-Agency Contract (IAC) agreements.

The purpose of a licensure examination is to identify individuals who have the minimum knowledge and skills to perform job tasks safely and competently. The content of the examination should be based upon the results of an occupational analysis (OA) to ensure that the examination assesses the most critical competencies of the job. The Landscape Architects Committee (Committee) is interested in evaluating the Landscape Architect Registration Examination (LARE) for continued use in California. The Committee has requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an independent review and evaluation of the LARE.

The review process requires that a linkage study be performed to demonstrate the extent to which the content of the of the LARE reflects the content identified in the most recent California OA of landscape architects. The linkage study also requires a minimum of 6 licensed landscape architects, with a goal of 8-10 licensed landscape architects, to serve as subject matter experts (SMEs) in a workshop to compare the content of the LARE to the examination specifications derived from the California OA of the landscape architect profession.

ROLE OF THE COMMITTEE

The primary role of the Committee is to recruit a representative sample of SMEs for the review workshop. The Committee should also inform SMEs about the nature of their participation and the OPES security requirements.

The Committee is also responsible for making initial contact and maintaining the ongoing cooperation of The Council of Landscape Architectural Registration Boards. The Committee should introduce OPES and request that The Council of Landscape Architectural Registration Boards identify the appropriate parties who can provide technical information about LARE and the LARE OA.

The selection of SMEs critically affects the quality and defensibility of a licensure examination. Therefore, the SMEs selected to participate in an examination review workshop panel should:

- reflect the landscape architect profession in terms of geographic location, practice specialty area, ethnicity, and gender;
- represent the current pool of practitioners;
- possess current skills and a valid license in good standing; and
- articulate specialized technical knowledge related to the profession.

Additionally, approximately half of all SMEs in the workshop should have received their license within the past 5 years to ensure that an entry-level perspective is maintained. It is essential that a Committee representative consult with OPES before beginning SME recruitment.

Due to potential conflict of interest, undue influence, security considerations, or all of the above, board members, committee members, and instructors shall not serve as SMEs for, nor participate in, any aspect of licensure examination development or administration, pursuant to DCA Policy OPES 18-01.

Due to potential conflict of interest, licensees who participate in any form of examination development activities for the LARE shall not serve as SMEs for the linkage study workshop.

In addition, the Committee has the responsibility to acquire any reference materials to be used by the SMEs.

The nature of the work performed by OPES can result in unanticipated changes. For example, work may be completed ahead of or behind schedule. Flexibility on the part of both parties is essential to the success of the contract.

ROLE OF THE OFFICE OF PROFESSIONAL EXAMINATION SERVICES

The primary role of OPES is to conduct the review of the LARE. OPES will evaluate documentation and information about the OA of landscape architects, examination development procedures, passing score procedures, test administration, statistical performance of examinations, and examination security methods.

A panel of SMEs will review the LARE specifications and compare them to the examination specifications derived from the California landscape architect OA to identify the areas of landscape architect practice addressed and not addressed by the LARE. During the workshop, OPES will work with the SMEs to perform this evaluation.

OPES will analyze all information and documentation and prepare a report of the analyses and recommendations for the Committee.

SECURITY

OPES has implemented various controls to ensure the integrity, security, and appropriate level of confidentiality of licensure examination programs. These controls include prohibiting certain items, such as electronic devices and items that could potentially conceal recording devices, in all workshops.

SMEs are required to:

- provide valid photo identification;
- allow for electronic devices to be secured in the reception area during workshops; and
- sign one or more agreements accepting responsibility for maintaining strict confidentiality of licensure examination material and information to which they have access.

Any person who fails to comply with OPES' security requirements will not be allowed to participate in licensure examination workshops. In addition, any person who subverts or attempts to subvert a licensure examination will face serious consequences, which may include loss of licensure, criminal charges per Business and Professions Code section 123, or both.

OPES will notify the Committee of any SME whose conduct during a workshop violates policy or whose presence is disruptive. OPES reserves the right to immediately dismiss any SME whose presence poses a security risk. OPES will take steps to manage disruptive behavior; however, if such behavior persists or prevents other SMEs from completing their tasks, or both, OPES may dismiss the person from the workshop.

SUMMARY OF EVENTS

- OPES, in collaboration with the Committee, collects the information and documentation about the LARE that is required to perform the review.
- OPES evaluates the OA and examination development procedures such as passing score development, test administration, statistical performance of examinations, and examination security methods related to the LARE.
- Committee recruits a representative group of SMEs for the Linkage Study workshop.
- OPES works with SMEs to evaluate the areas of California practice tested by the LARE and to identify whether there are any critical areas of California practice not covered by the LARE.
- OPES prepares a report of findings and recommendations to the Committee regarding the review of the LARE program and the linkage between the content of the LARE and the results of the California OA of landscape architects.
- OPES prepares and submits final report to the Committee.

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered and upon receipt and approval of the invoices, the Landscape Architects Technical Committee (Committee) agrees to compensate the Office of Professional Examination Services (OPES) for services rendered and expenditures incurred.
- B. Invoices shall include the agreement number and shall be submitted on a quarterly basis for the cost of services completed as identified in Exhibit B, Attachment I; any related travel expenses will be billed as actuals. Signed/approved invoices from the Committee will be due to OPES fifteen (15) working days from the date of invoice billings. OPES will then submit the approved invoices to the Department of Consumer Affairs for processing and payment. Invoices will be submitted to:

Laura Zuniga
California Architects Board/Landscape Architects Technical Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
- C. The Committee will reimburse OPES for the partial performance (e.g. workshop preparation, rescheduling) of any services provided by OPES if the Committee does not demonstrate in good faith their roles/responsibilities as defined by Attachment II – Roles and Responsibilities.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to OPES or to furnish any other considerations under this Agreement and OPES shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to OPES to reflect the reduced amount.

3. Payment

- A. Costs for this Agreement shall be computed in accordance with State Administrative Manual Sections 8752 and 8752.1.
- B. Nothing herein contained shall preclude advance payments pursuant to Article 1, Chapter 3, Part 1, Division 3, Title 2 of the Government Code of the State of California.

4. Cost

- A. Costs for this Agreement shall be subject to any collective bargaining agreements negotiated in Fiscal Year 2005/2006 or thereafter.

LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECTS
REVIEW OF LARE and LINKAGE STUDY
FISCAL YEAR 2020-21

1. Review Background Information	\$ 4,608
2. Review Psychometric Quality of National Examination	\$ 1,728
3. Linkage Study of LARE Examination Plan & CA OA Results	\$ 3,824
4. Data Analysis	\$ 1,728
5. Submit Report	\$ 7,020
6. Present Results to Committee (Optional)	\$ 1,286
Administrative Support	\$ 5,480
TOTAL	\$25,674

Index/PCA/Object Code 6000/60000/427.10

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75735

for

LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

LANDSCAPE ARCHITECTS

REVIEW OF LARE and LINKAGE STUDY COSTS

FISCAL YEAR 2020-21

	Test Validation Staff				Editor		Support Staff		Totals	GRAND TOTAL
	\$72		OT @ \$102		\$67		\$52			
	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
1. Review Background Information										
Review National Examination information	24	\$ 1,728							\$ 1,728	
Review National OA	24	\$ 1,728							\$ 1,728	
Review National Examination administration procedures	16	\$ 1,152							\$ 1,152	
										\$ 4,608
2. Review Psychometric Quality of National Examination										
Evaluate psychometric quality of the National Examination	24	\$ 1,728							\$ 1,728	
										\$ 1,728
3. Linkage Study of National Examination Plan and CA OA										
Prepare for linkage study workshop	16	\$ 1,152							\$ 960	
Conduct 2-day workshop with SMEs	8	\$ 576	12	\$ 1,224			2	\$ 104	\$ 1,904	
Compile results of workshop	16	\$ 1,152							\$ 960	
										\$ 3,824
4. Data Analysis										
Analyze linkage study results	24	\$ 1,728							\$ 1,728	
										\$ 1,728
5. Submit Report										
Prepare draft of National Review and Linkage Study report	40	\$ 2,880			24	\$ 1,608			\$ 4,488	
Submit final report	24	\$ 1,728			12	\$ 804			\$ 2,532	
										\$ 7,020
6. Present Results to Board (OPTIONAL)**										
Prepare presentation of National Review and Linkage Study	12	\$ 864			2	\$ 134			\$ 998	
Present National Review and Linkage Study results	4	\$ 288							\$ 288	
										\$ 1,286
Administrative Support										
Technical oversight (40 hours @ \$76/hour)									\$ 3,040	
Cost oversight (40 hours @ \$61/hour)									\$ 2,440	
										\$ 5,480
TOTAL	232	\$ 16,704	12	\$ 1,224	38	\$ 2,546	2	\$ 104	\$ 25,674	\$ 25,674

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. **Approval:**

This Contract is not valid until signed by both parties.

