

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

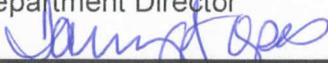
Fiscal Year 2016-17	Business Unit 0820	Department Justice	Priority No.
Budget Request Name 0820-009-BCP-BR-2016-GB		Program LEGAL SERVICES	Subprogram CIVIL LAW

Budget Request Description
 Chapter 656, Statutes of 2015 (SB 467, Hill) – Professions and vocations workload

Budget Request Summary
 The Department of Justice requests a permanent increase of ten (10.0) positions and \$1,284,000 in Legal Services Revolving Fund authority in order to implement the provisions of SB 467.

Requires Legislation <input type="checkbox"/> Yes <input type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date:		

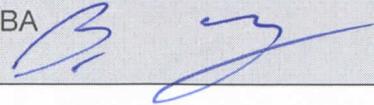
If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By	Date	Reviewed By Julie Neller	Date 11-25-2015
Department Director 	Date 12/21/15	Agency Secretary	Date

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA 	Date submitted to the Legislature 1/7/16
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BCP Fiscal Detail Sheet

BCP Title: Professions and Vocations Workload (SB 467)

DP Name: 0820-009-BCP-DP-2016-GB

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Positions - Permanent	0.0	10.0	10.0	10.0	10.0	10.0
Total Positions	0.0	10.0	10.0	10.0	10.0	10.0
Salaries and Wages						
Earnings - Permanent	0	653	653	653	653	653
Total Salaries and Wages	\$0	\$653	\$653	\$653	\$653	\$653
Total Staff Benefits	0	314	314	314	314	314
Total Personal Services	\$0	\$967	\$967	\$967	\$967	\$967
Operating Expenses and Equipment						
5301 - General Expense	0	143	143	143	143	143
5302 - Printing	0	5	5	5	5	5
5304 - Communications	0	18	18	18	18	18
5320 - Travel: In-State	0	23	23	23	23	23
5322 - Training	0	20	20	20	20	20
5324 - Facilities Operation	0	51	51	51	51	51
5340 - Consulting and Professional Services -	0	36	36	36	36	36
5340 - Consulting and Professional Services -	0	1	1	1	1	1
5346 - Information Technology	0	20	20	20	20	20
Total Operating Expenses and Equipment	\$0	\$317	\$317	\$317	\$317	\$317
Total Budget Request	\$0	\$1,284	\$1,284	\$1,284	\$1,284	\$1,284

Fund Summary

Fund Source - State Operations						
9731 - Legal Services Revolving Fund	0	1,284	1,284	1,284	1,284	1,284
Total State Operations Expenditures	\$0	\$1,284	\$1,284	\$1,284	\$1,284	\$1,284
Total All Funds	\$0	\$1,284	\$1,284	\$1,284	\$1,284	\$1,284

Program Summary

Program Funding						
0435010 - Civil Law	0	1,284	1,284	1,284	1,284	1,284
9900100 - Administration	0	164	164	164	164	164
9900200 - Administration - Distributed	0	-164	-164	-164	-164	-164
Total All Programs	\$0	\$1,284	\$1,284	\$1,284	\$1,284	\$1,284

Personal Services Details

Positions	Salary Information			CY	BY	BY+1	BY+2	BY+3	BY+4
	Min	Mid	Max						
5333 - Sr Legal Analyst (Eff. 07-01-2016)				0.0	10.0	10.0	10.0	10.0	10.0
Total Positions				0.0	10.0	10.0	10.0	10.0	10.0
Salaries and Wages	CY	BY	BY+1	BY+2	BY+3	BY+4			
5333 - Sr Legal Analyst (Eff. 07-01-2016)	0	653	653	653	653	653			
Total Salaries and Wages	\$0	\$653	\$653	\$653	\$653	\$653			
Staff Benefits									
5150900 - Staff Benefits - Other	0	314	314	314	314	314			
Total Staff Benefits	\$0	\$314	\$314	\$314	\$314	\$314			
Total Personal Services	\$0	\$967	\$967	\$967	\$967	\$967			

Budget Change Proposal - Cover Sheet

DF-46 (REV 08/15)

A. Budget Request Summary

Pursuant to Chapter 656, Statutes of 2015, the Department of Justice (DOJ) requests a permanent increase of ten (10.0) positions and \$1,284,000 in Legal Services Revolving Fund authority in order to implement the provisions of SB 467.

