



Board of Behavioral Sciences

Memo

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Policy and Advocacy Committee **Date:** April 9, 2021
From: Christy Berger, Regulatory Analyst **Telephone:** (916) 574-7817
Subject: **Status of Board Rulemaking Proposals**

Below is the status of Board-approved regulation proposals. See **Attachment A** for information on the required steps of the regulatory process. See **Attachment B** for the timeline for each proposal as it has proceeded through those steps.

Substantial Relationship & Rehabilitation Criteria (AB 2138 Regulations)

Status: Approved by OAL. Effective date: December 14, 2020

This proposal would result in changes necessary in order to meet the requirements of Assembly Bill (AB) 2138 (Chapter 995, Statutes of 2018). This proposal includes modifying the Board’s substantial relationship criteria, which helps to evaluate whether a crime or act was substantially related to the profession, as well as criteria to evaluate the rehabilitation of an individual when considering denying, suspending or revoking a license. The proposal was initially approved by the Board at its meeting in February 2019. During the DCA final review process several changes were requested which the Board approved at its March 2020 meeting, resulting in a 15-day public notice/comment period that ended March 30, 2020.

Enforcement Process

Status: On Hold

This proposal would result in updates to the Board’s disciplinary process. It would also make updates to the Board’s “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015),” which are incorporated by reference into the Board’s regulations. The proposed changes fall into three general categories:

1. Amendments seeking to strengthen certain penalties that are available to the Board;
2. Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the Business and Professions Code; and
3. Amendments to clarify language that has been identified as unclear or needing further detail.

The proposal was approved by the Board at its meeting in February 2017 and was submitted to the Department of Consumer Affairs (DCA) to begin the initial review process in July 2017. This regulation package was placed on hold due to the passage of AB 2138 and remains on hold pending passage of the AB 2138 regulations.

Supervision-Related Requirements

Status: Submitted to OAL for final approval

This proposal would do all of the following:

- Revise the qualifications to become supervisor.
- Require supervisors to perform a self-assessment of qualifications and submit the self-assessment to the Board.
- Set forth requirements for substitute supervisors.
- Update and strengthen supervisor training requirements.
- Strengthen supervisor responsibilities, including provisions pertaining to monitoring and evaluating supervisees.
- Strengthen requirements pertaining to documentation of supervision.
- Make supervision requirements consistent across the three licensed professions.
- Address supervision gained outside of California.
- Address documentation when a supervisor is incapacitated or deceased.
- Set forth terms relating to registrant placement by temporary staffing agencies.

The proposal was approved by the Board at its meeting in November 2016 and was held aside while awaiting passage of AB 93 (Chapter 743, Statutes of 2018), the Board's supervision legislation.

Continuing Education and Additional Training Requirements

Status: DCA Initial Review Process

This proposal would do the following:

- Update content requirements for human sexuality, child abuse assessment and reporting, and alcoholism and other chemical substance dependency courses and create consistency in the required qualifications for course providers.
- Strike the 18-hour CE exception for initial renewal periods.
- Recast CE "exceptions" as "temporary waivers" and modify CE waiver criteria.
- Require licensees who are granted a waiver to complete six hours of CE in law and ethics.
- Update CE waiver forms incorporated by reference for consistency with the proposed updated requirements and for clarity.

- Clarify that a course on law and ethics designed specifically to meet supervisor training requirements cannot be accepted toward meeting the 6-hour law and ethics course required of all licensees each renewal period.
- Specify that a maximum of 18 hours of CE may be met by teaching courses each renewal period, and that the course taught must be for a Board-accepted provider to count.
- Allow a licensee who completes a Board occupational analysis survey to be credited with six hours of CE.
- Repeal outdated regulations pertaining to the Board's former CE program.
- Clarify that professional associations are the only type of organization that may be recognized by the Board as a CE provider.

This proposal was approved by the Board at its meeting in November 2019.