2. **Payment:**

Costs for this Contract shall be computed in accordance with State Administrative Manual Section 8752 and 8752.1.

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. **Mutual Cooperation**

The Office of Professional Examination Services (OPES) is entering into a partnership where mutual cooperation is the overriding principle.

2. **Evaluation**

OPES and the Landscape Architects Technical Committee (Committee) reserve the right to evaluate progress, make midcourse corrections as needed, and to negotiate changes to the agreement as necessary to ensure a high quality examination program. This may affect the cost of the analysis.

3. **Examination Criteria**

The primary responsibility of OPES is to develop examinations that are psychometrically sound, legally defensible and job-related.

4. **Good Faith Agreement**

In good faith, OPES believes the project steps accurately describe the work to be performed and that the costs are reasonable. This agreement will remain in effect until the work is completed.

AGENDA ITEM K: DISCUSS AND POSSIBLE ACTION ON 2019-2021 STRATEGIC PLAN OBJECTIVES TO EDUCATE THE DIFFERENT JURISDICTIONAL AGENCIES (STATE AND LOCAL) ABOUT LANDSCAPE ARCHITECTURE LICENSURE AND ITS REGULATORY SCOPE OF PRACTICE TO ALLOW LICENSEES TO PERFORM DUTIES PRESCRIBED WITHIN THE REGULATIONS

Summary

The Landscape Architects Technical Committee's (LATC) 2019-2021 Strategic Plan contains an objective to "educate the different jurisdictional agencies (state and local) about landscape architecture licensure and its regulatory scope of practice to allow licensees to perform duties prescribed within the regulations."

LATC staff reviewed the California Architects Board's (Board) recently published *Building Official Information Guide (Guide)* and found that the section titled "Landscape Architects" would be an appropriate means of meeting this objective by including information regarding the regulatory scope of practice of a landscape architect and the duties they may perform. The *Guide* is distributed to building officials throughout California, available on the Board's website, and will be added to LATC's website in order to reach as many jurisdictions as possible.

The LATC was presented with draft questions and responses to add to the *Guide* at its February 5, 2020 meeting. During the meeting, the Committee discussed including additional information to the "Landscape Architects" section of the *Guide*, and how the *Guide* should be distributed. Staff was also tasked to update the question and response with reference to whether local building officials can reject plans for permit issuance, prepared by a landscape architect since legal counsel informed the Committee that the question and response went beyond statutory authority as it was presented. At the Committee's suggestion, information regarding the landscape architect stamp requirements was added and included advertising restrictions so the "Landscape Architects" section could be more comprehensive. Staff also edited some of the previously presented responses of the *Guide* for clarity and to provide additional detail. Since the *Guide* references the recently proposed language amending Business and Professions Code (BPC) section 5659, it should be published and distributed once BPC section 5659 has been enacted. The attached *Guide* shows the proposed changes in strikethrough and underline.

Committee member, Patricia Trauth, was appointed to collaborate with staff to provide technical assistance to further enhance the section on landscape architects of the *Guide* and devise a distribution plan. The Committee discussed having a copy of the *Guide* distributed to various government agencies including Building Departments, Development Services Departments, Public Works, Water Resources or Districts, Parks and Recreation Departments, and School Districts.

Staff is working on compiling a list of contacts including mailing addresses and email addresses of the City and County Managers so they may distribute the *Guide* to the various appropriate government agencies, in addition to, a list of the County Offices of Education Facilities Development Departments.

Action Requested

Review and approve the attached draft language amending the section “Landscape Architects” of the Board’s *Building Official Information Guide*, and the corresponding distribution list.

Attachment

Building Official Information Guide with proposed language



CALIFORNIA ARCHITECTS BOARD

Building Official
Information Guide

2019

CALIFORNIA ARCHITECTS BOARD

BUILDING OFFICIAL INFORMATION GUIDE **(September 2019)**

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Unlicensed Individuals

Purpose

This guide for building officials is provided by the California Architects Board (Board) to aid you in understanding and enforcing the laws and regulations governing the practice of architecture and landscape architecture in California.

The guide is a compilation of responses to questions that the Board has received from building officials and other items of interest to those who must enforce local building standards. It is intended as a source of basic information and does not attempt to address all the questions that could arise covering the practice of architecture in this large, diverse state.

Some of the items covered herein are interpretations of the Architects Practice Act and the Board's rules and regulations. Other items are explanatory and/or advisory.

If you need further information or assistance concerning this guide, please contact:

California Architects Board
2420 Del Paso Road, Suite 105
Sacramento, California 95834

Telephone: (916) 574-7220
Toll Free: (800) 991-2223
Fax: (916) 575-7283
E-mail: cab@dca.ca.gov
Website: www.cab.ca.gov

Landscape Architects Technical Committee
Telephone: (916) 575-7230
Fax: (916) 575-7283
E-mail: latc@dca.ca.gov
Website: www.latc.ca.gov

Introduction

Each day, millions of Californians work and live in environments designed by licensed architects. The decisions of architects about materials and their scope of practice impact not only the health, safety, and welfare of the present users, but of future generations as well.

To reduce the possibility of building failure, encourage energy conscious design, provide disability access, and safeguard the public health and welfare, those who represent themselves as skilled in the design of complex structures must meet minimum standards of competency. It is equally necessary that those who cannot meet minimum standards by way of education, experience, and examination be prevented from misrepresenting themselves to the public.

The [California Architects Board](#) (Board) was created by the California Legislature in 1901 to safeguard the public's health, safety, and welfare. It is one of the boards, bureaus, commissions and committees within the Department of Consumer Affairs (Department), which is part of the Business, Consumer Services and Housing Agency under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services.

Effective January 1, 1998, the Board assumed administrative responsibility for regulating landscape architects. Under current law, a [Landscape Architects Technical Committee](#) (LATC) acts in an advisory capacity to the Board. The LATC, which consists of five professional members, performs such duties and functions which have been delegated to it by the Board.

The Board is presently composed of ten members of whom, by law, five are public members and five are architects. Five architect members and three of the public members are appointed by the Governor. The Speaker of the Assembly and the Senate Rules Committee each appoint a public member to the Board.

The Board attempts to ensure that all who practice architecture are licensed and qualified to practice. To become licensed as an architect, a candidate must successfully complete a written and California Supplemental Examination, as well as provide evidence of at least eight years of education and/or experience.

The Board attempts through its Enforcement Program to ensure that its licensees are competent to practice architecture and that the laws governing the practice of architecture are enforced in a fair and judicious manner. The Board has the power, duty, and authority to investigate violations of the Architects Practice Act and the Landscape Architects Practice Act and to take disciplinary or enforcement action against violators accordingly.