The Health Quality Enforcement (HQE) Section requests six (6.0) Senior Legal Analyst (SLA) positions and \$770,000 in Legal Services Revolving Fund authority.

The Licensing Section requests four (4.0) Senior Legal Analyst (SLA) and \$514,000 in Legal Services Revolving Fund authority.

B. Background/History *(Provide **relevant** background/history and provide program resource history. Provide workload metrics, if applicable.)*

Health Quality Enforcement Section

In 1990, the HQE Section was established pursuant to Government Code section 12529 with a primary responsibility to prosecute cases against licensees and applicants within the jurisdiction of the Medical Board of California (MBC) under the Medical Practice Act, California Business and Professions Code (B&PC) section 2000, et seq. HQE also has twelve other allied health care clients.

Since January 1, 2006, the MBC, the DOJ and the Department of Consumer Affairs (DCA) have implemented the highly work intensive Vertical Enforcement and Prosecution Model (VEP) required by Government Code sections 12529.5 and 12529.6, which mandated the DOJ to provide direction and oversight of the MBC investigations of physicians and surgeons. HQE staff are working to meet the requirements of the VEP. This includes assigning Deputy Attorneys General (DAGs) to work at the intake units of the MBC, the California Board of Podiatric Medicine, the Board of Psychology and the Physical Therapy Board. HQE staff also assists in evaluating and screening complaints, and assists in the development of the uniform standards and procedures for processing complaints. HQE is also required to report on all other DCA client agencies for whom they handle disciplinary cases, which includes the Medical Board, and the Boards of Psychology, Physician Assistants, Podiatry, Osteopathy, Physical Therapy, Respiratory Care and Acupuncture. HQE staff are vigorously working to meet the enforcement timeline obligations.

HQE continues to see an increase in litigation demands, while also handling the influx in civil litigation involving injunctive relief (which is not handled by the Torts Section). HQE also has an increase in Public Records Act and public inquiry requests, along with other civil matters such as appeals and writs.

In the last few fiscal years HQE has also seen an increase in the number of pain management and impaired physician cases, which have come under significant scrutiny both in the Legislature and in the media. With the addition of the accounting and annual reporting requirements of SB 467, public protection will suffer if existing legal staff in HQE are also assigned these new additional duties. The current number of Senior Legal Analysts (SLAs) in HQE is insufficient to execute the new mandates and properly account for cases required to be reported on by SB 467.

Health Quality Enforcement Section's Resource History *(Dollars in thousands)*

Program Budget	PY - 4	PY - 3	PY - 2	PY - 1	PY
Authorized Expenditures	\$14,405	\$14,840	\$15,479	\$16,701	\$17,141
Actual Expenditures	\$12,612	\$14,200	\$14,480	\$15,421	\$15,887
Revenue	\$14,645	\$15,470	\$13,480	\$15,344	\$14,633
Authorized Positions	57	59	60	60	59
Filled Positions	56	59	56	56	57
Vacancies	1	0	4	4	2

Health Quality Enforcement Section's Workload History

Workload Measure	PY - 2	PY - 1	PY	CY
DCA Cases Referred to HQE Per Fiscal Year	5,402	5,817	4,850	5,356*
DCA Cases Adjudicated by HQE Per Fiscal Year	1,699	1,807	1,791	1,765*

*FY 15-16 Estimated: Average of three prior fiscal years.

Licensing Section:

The reporting requirements in SB 467 (B&PC 312.2) pertaining to matters handled by the Licensing Section will require additional work for Licensing Section SLAs and is estimated to total approximately 6,578 hours per year. For at least the past four years, SLAs (and Legal Analysts) employed in the Licensing Section have been tasked as "case coordinators." They perform particularized functions in this capacity: opening, updating, revising, deleting and ultimately inactivating Licensing Section matters. Supervising Deputy Attorneys General (SDAGs) also have "case coordinator" rights and are authorized to perform these functions if necessary, but generally do not unless in the case of an emergency. Deputy Attorneys General (DAGs) do not have case coordinator authorization.

The Licensing Section's current case coordinators are accustomed to performing these duties. However, the mandates of SB 467 will add additional duties that will not be absorbable. First, the opening of matters, which is a task currently performed by case coordinators, will require more time to ensure that the matters are properly set up to capture the new data in future report generations. Ensuring case openings with a higher degree of detail and accuracy will be needed to establish the foundational information upon which reports will be based, and is also critical to report accuracy certification. The case opening function currently takes between .5 and 1.5 hours to complete and it is estimated that the higher level of detail and review of every matter opened will add an estimated .25 hour per matter.