Examination Waiting Periods, Professional Corporations, Accrediting Agencies and Equivalent Degrees

Status: Preparation for Initial Review Process

This proposal would update examination waiting periods for consistency with current practice, add Licensed Professional Clinical Counselors to code sections pertaining to ownership, transfer of shares and naming of professional corporations, delete outdated text pertaining to equivalent accrediting agencies for marriage and family therapist applicants, and specify the accrediting agencies that are acceptable for licensed educational psychologist applicant degree programs. This proposal was approved by the Board at its meeting in November 2019.

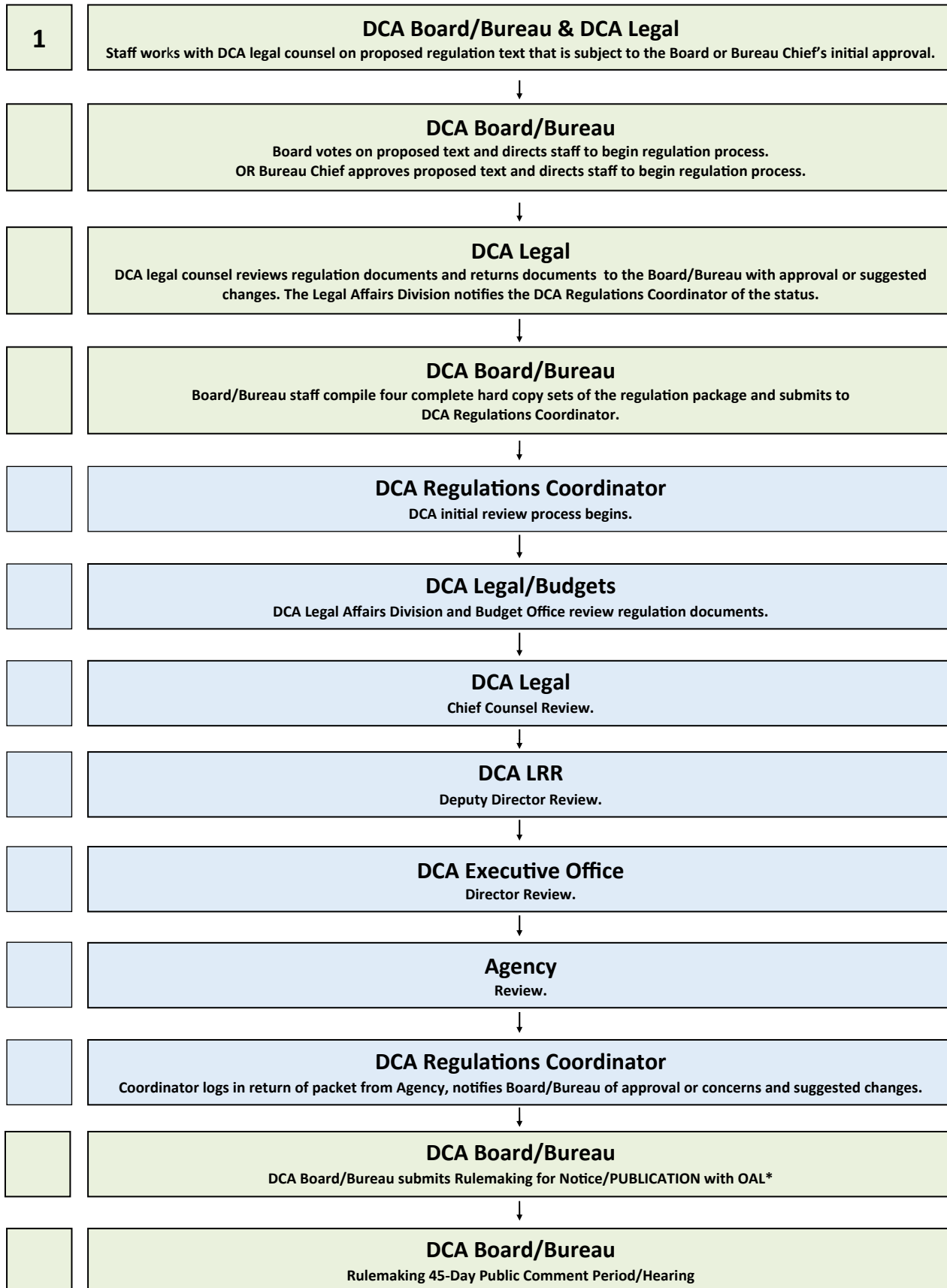
Attachments

Attachment A: DCA Regulation Process

Attachment B: BBS Regulation Timeline

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INITIAL PHASE



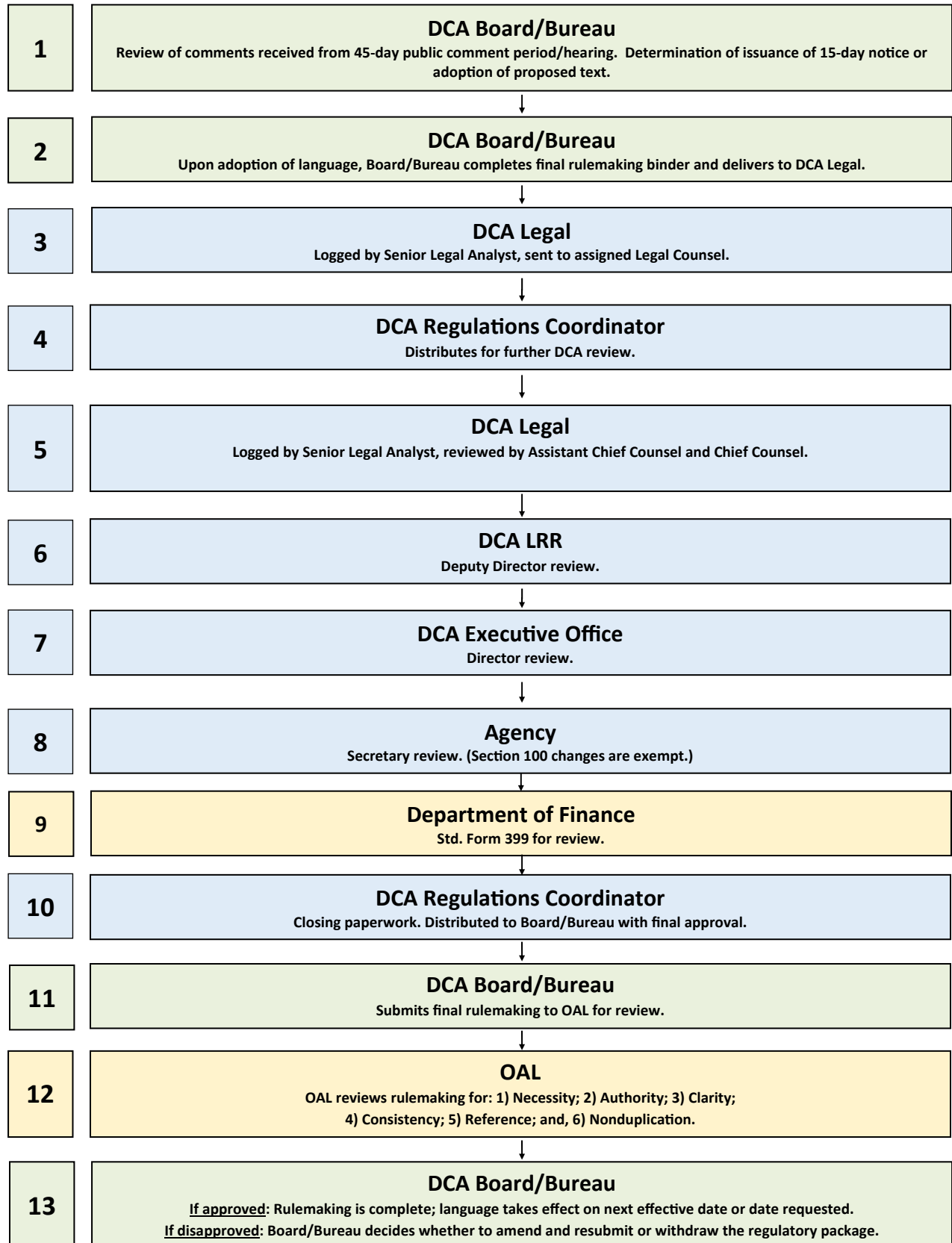
Legend

DCA – Department of Consumer Affairs
 LRR – Division of Legislative Regulatory Review
 OAL – Office of Administrative Law

* If any changes to language last approved by the Board are needed, a vote by the Board may be necessary.

REGULAR RULEMAKING PROCESS—DCA BOARDS/BUREAUS

FINAL PHASE



Legend

DCA – Department of Consumer Affairs

LRR – Division of Legislative Regulatory Review

OAL – Office of Administrative Law

DOF – Department of Finance