Building officials, on the other hand, enforce building code requirements, which are also designed to protect the public health and safety. Many building departments depend on licensed design professionals (architects and engineers) to deliver structures that meet code standards. So, while the building officials rely on licensing boards to ensure that architects and engineers are competent, the licensing boards rely on the building officials to ensure that only properly licensed or registered professionals prepare, stamp, and sign plans and specifications for non-exempt structures.

In order to protect California consumers, the Board encourages building officials and their staff to promptly report suspected violations of the [*Architects Practice Act*](#) and [*Landscape Architects Practice Act*](#), such as advertising violations, unlicensed practice, fraudulent stamps, and aiding or abetting, to the Board's Enforcement Unit. This information may be submitted anonymously.

This guide is provided to aid building officials in understanding the laws and regulations governing the practice of architecture in California and better enable them to carry out their difficult jobs.

Advertising of Architectural Services

1. May an unlicensed person advertise architectural services?

No. An individual not licensed by the Board may not advertise or practice architecture in California. An unlicensed person cannot "...advertise or put out any sign, card, or other device that might indicate to the public that he or she is an architect, that he or she is qualified to engage in the practice of architecture, or that he or she is an architectural designer."

An unlicensed individual may not offer architectural services or advertise on the Internet or in the yellow pages or business directories under headings such as "architect," "architectural design" or "architectural drafting."

(Ref.: [Business and Professions Code \(BPC\) § 5536\(a\)](#))

Aiding and Abetting Unlicensed Practice

1. What constitutes aiding and abetting?

Aiding and abetting occurs when a California licensed architect:

- Assists unlicensed individuals to circumvent the Architects Practice Act, BPC section 5500 et seq.
- Stamps and signs documents which have not been prepared by the architect or under the architect's responsible control.
- Permits his or her name to be used for the purpose of assisting any person, not an architect, to evade the provisions of the Architects Practice Act.

(Ref.: BPC §§ 5582, 5582.1 and [California Code of Regulations \(CCR\), Title 16](#), section 151)

Architects Scope of Practice

1. Who may refer to himself or herself as an architect?

Only individuals who hold a current license issued by the Board may refer to themselves as an architect or use any term similar to the word architect to describe themselves, their qualifications, or the services they provide.

(Ref.: BPC §§ 5536(a))

2. What may an architect design?

The *Architects Practice Act* defines the practice of architecture as including "...the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures." Therefore, an architect may design any building type and all components therein. An exception is the structural design of a hospital that must be done by a structural engineer pursuant to the Health and Safety Code.

(Ref.: BPC §§ 5500.1 and 6737 and [Health and Safety Code \(HSC\) §129805](#))

3. What is the Board's definition of construction observation services

"Construction observation services" means periodic observation of completed work (*in progress*) to determine general compliance with the plans, specifications, reports or other contract documents. "Construction observation services" does not mean the superintendence (*supervision*) of construction processes, site conditions, operations, equipment, or personnel, or the maintenance of a safe place to work or any safety in, on, or about the site.

(Ref.: BPC § 5536.25(c))

4. May architects design bridges?

In conjunction with the planning of a site and/or the design of a building, or groups of buildings, the *Architects Practice Act* and the *Professional Engineers Act* exemption allow an architect to design all on-site improvements, including a structure such as a bridge.

Exception: If on-site improvements such as roads, bridges, etc. are being submitted subject to the Subdivision Map Act, they must be designed by appropriate engineers.

(Ref.: BPC §§ 5500.1, 6737 and [Gov. Code § 66410](#) et seq.)

5. If the architect has not agreed to provide construction phase services for the owner of the project, can the building official require the architect to review project shop drawings?

No. The architect has no obligation to provide such services either to the owner of the project or to a local building jurisdiction.

(Ref.: BPC § 5536.25)

6. May an architect act as a general contractor for the owner and hire subcontractors for the construction phase of a project under his architectural license?

No. An architect would also need to be licensed as a contractor to perform such services. The *Contractors' State License Law* (CSLL) does not exempt architects unless they are acting solely within their professional capacity, which does not include contracting construction work for others.

(Ref.: BPC §§ 5500.1, 7051)

7. Does an architect's license entitle an architect to build an exempt building without a contractor's license?

No. The construction of buildings is governed by the CSLL (commencing with BPC section 7000). The CSLL has an exemption that allows a person who is not a licensed contractor to construct a single-family residential structure provided they meet certain requirements. Questions concerning this exemption should be directed to the Contractors' State License Board.

(Ref.: BPC §§ 5500.1 and 7000 et seq.)

8. May architects prepare, stamp, and sign mechanical, electrical, and plumbing drawings?

Yes. The *Architects Practice Act* allows architects to prepare, stamp, and sign mechanical, electrical, and plumbing drawings since the definition for scope of architectural practice includes "...the design, in whole or in part, of buildings..."

(Ref.: BPC §§ 5500.1, 6737)

9. May architects certify elevations of structures on a site when such certifications are required by building officials?

Yes. However, the certification must be based on survey data furnished by licensed land surveyors or appropriately registered civil engineers.

(Ref.: BPC §§ 5500.1, 5536.26, 8700)

10. Are there any height restrictions or limitations imposed by the Board as to an architect's structural design authority?

No.

(Ref.: BPC § 5500.1)

11. May an architect prepare, stamp and sign landscape drawings without a landscape architect's license?

Yes. Insofar as the architect is responsible for the planning of a site, the architect is exempt from the Landscape Architects Practice Act and, therefore, may prepare, stamp, and sign landscape drawings for the site.

(Ref.: BPC §§ 5500.1, 5641.3)

12. May an architect prepare designs for site retaining walls, culverts, and other fixed works on a site if the architect is not responsible for the site planning of a project and the work is not considered a "phase of architecture" under the *Professional Engineers Act* exemption?

No, given the situation where the architect is not responsible for the planning of the site or the "fixed works" are not associated with the design of a building or groups of buildings. Under such circumstances the "fixed works" would be considered civil engineering, and the architect would not qualify for the exemption under the *Professional Engineers Act*.

(Ref.: BPC §§ 5500.1, 6737)

13. May architects prepare, stamp, and sign site grading and drainage plans?

Yes. An architect is allowed under the *Architects Practice Act* and the [Professional Engineers Act](#) exemption to prepare, stamp, and sign site grading and drainage plans, except where such plans are submitted pursuant to the Subdivision Map Act. Cities or counties may not prohibit an architect from engaging in the preparation of plans for site grading, which is a function of the practice of architecture as defined in BPC Section 5500.1.

(Ref.: BPC §§ 460, 5500.1, 6737 and Gov. Code § 66410 et seq.)

14. May local building officials insist that civil engineers prepare and sign site grading and site drainage drawings as a condition for permit issuance even though an architect prepares the site plan and the grading and drainage plans?

No. Architects are allowed by the *Architects Practice Act* to prepare, stamp, and sign such drawings as part of their services. State licensure of architects supersedes any local code or ordinance that might restrict an architect licensed by the state from performing services.

(Ref.: Response to question #13 and BPC §§ 460, 5500.1)

15. Are architects authorized to perform soil tests?

No. Such tests are not considered to be part of the practice of architecture.

(Ref.: BPC § 5500.1)

16. Does an architect's license entitle an architect to perform special inspections as specified in the *California Building Standards Code* without demonstrating their ability to perform such services to the satisfaction of a building official?

No. Special inspections are not considered to be part of the practice of architecture. Therefore, an architect would have to comply with a building official's requirement to demonstrate such ability before being permitted to perform required special inspections.

(Ref.: BPC § 5500.1)

17. May architects prepare, stamp and sign structural calculations and structural drawings?

Yes. The *Architects Practice Act* allows architects to prepare, stamp, and sign structural calculations and structural drawings since the definition for scope of architectural practice includes "...the design, in whole or in part, of buildings..." except for the

structural calculations and structural drawings for a hospital, which must be prepared by a structural engineer.