Second, when case coordinators inactivate matters in (once matters are ready to be closed), they will thoroughly review each matter to ensure that all required docket events have been entered, and that all of the reporting data points are included. This degree of thoroughness and review has never previously been required. When inaccuracies or missing information are revealed, the case coordinator will need to review the Events Tree to locate documents and information, and make additions or changes to correct inaccurate information. If documents or sufficient information have not been entered into the Events Tree, then the case coordinator will need to locate and review the physical file to complete the data entry. This newly extended process of closing matters is estimated to add .25 hour to each matter.

On a quarterly basis, an internal review of all matters open will be performed by the case coordinators to search for inaccurate or missing data. These internal quality control procedures will be designed in consultation with the CMS to assist the Licensing Section with data verification. Licensing Section case coordinators will be responsible for running quality control reports, identifying missing or inaccurate data, and correcting anomalies. This function is estimated to add at least .5 hour to each matter (annually).

In preparation for each annual report to be filed in accordance with section 312.2, a full review of the accuracy and completeness of all data points necessary for generation of certifiable reports will be performed by Licensing Section case coordinators. This final review and preparation of data for collection in the report is estimated to add .25 hour to each matter.

The Licensing Section is on pace to open at least 5,262 new matters this fiscal year, FY 2015-16. As a result of the additional tasks that will be required of the Licensing Section SLAs, in their case coordinator capacity, it is estimated that they will spend a total of approximately 1.25 additional hours on each matter, thus yielding 6,578 billable hours of additional work per year (1.25 hours X 5,262 matters = 6,578). The current number of SLAs in the Licensing Section is insufficient to properly execute the new mandates of SB 467.

Budget Change Proposal - Cover Sheet

DF-46 (REV 08/15)

Licensing Section's Resource History*(Dollars in thousands)*

Program Budget	PY - 4	PY - 3	PY - 2	PY - 1	PY
Authorized Expenditures	\$22,516	\$22,588	\$22,750	\$25,179	\$27,403
Actual Expenditures	\$18,987	\$22,188	\$21,381	\$23,986	\$25,233
Revenue	\$24,476	\$24,617	\$24,268	\$26,009	\$26,673
Authorized Positions	97	102	103	104	108
Filled Positions	95	99	98	102	103
Vacancies	2	3	5	2	5

Licensing Section's Workload History

Workload Measure	PY - 4	PY - 3	PY - 2	PY - 1	PY	CY
Case referrals to the Licensing Section	4,703	4,610	4,815	5,142	4,628	*5,262

* Estimate: 5,262 referrals are expected in FY 2015-16 based upon 877 referrals received in the first two months of the fiscal year (7/1/15-8/31/15), multiplied times six.

C. State Level Considerations

The DOJ's current proposal requesting six (6.0) SLAs in the HQE Section and four (4.0) SLAs in the Licensing Section will have a positive impact on state operations because it will allow the DOJ to provide performance based metrics in annual reports (as required by SB 467) to measure, among other things, the efficiency of the provision of legal services in the key areas of filing accusations, settling matters, entering defaults and going to trial. The addition of this staff will have a positive impact on all consumers within the state because existing legal staff will not be deferred from their main mission to provide enhanced public protection by regulating unprofessional conduct by health care licensees in an efficient and timely fashion. This BCP is also consistent with Government Code Section 11040, wherein the Legislature articulated that the Attorney General's Office shall be provided with the resources needed to develop and maintain its capability to provide competent legal representation for agencies of the State. Without adding these positions, delays in the disciplinary process will result.

D. Justification

Both the HQE and Licensing Sections are reimbursed for their services from the special funds (Legal Services Revolving Fund) of the DCA client agencies that they serve.

At the start of FY 2015-16 all of the HQE Section's client agencies within the DCA advised the DOJ that they anticipate receiving, at minimum, the same amount of funds to support HQE legal services commensurate with their budgets of the previous fiscal year. HQE's clients have indicated that they have sufficient funding to support the addition of six (6.0) SLAs. For FY 2015-16, all Licensing Section client agencies within the DCA have established budgets at least equivalent to the previous year's budget, if not higher due to authorized budget increases. The Licensing Section's clients have indicated that they have sufficient funding to support the addition of four (4.0) SLAs.

