

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 373 (Menjivar)
Version: April 13, 2023
Hearing Date: April 18, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Board of Behavioral Sciences, Board of Psychology, and Medical Board of California:
licensees' and registrants' addresses

DIGEST

This bill prohibits the Board of Behavioral Sciences (BBS) and Board of Psychology (BOP) from disclosing the full address of record of a licensee on their internet website and requires them to disclose the licensee's city, state, county, and zip code.

EXECUTIVE SUMMARY

According to the author and sponsors, this bill is intended to address safety concerns for licensees of BBS and BOP. They note that especially since the COVID-19 pandemic, many licensees work out of their homes and do not have an office address to provide to BBS or BOP to post on their internet websites. If the licensee cannot afford or does not wish to purchase a P.O. Box to use as their publically posted address instead, their only alternative is to have their home address posted. The sponsors of the bill indicate that this has placed some licensees in an unsafe situation, potentially exposing them to angry clients, stalking, and ongoing harassment. In light of this, the bill prohibits BBS and BOP from disclosing the full address of record of a licensee on their internet website but requires them to disclose the licensee or registrant's city, state, and zip code.

This bill is sponsored by the California Association of Marriage and Family Therapists, California State Association of Psychiatrists, the California Association of Social Rehabilitation Agencies, the California Council of Community Behavioral Health Agencies, California Psychological Association, the California Association for Licensed Professional Clinical Counselors, the National Association of Social Workers, California Chapter, and the Psychiatric Physicians Alliance of California. The bill passed out of the Senate Business, Professions and Economic Development Committee on a vote of 13 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Board of Behavioral Sciences (BBS) to administer the Marriage and Family Therapy Practice Act, the Licensed Educational Psychologist Practice Act, the Licensed Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Practice Act. (Bus. & Prof. Code § 4980 et. seq.)
- 2) Establishes the Board of Psychology (BOP) to license and regulate psychologists, psychologist assistants, and registered psychologists. (Bus. & Prof. Code § 2900 et. seq.)
- 3) Requires the specified entities under the jurisdiction of the Department of Consumer Affairs to disclose specified information about licensees on their internet websites, including the status of every license issued by that entity and information on enforcement actions, as specified.
 - a) Prohibits the information disclosed from including personal information, including home telephone number, date of birth, or social security number.
 - b) Requires the specified boards or bureaus to disclose a licensee's address of record and permits them to allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record.
 - c) Provides that these provisions do not preclude a board or bureau from requiring a licensee, who has provided a post office box number or other alternative mailing address as the licensee's address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet. (Bus. & Prof. Code § 27.)
- 4) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 5) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 7920.000 et seq.)

- a) States that the Legislature, mindful of the individual right to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
- b) Defines "public records" as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
- c) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)

This bill:

- 1) Prohibits the BSS and BOP from disclosing on their directory or their website the full address of record of licensees.
 - a) Authorizes those boards to disclose the city, state, county, and zip code of the licensee.
 - b) Specifies that this prohibition does not apply to secondary documents linked to the board's internet website that may contain an address of record.
- 2) Makes legislative findings and declarations to demonstrate the need for the limitation on access to emails provided to the BSS and BOP stating that the bill balances the public's right to access records of the entities within the Department of Consumer Affairs with the need to protect the privacy of licensees.

COMMENTS

1. Stated need for the bill

The author writes:

We trust professionals licensed under the Boards of Behavioral Sciences and Psychology – including our therapists, counselors, social workers, and psychologists – to provide essential mental health services to Californians across the state. However, currently, these licensees are required to risk their safety by disclosing their personal addresses on the Department of Consumer Affairs' (DCA) online license verification system if they work from their homes. Requiring these professionals to list their personal addresses potentially exposes them to angry clients, stalking, or harassment. Many of these providers serve vulnerable populations, including those that work in domestic violence nonprofits or in Child Welfare Services. SB 373 is a simple fix to keep licensed professionals under the Board of Behavioral Sciences and the Board of Psychology safe by requiring DCA to update the BreEZe online license

verification system to only require a city, state, county, and zip code for disclosure.

2. Background

The Senate Business, Professions and Economic Development Committee analysis provides a detailed background on the BBS and BOP and the types of health care services their licensees provide:

The BBS is responsible for the licensing and regulation of [licensed marriage family therapists] LMFTs, [licensed clinical social workers] LCSWs, [licensed professional clinical counselors] LPCCs, and [licensed educational psychologists] LEPs. Each profession has its own scope of practice, entry-level requirements, and professional settings with some overlap in areas. All four of the BBS's licensee and registrant categories provide some form of mental health services to a variety of clients in different settings. Each of the licensed profession groups under BBS must meet specified licensing requirements and practice in certain settings. [...]

The BOP regulates licensed psychologists, psychological assistants, and registered psychologists through the enforcement of the Psychology Licensing Law – also known as the Psychology Practice Act (Act). The BOP is one of several regulatory entities under the umbrella of the DCA including the BBS and the [Medical Board of California] MBC. The Board's mission is to “protect consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession.”¹

That Committee analysis further provides that:

SB 492 (Rosenthal, [Ch. 661, Stats. 1997] enacted the current the law requiring Internet disclosures of licensee information, including the disclosure of a home address. Subsequent legislation, SB 1889 (Figueroa, Ch. 927, Stats. 2000] allowed the use of a post office box in substitution of using a home address. Per [Business and Professions Code Section] 27, there are 19 boards and bureaus under the jurisdiction of the DCA that are required to post specified information on their respective websites [...] [including requiring] each entity to disclose the licensee's address of record, and specifically [allowing] for the use of a post office box or other address of record, such as a business address instead of using the licensee's home address.²

¹ Sen. Bus., Prof. and Econ. Development Comm. analysis of SB 373 (2023-24 reg. sess.) as amended Mar. 23, 2023 at pp. 3-4.