(Ref.: BPC §§ 5500.1 and 6737 and HSC § 129805)

18. Are architects authorized to perform surveys without a land surveyor's license or civil engineer registration?

No.

(Ref.: BPC § 5500.1)

19. When a licensed architect working on a project quits or is discharged, may another architect sign the original licensee's plans or instruments?

Provided both architects are licensed in California, and the supplanting architect completely reviews the plans of the original architect, making necessary, or client-directed changes, the supplanting architect has "prepared" the plans for purposes of BPC Section 5582.1 and may stamp and sign them, absent fraud, deception or dishonesty.

(Ref.: CCR, tit. 16, §151)

Building Designers

1. Are building designers licensed by the state?

No. At one time, the state recognized “registered building designers”; however, that category was eliminated in 1985.

(Ref.: BPC § 5536(b) and (c))

2. May individuals advertise as building designers?

Yes. However, they cannot refer to themselves as “registered” building designers or otherwise indicate that they are licensed or registered by the state.

(Ref.: BPC § 5536(b) and (c))

3. What services can a building designer provide?

Refer to the section titled “Unlicensed Individuals,” which can be found elsewhere in this guide.

Building Official's Responsibility With Respect to Architects Practice Act

- 1. Are building officials required to verify whether the individual who prepares and submits permit documents for non-exempt projects has a current license?**

Yes. If a building permit is required, building officials are required to verify that an individual who prepares and submits permit documents for non-exempt projects has a current license. The building official must require a signed statement that the person who prepared the plans and specifications is licensed under the *Architects Practice Act* or is otherwise licensed in this state to prepare the plans and specifications. An architect's signature and stamp on plans and specifications will satisfy the signed statement requirement. If the person submitting the plans purports to be an architect and is not listed on the Board's license verification website, the building official should contact the Board for verification.

(Ref.: BPC § 5536.2)

- 2. When plans have been filed by the original architect of record, may a building official accept changes to those plans that are submitted by the supplanting architect or engineer?**

A building official is only required to verify that the appropriate stamp and signature is on the documents before a permit is issued and that design changes are made and approved by the appropriate person.

(Ref.: BPC § 5536.25, CCR, tit.16, §151, and [California Building Standards Code \(CBSC\)](#), tit. 24, §106.4.4.1)

- 3. Is a building official required to notify an architect of record when another architect/engineer takes over a project, uses that architect's drawings, or makes changes?**

No. The *Architects Practice Act* does not require this notification.

- 4. Is a building official liable if he or she informs the Board of possible aiding and abetting that later turns out to be unfounded and the architect takes legal action against the building official?**

The law grants a qualified privilege to individuals who communicate, in good faith, to an official administrative agency concerning a possible violation of law. Further information on this subject should be obtained from the legal advisor for the building department.

(Ref.: [California Code, Civil Code § 47](#))

- 5. Sometimes an owner has separate contracts with an architect and the structural, civil, mechanical, and electrical engineers. No one discipline has overall coordination of the project, and a design change is required that will affect the work of all disciplines. May a building official require the project architect to sign for changes on his own work as well as others? Can the architect coordinate the work of the others?**

No. The architect is only required to stamp and sign and take responsibility for his or her own documents. The same shall apply to each design professional. The building official should notify the owner that such coordination is required, and it is the owner's responsibility to arrange for proper coordination. An architect can coordinate the services and documents of others if he or she accepts the responsibility.

(Ref.: BPC § 5536.1)

- 6. May an architect certify that the construction of a project is in conformance with the design documents?**

Yes, the architect may certify that the construction is in conformance, but the architect may choose not to do so.

(Ref.: BPC § 5536.26)

- 7. If an architect asks or requests by telephone that a building official make required design changes that the architect will approve later, should the building official make such changes?**

No, not without prior written confirmation. It is not the building official's responsibility to make design changes.

(Ref.: BPC § 5536.25)

- 8. Is a building official liable if he or she approves the plan submittal and later learns that the architect who submitted the plans has a revoked or suspended license?**

The Board does not determine liability. This is a question of civil law. Building officials should discuss this issue with their legal advisors. To avoid such problems, the law requires the building department to verify licensure prior to issuing any permit.

(Ref.: BPC § 5536.2)

- 9. Should a building official make a design change to a drawing that requires design changes?**

If a building official makes design changes to drawings without the authorization or approval of the architect, the architect will not be responsible for damages caused by

those changes. The building official could be responsible for damage caused by his or her unauthorized changes. Building officials should discuss this issue with the legal advisor for their building department before undertaking any such action.

(Ref.: BPC § 5536.25)

10. Are building departments required to maintain record copies of permitted drawings?

Yes, under certain circumstances. Refer to HSC section 19850, which requires that drawings of certain categories of buildings be retained by local building departments.

11. Are building officials required to give a copy of record documents to anyone who asks for them?

No. See HSC section 19851, which specifies who may obtain copies of drawings and under what conditions.

12. Do building officials need to verify licensure of persons signing plans for exempt projects?

Only if plans are being submitted or prepared by a licensed design professional.

(Ref.: BPC § 5536.2)

13. When should verification of licensure be made?

Verification of licensure should be done at the time of initial submittal of the plans and specifications.

(Ref.: BPC § 5536.2)

Complaint Procedures

1. How is a complaint filed?

Anyone who believes there has been a violation of the *Architects Practice Act* may file a complaint with the Board. All complaints should be filed in writing. A complaint form is available on the Board's website, cab.ca.gov, or the complainant may send a letter or email to the Board detailing the event(s) that led to the complaint with copies of all documentation (plans, contracts, business cards, correspondence, etc.) to substantiate the complaint.

2. How does someone find out if there is a complaint against an architect or an unlicensed individual?

Contact the Board. Pursuant to its regulation on public information disclosure, the Board will disclose any disciplinary or enforcement actions taken against the person, including citations, accusations, statements of issues, and disciplinary decisions. The Board may only disclose complaint information if it is determined to have a direct effect on public safety.

(Ref.: CCR, tit.16, § 137)

Contractors

1. Are contractors exempt from the *Architects Practice Act*?

A contractor may design what an unlicensed person may design under BPC sections 5537 (exempt structures) and 5538 as determined by the local building official.

On non-exempt structures, the contractor is limited to services specifically noted in BPC section 6737.3 (*Professional Engineers Act*); appropriately licensed contractors may design mechanical and electrical systems in accordance with applicable construction codes if they also install those systems. If they do not install the systems and supervise the installation of the systems, they must have an architect or engineer design the systems.

In addition, a contractor may design systems that are required to complete the contracting services he or she has offered or contracted to perform. Such systems are considered temporary and must be removed once the project he or she has contracted to build is completed.

(Ref.: BPC §§ 5537, 6737.3)

2. May a licensed contractor perform design services under the direction of a structural or civil engineer for a non-exempt structure?

Yes, provided the contractor works under the responsible charge of the engineer, and the engineer signs all engineering documents prepared by the contractor.

(Ref.: BPC § 5537.2)

3. May contractors design non-exempt structures if they are going to build them?

No. Contractors may only design exempt buildings under BPC Section 5537 and nonstructural or nonseismic storefronts or interior alterations that do not affect the structural system or safety of the building under BPC Section 5538. If they associate with an architect or engineer, contractors may prepare documents under the direct supervision of an architect or engineer. However, the architect or engineer must stamp and sign the documents.

(Ref.: BPC § 5537.2)

4. May the building official delay the project until properly prepared documents are re-submitted for approval?

This question should be discussed with the legal advisor for the building department.

5. May licensed contractors prepare and sign drawings for their respective systems without supervision of an architect or engineer?