E. Outcomes and Accountability**Health Quality Enforcement Section:**

SB 467 added new reporting obligations with the first report due on January 1, 2018 for the prior fiscal year, FY 2016-17. SB 467 requires accountings of not only the cases HQE received for all clients, but also accountings for HQE's efficiency in specific markers for accusation, stipulation, default and hearing processing. While there is no direct intent to heighten public protection in SB 467, the consequences of not providing additional staff to HQE to meet the reporting demands of SB 467 will have an unintended adverse impact to the timeliness and quality of work performed on the existing workload in HQE.

Additional staff will allow for the proper and reliable accounting and processing of DCA cases, as well as allow existing legal staff to continue to focus on protecting patients from unprofessional licensees.

Budget Change Proposal - Cover Sheet

DF-46 (REV 08/15)

In order for HQE to meet the enhanced legal service requests and data reports that SB 467 requires, HQE will need authorization for six (6.0) additional SLA positions.

Health Quality Enforcement Projected Outcomes

Workload Measure	CY	BY	BY+1	BY+2	BY+3	BY+4
DCA Cases - Health Quality Enforcement Section	5,356	5,463	5,572	5,683	5,797	5,913
DCA Cases Adjudicated - Health Quality Enforcement Section	1,765	1,800	1,836	1,873	1,910	1,948

*Projections based on referral growth of 2% per fiscal year.

Positions Measure to Meet New Workload Created by SB 467	SB 467 Requirement	Est. cases	Hour(s) per case	Total hours per FY		SLA Positions
DCA Cases - Health Quality Enforcement Section: to be accounted, audited and reported	Sec. 2, Bus. & Prof. Code sec. 312.2, subd. (a)(1)-(7); and subd. (c)	5,356	1.0	5,356	1,600 hours SLA	3.35
DCA Cases Adjudicated - Health Quality Enforcement Section: to be accounted, audited and reported	Sec. 2, Bus. & Prof. Code sec. 312.2, subd. (a)(7), subd. (b)(1)-(6) and subd. (c)	1,765	2.0	3,530	1,600 hours SLA	2.21

Licensing Section:

If additional SLA positions are not approved, the current case coordinators will continue to process information and verify data, as described above, but will not be able to perform the additional essential mandates of SB 467.

In order for the Licensing Section to properly meet the additional requirements of SB 467, authorization for four (4.0) additional SLA positions is requested.

Licensing Projected Outcomes

Workload Measure	CY	BY	BY+1	BY+2	BY+3	BY+4
Case referrals to the Licensing Section	5,262	5,367	5,474	5,583	5,695	5,809

*Projections based on referral growth of 2% per fiscal year.

Positions Measure to Meet New Workload Created By SB 467	Estimated cases	Hour(s) per case	Total hours per FY		LA Positions
DCA Cases – Licensing Section: Additional case opening, closing, review and reporting functions	5,262	1.25	6,578	1,600 hours LA	4.11

F. Analysis of All Feasible Alternatives

Alternative One: Obtain Special Fund Authority as requested. This alternative will allow the DOJ to fulfill the mandates of SB 467, without sacrificing the quality and timeliness of existing departmental requirements.

Alternative Two: Redirect existing DOJ resources to meet this proposal. The DOJ does not have sufficient resources available that can be exclusively redirected to this project without adversely affecting other critical processes that directly impact public safety. Without the additional SLA staff, the

Budget Change Proposal - Cover Sheet

DF-46 (REV 08/15)

HQE and Licensing Sections will be required to delay existing public safety workloads and elevate reporting workloads to existing attorney staff. If the HQE and Licensing Sections are forced to burden existing legal staff with the additional reporting workload associated with SB 467, this will have an adverse impact on public safety.

Alternative Three: Continue with current operations. This alternative will not resolve the stated issues. This alternative offers no method for fulfilling the above identified legislative mandate and would cause an adverse impact on public safety. Additionally, the HQE and Licensing Sections will not have the additional resources to absorb the anticipated increase in the reporting and accounting workload required in SB 467, and would risk being out of compliance with this mandate. This alternative will have an adverse impact on public safety.

G. Implementation Plan

Once approved, immediately begin hiring process to fill approved positions.

H. Supplemental Information *(Describe special resources and provide details to support costs including appropriate back up.)*

None.

I. Recommendation

Alternative One: Obtain Special Fund Authority as requested. This alternative will allow the DOJ to fulfill the mandates of SB 467.