² *Id.* at 4.

3. The bill is intended to address safety concerns for licensees

According to the author and sponsors of the bill, it is intended to address safety concerns for licensees of BBS and BOP. Especially since the COVID-19 pandemic, many licensees work out of their homes and do not have an office address to provide to BBS or BOP to post on their internet websites. If a licensee cannot afford or does not wish to purchase a P.O. Box, then their only alternative is to have their home address publicly posted. The sponsors of the bill indicate that this has placed some licensees in an unsafe situation, potentially exposing those licensees to angry clients, stalking, and ongoing harassment. They state that this is especially true for licensees who work for domestic violence nonprofits or in child welfare services. The author and sponsors argue that the cost of a P.O. Box can be prohibitive, particularly for those newly entering the professions or offering services on a sliding scale, such as to Medi-Cal patients or patients with lower-incomes.

The bill addresses these privacy and safety concerns by prohibiting the BBS and BOP from disclosing on their directory or website the full address of record of licensees, but authorizes those boards to disclose the city, state, county, and zip code of the licensees. The bill also specifies that this prohibition does not apply to secondary documents linked to the board's internet website that may contain an address of record. By removing the requirement to provide any type of address on the BBS's or BOP's website, the bill would remove a patient's ability of having a way to contact a licensee by mail. A patient may need to contact a licensee for various reasons, including seeking a copy of their patient file, seeking additional health care services, or for other purposes, such as service of process. Protecting the privacy and safety of licensees is a laudable public policy, but existing law provides a mechanism to balance this privacy interest with the need for patients to be able to contact licensees via mail. As such, the author may wish to amend this bill to provide some mechanism for patients or members of the public to be able to obtain an address at which they can contact licensees of BBS or BOP.

4. Limiting disclosure of a public record

California generally recognizes that public access to information concerning the conduct of the people's business is a fundamental and necessary right.³ At the same time, the state recognizes that this right must be balanced against the right to privacy.⁴ The general right of access to public records may, therefore, be limited where records include personal information.⁵ If the author can provide an alternative mechanism for patients or members of the public to be able to obtain an address at which they can contact licensees of BBS or BOP, then the bill's limitation on disclosing the address of licensee's publically on the BBS's or BOP's website appears consistent with the state's right to privacy and limits on disclosure of public records.

³ Cal. Const., art. I, § 3; Gov. Code, § 6250.

⁴ Cal. Const., art. I, § 1.

⁵ E.g., Gov. Code, §§ 6254(c), 6254.1, 6254.3, 6254.35(b)(9).

5. Proposed amendments

The specific amendments to address the concerns raised in Comment 3 are as follows:⁶

Amendment 1

On page 6, between lines 2 and 3, insert:

The board shall establish a process for providing a licensee's or registrant's complete address upon receipt of a request that is related to a court proceeding against or request for records from the licensee or registrant. The process shall ensure that the request is completed within ten business days. This section shall be implemented in compliance with the Public Records Act.

Amendment 2

On page 6, between lines 12 and 13, insert:

The board shall establish a process for providing a licensee's or registrant's complete address upon receipt of a request that is related to a court proceeding against or request for records from the licensee or registrant. The process shall ensure that the request is completed within ten business days. This section shall be implemented in compliance with the Public Records Act.

6. Statements in support

The sponsors of the bill write in support stating:

Under current law, the licensees under the Board of Behavioral Health, the Medical Board of CA and the Board of Psychology are risking their own the well-being and safety by having to disclose their specific address on the Department of Consumer Affairs' online license verification system. Depending on the clientele the provider works with; the provider does have legitimate concerns of releasing their specific office address to the greater public. More alarming is with the transition to telehealth, where providers are now being forced to put their home address on a public forum which puts not only the provider but their family in potential harm's way. [...]

It is critical that necessary safety measures are in place to protect our therapists, psychologists, counselors, and social workers so they can continue to provide essential mental and behavioral health services for all Californians. As we are experiencing a workforce shortage in the behavioral health industry, we need to

⁶ The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel.

ensure that we are proving a safe environment for providers and remove any unnecessary burdens to encourage students entering this profession.

7. Statements in opposition

The Medical Board of California writes in opposition; however, the provisions related to the Medical Board of California were removed from the bill in the Senate Business, Professions and Economic Development Committee. The Medical Board of California writes:

Publishing an address of record for licensees affords consumers the opportunity to use that information to verify the identity of the physician from whom they are seeking services. Further, this provides an address to contact the physician to communicate about their health, obtain a copy of their medical records, or serve legal documents. These are important considerations for the Board, due to its mission of consumer protection.

SUPPORT

California Association for Licensed Professional Clinical Counselors (sponsor)

California Association of Marriage and Family Therapists (sponsor)

California Association of Social Rehabilitation Agencies (sponsor)

California Council of Community Behavioral Health Agencies (sponsor)

California Psychological Association (sponsor)

California State Association of Psychiatrists (sponsor)

National Association of Social Workers, California Chapter (sponsor)

Psychiatric Physicians Alliance of California (sponsor)

California Access Coalition

Community Solutions for Children, Families and Individuals

Depression and Bipolar Support Alliance

Pathpoint

Tarzana Treatment Centers, Inc.

OPPOSITION

Medical Board of California

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 1889 (Figueroa, Ch. 927, Stats. 2000) authorized licensees to provide a post office box in lieu of a home address to their respective licensing board to be posted on the board's internet website.

SB 492 (Rosenthal, Ch. 661, Stats. 1997) required internet disclosures of certain licensees' information, including the disclosure of a home or business address.

PRIOR VOTES:

Senate Business, Professions and Economic Development Committee (Ayes 13, Noes 0)