Yes. In BPC section 6737.3 of the *Professional Engineers Act*, it states that appropriately licensed contractors may design electrical or mechanical systems for any building if they also install them.

(Ref.: BPC § 6737.3)

6. May a general contractor prepare and sign drawings pertaining to mechanical, electrical, and plumbing systems for non-exempt structures?

No. If the general contractor does prepare mechanical or electrical drawings, he or she must do so under the supervision of an architect or appropriately registered engineer. The architect or engineer must stamp and sign the drawings.

(Ref.: BPC § 5537.2)

Disasters

1. If a person's residence is damaged by a natural disaster, how can the homeowner obtain a copy of the plans?

If damage to residential real property is caused by a natural disaster declared by the Governor, and if the damage may be covered by insurance, an architect or other person who has prepared the plans used for the construction or remodeling of the property must release a copy of the plans to the homeowner, the homeowner's insurer, or a duly authorized agent of either upon request. The plans may only be used for verifying the fact and the amount of damage for insurance purposes. The architect may charge a reasonable fee to cover the reproduction costs of providing a copy of the plans.

(Ref.: BPC § 5536.3)

2. Can the homeowner rebuild the property using the plans?

The plans cannot be used to rebuild any of the property without a current permit and the written consent of the architect or other person who prepared the plans. If written consent is not provided, the architect will not be liable if the plans are subsequently used by the homeowner or anyone else to rebuild any part of the property.

(Ref.: BPC § 5536.3)

3. If the homeowner cannot contact the original designer, can the building department provide a copy of the plans?

The building department can duplicate the plans under the provisions contained in HSC section 19851. Refer to that code section for details.

4. In the event of a declared disaster, what deterrents to unlicensed practice exist?

Only persons licensed by the Board may call themselves architects and provide architectural services. During a declared state of emergency, the penalty against an unlicensed person who represents that he or she is an architect in connection with the offer or performance of architectural services for the repair of damage to a structure caused by a natural disaster is increased and punishable by a fine up to \$10,000 and/or imprisonment. When responding to advertisements or solicitations offering architectural services, disaster victims should verify whether the person offering services has a valid license by contacting the Board or visiting its website, cab.ca.gov.

(Ref.: BPC § 5536.5)

5. Can architects perform structural inspections after an earthquake?

Yes. Architects may provide structural inspections at the scene of a declared national, state, or local emergency when acting voluntarily and at the request of a public official, public safety officer, or city or county building inspector who is acting in an official capacity.

(Ref.: BPC § 5536.27)

6. What type of immunity is available to architects who provide inspection services for building departments?

California has a good Samaritan law for licensed architects, engineers, and land surveyors who, at the request of a public official, provide safety inspection services, without compensation, at the scene of a declared national, state, or local emergency caused by an earthquake. This law provides architects who provide these services with immunity from liability. This immunity applies only for an inspection that occurs within 30 days of the earthquake.

(Ref.: BPC § 5536.27)

Engineers

1. Are engineers exempt from the *Architects Practice Act*?

Civil and structural engineers may provide building design services to the extent that they are included as part of the engineering services for which they are registered. Civil and structural engineers may not practice architecture, i.e., architectural design, unless it is a part of the civil or structural engineering services they are performing. Civil and structural engineers may not use the title “architect” or offer “architectural” services unless licensed by the Board.

(Ref.: BPC §§ 5537.1, 5537.4, 5537.5)

2. May a structural or civil engineer sign architectural drawings for non-exempt structures prepared by an unlicensed person who was not under their supervision even though the engineers prepared the structural drawings and calculations?

This question must be answered by the [Board for Professional Engineers, Land Surveyors, and Geologists \(BPELSG\)](#). If an architect signed documents that were not prepared under his or her responsible control, the Board would consider the act “aiding and abetting” under BPC Sections 5582 and 5582.1.

(Ref.: BPC §§ 5537.1 5537.5)

3. What are the structural and civil engineer’s limitations as to performing architectural design services?

There are none in the *Architects Practice Act*. The engineer may design any structure as long as the engineer adheres to the exemptions.

(Ref.: BPC §§ 5537.1, 5537.5)

California Code of Regulations (CCR), title 21 and 22, are more restrictive and do set limitations as to what services architects and civil and structural engineers may perform. However, CCR title 21 and 22 are relevant only to state-regulated construction under the jurisdiction of the [Division of the State Architect \(DSA\) and Office of Statewide Health Planning and Development \(OSHPD\)](#).

4. BPC section 5537.4 exempts all professional engineers. Does this mean that all registered professional engineers can design non-exempt structures?

No. Only structural and civil engineers are professional engineers authorized to design structures. Other professional engineers are exempt from the *Architects Practice Act* only to the extent that they practice the profession for which they are registered.

- 5. If a structural or civil engineer prepares and signs structural calculations as a consultant to an architect, must the engineer also prepare, stamp, and sign the structural drawings?**

Not necessarily. If the calculations are given to the architect, who then prepares the structural drawings from the information provided in the calculations, only the architect is required to stamp and sign the drawings. The engineer is not required to over-sign documents prepared by the architect.

Exempt Buildings and Structures

1. What are exempt buildings or structures?

The *Architects Practice Act* defines exempt buildings or structures in BPC section 5537 as follows:

- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
 - (1) Single-family dwellings of wood frame construction not more than two stories and basement in height.
 - (2) Multiple dwellings containing no more than four dwelling units of wood frame construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
 - (3) Garages or other structures appurtenant to buildings described under subdivision (a), of wood frame construction not more than two stories and basement in height.
 - (4) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
- (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of California Code of Regulations, title 24, or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

2. What is the Board's definition of "conventional framing"?

Since it appears in the [California Building Standards Code \(Cal. Code Regs., title 24\) \(CBSC\)](#), which is written by building officials, the CBSC definition should be used.

(Ref.: BPC §§ 5537(b) and Cal. Code Regs., tit. 24.)

3. What are the Board’s definitions of a “single family dwelling” and “multiple dwelling”?

(a) Single-family Dwelling: As defined in BPC section 5537(a) and CCR, tit. 16, section 153, the term “single-family dwelling” means a free standing unattached dwelling of wood frame construction not more than two stories and basement in height. Such a single-family dwelling shall not share any common building components including, but not limited to, foundations, roofing and structural systems with any other structure or dwelling.

(b) Multiple Dwelling: As defined in BPC section 5537(a) and CCR, tit. 16, section 153, the term “multiple dwellings” means a structure composed of no more than four attached dwelling units which share any common building components including, but not limited to, foundations, roofing and structural systems. Such multiple dwelling units shall be of wood frame construction and not more than two stories and basement in height, and as defined in the CBSC.

4. If a lot contains an existing residence, may an unlicensed person prepare plans for a maximum four additional units as exempted under BPC section 5537?

No. The maximum number of units that could be designed on the lot by an unlicensed person would be three additional units in any combination.

(Ref.: BPC § 5537)

5. Is a “greenhouse” constructed of metal framing and glass considered an exempt structure if it is for personal use only?

No. The *Architects Practice Act*, BPC section 5537 refers only to wood-framed structures; therefore, metal-framed structures would not be considered exempt under the statute.

6. If an owner prepares drawings for his or her own exempt building, is he or she required to sign the drawings?

No. The statute requires only those who prepare drawings for others to sign them and, if licensed, to note their license number. However, the statute does not prohibit a building official from requiring the owner to sign the drawings.

(Ref.: BPC § 5536.1)

- 7. BPC section 5537, which deals with exemptions, does not discuss site planning. Does this mean that an unlicensed person who prepares drawings for exempt structures must hire an architect to prepare the site plan drawings?**

An unlicensed person may only do site planning to the extent that such planning does not involve activities that are subject to regulation by any licensing boards. For example, preparing grading and drainage plans are activities that require a license. Therefore, an architect or engineer would be required to prepare such plans for an exempt structure.