Std. Form 399 – Economic and Fiscal Impact Statement

ATTACHMENT B

BBS REGULATION TIMELINE

FEBRUARY 24, 2021

Regulation Package Name	Board Approval	Submitted to DCA: Initial Review	Submitted to Agency: Initial Review/Date Agency Approved	Noticed	Public Hearing	Submitted to DCA: Final Review	Approved by Agency: Final Review	Submitted to DOF for Approval	Date Submitted to OAL/ Date OAL Approved
Substantial Relationship & Rehabilitation Criteria (AB 2138 Regs)	3/1/19	4/18/19	6/25/19/ 7/30/19	8/8/19	9/30/19	11/25/19	2/24/20	7/3/20	Submitted 7/3/20* Approved 12/14/20
Enforcement Update to Disciplinary Guidelines	3/3/17	7/11/17	9/13/18**						
Supervision***	11/4/16	4/18/19	8/8/19/ 10/28/19	2/7/20	3/23/20	7/28/20	12/31/20	12/31/20	Submitted 12/31/20
Continuing Education and Additional Training	11/22/19	9/23/20****							

*Delay in approval by Department of Finance due to Covid.

**This package was held due to the passage of AB 2138 and continues to be on hold pending review by staff for additional changes.

***This package was held pending passage of AB 93. OAL has reviewed the package and has requested changes requiring a 15-day public notice.

****This package was delayed due competing staff priorities and was submitted on 4/16/20 for required pre-review by DCA Legal Affairs. Staff is currently working on revisions requested by DCA Legal Affairs.

DCA and Agency Initial Review Process: Following review by the Board's attorney and the assigned DCA regulation unit attorney, required document preparation (Notice, Initial Statement of Reasons, Fiscal Impact), the package is submitted to the Department of Consumer Affairs' (DCA) Legal Affairs Office, who routes it for approvals from the budget office, the DCA Executive Office and the State Business, Consumer Services and Housing Agency (Agency). Once approved by Agency, the Board can submit the package to the Office of Administrative Law (OAL) to publicly notice the proposed regulation change. There may be changes requested to documents during this time and the timeline includes processing time for those changes.

Notice and Public Hearing: The public notice initiates the 45-day public comment period and a public hearing. The Board must consider all comments submitted. If any substantive changes to the text of the proposal, the Board must approve the language again, and provide a 15-day public comment period. If no changes are made to the proposal, the package goes to DCA for final review.

DCA and Agency Final Review: The initial review process is repeated.

Submission to DOF and OAL for Final Approval: Both the Department of Finance (DOF) and OAL must approve the regulation package. The review may occur at the same time. However, OAL is the final approval. Once OAL approves the regulation package, the proposal is adopted, and it is assigned an effective date.