- 8. If an architect or engineer prepares and signs structural calculations for a portion of an exempt building and the building plans are prepared by the owner, must the architect or engineer sign the plans also?**

The architect or engineer would only sign for that portion of the drawings that pertain to his or her structural design, not the entire set of drawings. The architect is only required to note that portion for which he or she is taking responsibility. The remainder of the drawings would be signed by the person who prepared them.

(Ref.: BPC § 5536.1)

- 9. May the building official require other exempt structures to be designed by an architect or engineer in addition to the noted agricultural and ranch buildings if it is deemed that such structures are an undue risk to public safety, health, or welfare?**

Yes. The building official may require part or all of the structure to be designed by an architect or engineer. The BPC does not supersede the building official's authority to protect the health, safety, and welfare of the public.

Interior Designers

1. Are interior designers licensed by the state?

No. They are not licensed by the state. The State of California has a Title Act for certified interior designers under BPC sections 5800-5812. Certification is not required for interior designers to practice in California.

(Ref.: BPC §§ 5800-5812)

2. What services may an interior designer provide?

Interior designers and any other unlicensed persons may design nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, other appliances or equipment, and any nonstructural or nonseismic alterations or additions necessary to provide for their installation. Interior designers may not design any components that change or affect the structural system or safety of the building.

(Ref.: BPC §§ 5537 5538)

3. What may interior designers call themselves?

Interior designers may call themselves interior designers or designers. They cannot call themselves “architects,” “architectural designers,” “interior architects,” or any other name that might mislead the consumer to think that they are licensed architects or registered building designers or otherwise certified, licensed, or registered by the state.

An interior designer may not represent to the public that he or she is “state certified” to practice interior design. However, a person who has been certified by an interior design organization may refer to herself or himself as a “certified interior designer”.

(Ref.: BPC §§ 5800, 5804)

No unlicensed person may use the term “architect,” “architectural,” or “architecture” or use the term “licensed” or “registered”.

(Ref.: BPC § 5536)

4. May interior designers stamp exempt plans?

Yes. Unlicensed persons may stamp exempt plans as long as they do not use the legend “State of California” or words or symbols that indicate that they are licensed by the state.

(Ref.: BPC §§ 5536(b), 5802, 5805)

Landscape Architects

1. May a registered landscape architect refer to himself or herself as an “architect”?

No. A landscape architect may not use the title “architect” without the word “landscape” unless he or she also holds an architect’s license.

(Ref.: BPC § 5537.6)

2. Can landscape architects prepare site grading and site drainage plans?

Yes. A landscape architect can prepare landscape architectural site grading and site drainage plans. (Ref.: § BPC § 56156)

3. What structures can landscape architects design ~~if they perform site planning~~ as part of their landscape architectural services?

A landscape architect can design, as part of their landscape architectural services, aAny exempt structures that unlicensed persons may design in accordance with BPC section 5537 ~~and exempt under the CBSC~~. If a structure requires engineering, it must be designed by an appropriately licensed or registered person.

(Ref.: BPC § 5537)

4. What may a landscape architect design?

A landscape architect may perform professional services for the purpose of landscape preservation, development, and enhancement, such as consultation, investigation, reconnaissance, research, planning, design, preparation of drawings, construction documents and specifications, and responsible construction observation. Implementation of that purpose includes: (1) the preservation and aesthetic and functional enhancement of land uses and natural land features; (2) the location and construction of aesthetically pleasing and functional approaches and settings for structures and roadways; and, (3) design for trails and pedestrian walkway systems, plantings, landscape irrigation, landscape lighting, landscape grading and landscape drainage.

Landscape architecture services may include: investigation, selection, and allocation of land and water resources for appropriate uses; feasibility studies; formulation of graphic and written criteria to govern the planning and design of land construction programs; preparation review, and analysis of master plans for land use and development; production of overall site plans, landscape grading and landscape drainage plans, irrigation plans, planting plans, and construction details; specifications; cost estimates and reports for land development; collaboration in the design of roads, bridges, and

structures with respect to the functional and aesthetic requirements of the areas on which they are to be placed; negotiation and arrangement for execution of land area projects; field observation and inspection of land area construction, restoration, and maintenance.

(Ref.: BPC § 5615)

5. May local building officials reject landscape architectural plans, drawings, and instruments of service as a condition for permit issuance, solely on the grounds that they are stamped by a licensed landscape architect?

No. Landscape architects are authorized by the *Landscape Architects Practice Act* to prepare, stamp, and sign such plans, drawings, and other instruments of service as part of their services. Local building officials may not reject plans, specifications, or other instruments of service on the ground that those documents were prepared by, signed, dated, and sealed or stamped by a licensed landscape architect. However, a local building official may reject plans, specifications, or other instruments of service for other reasons, such as defects in the documents.

(Ref.: BPC § 5659)

6. May an unlicensed person advertise landscape architectural services?

No. An individual not licensed by the LATC may not advertise or put out a sign, card, or other device that might indicate to the public that he or she is a licensed landscape architect or qualified to engage in the practice of landscape architecture.

In addition, an unlicensed individual may not offer landscape architectural services or advertise on the Internet or in the yellow pages or business directories under headings such as “landscape architect,” “landscape architecture” or “landscape architectural.”

(Ref.: BPC § 5640)

7. What must the landscape architect’s seal or stamp look like, and what must it contain?

The *Landscape Architects Practice Act* requires that the landscape architect’s seal or stamp contain: (1) the legend “State of California”; (2) the term “licensed landscape architect”; (3) the landscape architect’s name (as licensed with the LATC); (4) the landscape architect’s license number; and (5) a means of providing a signature, the renewal date for the current license, and the date of signing and sealing or stamping. The license renewal date may be handwritten or typeset.

A landscape architect’s stamp must be between one and two inches in diameter. The design of the circle may include solid lines (thin or thick) or broken lines, such as dashes or dots. Other possibilities include a rope or beaded effect or words forming the

circle. Embellishments (stars, graphic designs) are also acceptable, so long as the stamp is legible. Provided below is a basic example of a recommended format for a California landscape architect's stamp. Stamps can be ordered from any source - stationery stores, business supply houses, rubber stamp manufacturers, and print shops.

(Ref.: BPC § 5659 and CCR, tit.16, § 2606)



8. Are there allied professions that are exempt from the *Landscape Architects Practice Act*?

Yes. Architects, professional engineers, and land surveyors are exempt from the *Landscape Architects Practice Act* insofar as they practice the profession for which they are licensed or registered. A landscape contractor may design landscape systems and facilities for work to be performed and supervised by that contractor. These allied professionals may not use the title “landscape architect” or offer “landscape architectural” services unless licensed to do so.

(Ref.: BPC §§ 5641.3, 5641.4)

Land Surveyors

1. May a licensed land surveyor use the title “architect”?

No. A licensed land surveyor may not use the title “architect” unless he or she also holds an architect’s license.

(Ref.: BPC § 5537.7)

2. Can licensed land surveyors prepare and sign site plans?

No. Land surveyors are limited to preparing and signing documents relating to their survey services, such as location of property lines or boundaries, topographic maps, site elevations, etc. They are not licensed to plan the improvements of a site.

(Ref.: BPC § 5537.7)

Mechanics Lien Laws

1. How does one find out about Mechanics Lien Laws?

The Board does not respond to questions regarding design professionals and mechanic's lien laws, as those laws are outside of the Board's jurisdiction. For information regarding design professionals and mechanic's liens, review Civil Code sections 8300-8319 and 8400-8494, respectively, or consult an attorney. Additional resources regarding liens may be found in publications at a public library or by visiting the [Contractors' State License Board's](http://cslb.ca.gov) website at cslb.ca.gov.

Signature Requirement

- 1. May the title block for non-exempt buildings contain the words “drawings prepared by” and/or the name of the drafting service in addition to the name of the architectural firm?**

Yes. There is nothing in the *Architects Practice Act* that prohibits this practice, but the architect responsible for their preparation must sign the drawings. If drawings were submitted without the architect’s stamp and signature, it would be of assistance to the Board’s Enforcement Program to have a copy of the title block sent to the Board.

(Ref.: BPC §§ 5536.1, 5536.2)

- 2. In a set of plans submitted to a building official for approval and issuance of a permit, which sheets of the plans or drawings must be signed or stamped?**

The *Architects Practice Act* does not address this issue. The building official has the discretion to determine which sheets should be stamped and signed. However, standard practice in the profession is to stamp and sign every sheet and the cover page of specifications.

- 3. May an employee of an architect sign and stamp the plans or drawings or must the person whose name appears in the firm’s title block sign and stamp?**

An employee may stamp and sign the documents if the employee is licensed by the Board and prepared or was in responsible control of their preparation.

- 4. Must the architect sign the documents at initial submittal?**

The *Architects Practice Act* does not stipulate when the documents are to be stamped and signed. BPC section 5536.2 requires building officials to verify that the person who prepares the documents is properly licensed to do so. This can be done by obtaining a signed statement that the person who prepared the documents is licensed to prepare such documents. The building official can accept the signed statement in lieu of the stamp and signature at the time of initial submittal. After the plan check corrections have been made and before the permit for construction is issued, the drawings must be stamped and signed by the architect.

(Ref.: BPC §§ 5536.1, 5536.2)

5. May building officials require architects to stamp and oversign a consultant's drawings?

No. Architects are only required to stamp and sign what they have prepared themselves or what others have prepared under their responsible control. Architects cannot be required to stamp, and over-sign documents prepared by others, with the exception of DSA and OSHPD, which may require such "over-stamping" of documents prepared by consultants to satisfy state regulations for schools and hospitals.

(Ref.: BPC § 5536.2)

6. Are reproduced signatures on documents acceptable?

Building officials may accept documents with a reproduced signature. Electronic stamps and signatures are commonly accepted in all business forums.

7. Must each page of a set of specifications or structural calculations be signed by the licensed person who prepares them?

An architect is required to sign his or her plans, specifications, and other instruments of service. The Board does not require that each page of a set of specifications and/or calculations be signed by the architect.

(Ref.: BPC § 5536.1)

8. Must the engineer who has prepared and signed structural calculations also sign the structural drawings if the structural drawings are prepared by a licensed architect?

No. The engineer only signs the documents that he or she has prepared. The architect signs the structural drawings that he or she prepared.

(Ref.: BPC § 5536.1)

9. May non-exempt plans be signed by the unlicensed person who prepared the plans and the architect who is responsible for their preparation?

An unlicensed person may prepare plans for a non-exempt structure only under the responsible control of an architect. The unlicensed person, as well as the architect, may sign the plans; however, the only required stamp and signature is the architect's.

(Ref.: BPC § 5536.1)

10. Are wet or dry signatures required on plans?

The *Architects Practice Act* does not state what type of media is to be used; it only states that the drawings must be stamped and signed.

(Ref.: BPC §§ 5536.1, 5536.2)

Stamp Requirement

1. Must architects stamp their plans, specifications, and other instruments of service prior to obtaining a building permit?

Yes.

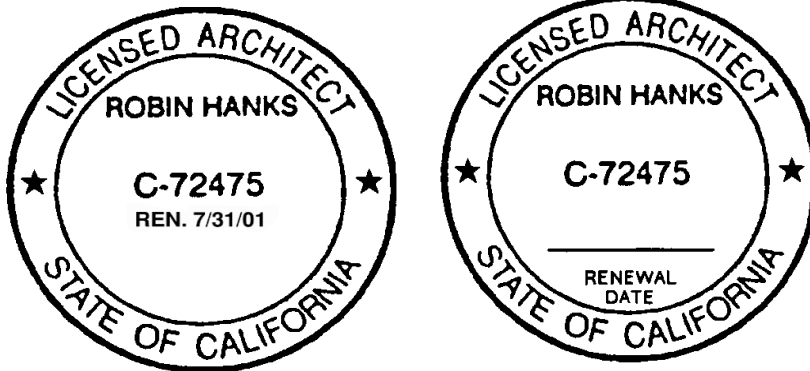
(Ref.: BPC §§ 5536.1 and 5536.2)

2. What must the architect's stamp look like, and what must it contain?

The *Architects Practice Act* requires, at minimum, that the architect's stamp contain: (1) the legend "State of California"; (2) the term "licensed architect"; (3) the architect's name (as licensed with the Board); (4) the architect's license number; and (5) a means for noting the renewal date for the current license (last day of birth month and year). The renewal date may be hand written or typeset.

The stamp must be at least one inch, but not more than –two inches, in diameter and circular in shape. The design of the circle may include solid lines (thin or thick) or broken lines, such as dashes or dots. Other possibilities include a rope or beaded effect or words forming the circle. Embellishments (stars, graphic designs) are also acceptable so long as the stamp is legible. The stamp shall not be of the embossing type. Provided below are basic examples of recommended formats for a California architect's stamp. Stamps can be ordered from any source - stationery stores, business supply houses, rubber stamp manufacturers, and print shops.

(Ref.: BPC § 5536.1(b) and CCR, tit.16, § 136)



REN. Refers to Renewal Date

Unlicensed Individuals

1. What may an unlicensed individual design?

- A. An unlicensed individual may design exempt buildings or structures. The *Architects Practice Act* defines exempt buildings or structures in BPC section 5537 as follows:
- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
 - (1) Single-family dwellings of wood frame construction not more than two stories and basement in height.
 - (2) Multiple dwellings containing no more than four dwelling units of wood frame construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
 - (3) Garages or other structures appurtenant to buildings described under subdivision (a), of wood frame construction not more than two stories and basement in height.
 - (4) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
 - (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of CCR, title 24, or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.
- B. Unlicensed individuals may design nonstructural or nonseismic alterations or additions as defined in the *Architects Practice Act*, BPC section 5538.

2. What titles may unlicensed individuals use?

Unlicensed individuals cannot call themselves “architects,” “architectural designers,” or any other confusingly similar title that might indicate to the public that they are a licensed architect, architectural designer, or qualified to engage in the practice of architecture.

(Ref.: BPC § 5536(a))

3. Must the design of a seismic bracing system required for raised computer floors be done by an architect or engineer?

Yes. Plans for seismic bracing systems are considered a seismic alteration and should be designed and signed by architects or engineers.

(Ref.: BPC § 5538)

4. In BPC section 5538, interior alterations and additions are considered exempt. Do the word “additions” apply to exterior work as well as interior, or is it meant to apply only to interior additions?

BPC section 5538 discusses interior additions only. Exterior additions are discussed in BPC section 5537.

5. Does the replacement of a fire rated door require an architect or engineer to approve the replacement or write a specification for the replacement?

The local building official should make this determination.

6. May unlicensed individuals design and sign plans for disabled access systems?

Yes. Unlicensed individuals may design systems, including disabled access systems, that are nonstructural and nonseismic in nature and that do not affect the safety of the structure, provided that the design of those systems is not restricted by law to registered or licensed individuals.

(Ref.: BPC § 5538)

7. Does the Board provide building departments with specific criteria as to what interior components affect the safety of a building or its occupants?

No. Local building departments determine such criteria.

8. May an unlicensed individual design, plan or prepare instruments of service for store fronts or interior alterations?

Yes. Unlicensed persons may prepare and submit plans for nonstructural or nonseismic interior alterations or additions, provided such alterations do not change or affect the structural system or safety of the building.

(Ref.: BPC § 5538)

9. May an unlicensed individual design interior alterations or additions for non-exempt structures?

Unlicensed individuals may prepare and sign plans for nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, other appliances or equipment, and any nonstructural or nonseismic alterations or additions necessary to provide for their installation. However, an unlicensed individual may not prepare and sign plans for any components affecting the structural system or safety of any building as determined by the local building official.

(Ref.: BPC § 5538)

10. May unlicensed individuals prepare and sign plans for the interiors of any type of building? Are there square foot limitations?

Unlicensed individuals may prepare and sign interior designs for any type of building subject to the approval of the building official. There are no square footage limitations imposed by the *Architects Practice Act*; however, some building departments do set square footage limitations applicable to design services by unlicensed individuals.

(Ref.: BPC § 5538)

11. May unlicensed individuals design and sign mechanical, electrical, and plumbing systems?

No. Such systems must be designed and signed by appropriately licensed or registered design professionals, or appropriately licensed contractors as allowed by the Professional Engineers Act.

(Ref.: BPC §§ 5537.2, 5537.4, 6737.3)

12. What criteria does the Board use to determine what it considers the “safety of a building”?

See the *California Building Standards Code*. The local building official should determine which components of building systems affect safety and are required to be designed by an architect or engineer.

13. May unlicensed individuals prepare specifications for non-exempt structures?

Unlicensed individuals may prepare specifications for non-exempt structures only under the responsible control of an architect or engineer. The architect or engineer is required to stamp and sign the specifications.

(Ref.: BPC §§ 5535.1 and 5536.1)

14. May unlicensed individuals alter exterior wall, door, and window configurations on non-exempt structures so that they are coordinated with new interior construction?

No. The *Architects Practice Act* does not allow an unlicensed individual to prepare and sign plans and specifications for the alteration of exterior walls, doors, or windows except for nonstructural or nonseismic alterations to storefronts as determined by the local building official.

(Ref.: BPC § 5538)

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AGENDA ITEM L: DISCUSS AND POSSIBLE ACTION ON NEW LATC LOGO

Summary

At the November 8, 2019 meeting, the Landscape Architects Technical Committee (LATC) was presented with the opportunity to consider adopting a new logo. The members expressed interest in developing a new logo that is more reflective of the landscape architecture profession.

At the February 5, 2020 meeting, the LATC reviewed 12 draft logo designs developed by the Department of Consumer Affairs' (DCA) Office of Publications, Design and Editing (PDE). The members expressed interest in a simplified logo that clearly represented California landscape architecture. After discussion, the Committee agreed to develop feedback outlining their overall design expectations to inform further discussion at the next LATC meeting.

Attached is the design logic used by PDE (Attachment 1) and PDE's draft logo designs (Attachment 2).

Action Requested

Share and discuss member feedback on draft logo designs.

Attachments

1. DCA PDE Design Logic
2. Logo Designs (Drafts 1-12)



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REDESIGNING THE LATC LOGO

The Process

On the following pages you will find a wide variety of logos, all designed by staff in the Office of Publications, Design and Editing (PDE) to meet the primary criteria provided by LATC. Below, you will find the criteria LATC staff provided us, as well as the general reasoning behind each design, so you have some context when viewing the logo options.

As you'll see, we start by presenting logos in their most simplistic form, black. If you like it in black, you'll love it in color!

Once you narrow your choice to one option, we will provide you the logo in a variety of color palettes to choose from. We like to work collaboratively, so your input throughout the process is vital. The more descriptive you can be when providing feedback, the faster and more efficient we can be in creating an effective logo that everyone will be happy with.

Design Criteria Provided by LATC

1. No abstract logos.
2. A primary focus is to include commercial and residential land together.
3. Aspects of the logo should distinguish Landscape Architects from Landscape Designers.

Our reasoning

Showing a logo in only black allows the viewer to focus on the shape vs. being swayed by color. Color automatically draws the eye and can sway the viewer in one direction or another, sometimes causing dismissal of options that deserve consideration.

Most of the time, on printed pieces, videos, etc., your logo will be seen only in black or reversed out in white—not in color—so it needs to work at its most basic level. Through careful consideration, the options presented will work in every conceivable circumstance.

You'll note we show the logo in both a larger and smaller format. A majority of the time, it will be seen on printed materials, such as a brochure or business card in the smaller format. As you'll notice, when the logos are reduced, some are more effective than others. This is something you'll want to take into consideration when choosing your logo.

The most effective marks aren't the logos that try and convey everything you do as a committee. The most effective logos are simple in shape, easy to identify, and capture an emotion or general concept of what you do. It is up to the committee to decide what that focus should be. The last thing we want to do is confuse the viewer with too much complexity. The logo should work as part of your entire branding effort and compliment your supporting materials. It does not need to tell the entire LATC story.

Thank you so much for your consideration. We look forward to your feedback and creating a logo that you will be proud to use.



This logo is clean, simple and says it all in a very easy-to-read, quick look. There is no question that you're looking at a planned environment with layers of elements that are all working together.



**LANDSCAPE
ARCHITECTS**
TECHNICAL COMMITTEE



With a cityscape in the background depicting an urban environment, the landscaping in the foreground grabs your attention with elevations, water, foliage, pathways, and the indication of a retaining wall or walking bridge.



LANDSCAPE ARCHITECTS

T E C H N I C A L C O M M I T T E E



This clean and easily recognizable logo uses stacked curved shapes to convey nature’s movement while at the same time suggests elevation, water, and pathways. The fact that it is very structured brings to the forefront a man-made design influence.



LANDSCAPE ARCHITECTS
TECHNICAL COMMITTEE



This logo conveys a cityscape in the background depicting an urban environment with clean modern lines. The landscaping is brought to the foreground showing elevations, water, plants, and pathways.



LANDSCAPE ARCHITECTS
TECHNICAL COMMITTEE



This logo incorporates a business building to indicate an industrial park with pathways, greenbelts, trees, and a waterway. This version has dimension, and uses fluid brushstrokes that brings to mind the outdoors.



This modern logo uses simple shapes to depict a planned environment with trees, water and a pathway while still including a cityscape in the background to bring in an urban element.



LANDSCAPE
ARCHITECTS
TECHNICAL COMMITTEE



This logo has all the suggested elements contained in a shape and is one of the logos that places emphasis on the name “Landscape Architects Technical Committee” as the primary element making it very easy to read.



Geometric shapes define this logo. In a simple, graphic way, you can quickly see grass, trees, water, bushes, and a building that could be commercial or residential. It is structured, clean, and easy to read.



With a touch of whimsy, this logo says it all in a simple way. The cityscape, planted trees, water, and paths are evident in the clean lines that reverse out of background foliage.



LANDSCAPE
ARCHITECTS
TECHNICAL
COMMITTEE



Using simple shapes and clean lines, this logo says business park by using structured, designed features such as trees, water, a retaining wall, and walkways. In addition, the committee's name is very easy to read.



Landscape Architects

Technical Committee



Landscape Architects
Technical Committee

This logo is designed to be more of a literal interpretation of a business park. The details of bushes, trees, water, and pathways are all evident while still working well in a smaller format.



LANDSCAPE
ARCHITECTS
TECHNICAL COMMITTEE



This logo has all the elements that suggest a man-made, landscaped environment. The shapes can be seen as bike paths, road ways, curb sides, waterways, a greenbelt and more!

AGENDA ITEM M: REVIEW OF FUTURE LATC MEETING DATES

A schedule of planned meetings and events for the remainder of 2020 are provided to the Committee.

<u>Date</u>	<u>Event</u>	<u>Location</u>
September 10-12	Council of Landscape Architectural Registration Boards Annual Meeting	Virtual
September 18	California Architects Board (Board) Meeting	Teleconference
December 2	Landscape Architects Technical Committee Meeting	Teleconference
December 11	Board Meeting	Teleconference