



To: Board Members

Subject: Discussion and Consideration of Business and Professions Code Section 4008  
Relating to the Board's Employment of Legal Counsel

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### **Background**

Senate Bill 574 (Chapter 429, Statutes of 2017) amended Business and Professions Code Section 4008 to establish the board's authority to hire its own legal counsel. Subsequent to enactment, as part of the January 2018 Board Meeting, the board directed staff to begin the recruitment process to hire its own legal counsel per the provision in SB 547. Consistent with the board's directive, staff submitted the recruitment package to the department.

### **Update**

Since that time, board executive staff have met with the department to discuss the recruitment. More recently, President Law and Vice President Lippe met with DCA Director Grafilo; Ryan Marcroft, Deputy Director, Legal Affairs Division; and Grace Arupo Rodriguez, Assistant Deputy Director, Legal Affairs Division. As part of this meeting, board leadership was advised that the current administration does not support a decentralized legal counsel model. In lieu of the board hiring counsel that would report directly to the board's executive office, DCA is offering a compromise proposal. Under the DCA's proposal the department would establish a limited term attorney position and would enter into an MOU with the board to fund the position. DCA would complete the recruitment for the position but would allow a member of board staff to participate in the recruitment process. The attorney would be an employee of the department and would report to the Legal Affairs Office for supervision. The attorney would be dedicated exclusively to board work and would be available to work at the board's office part-time.

Board leadership is comfortable with the DCA proposal and is presenting this alternative to the full board for its consideration. Should the board agree to accept the DCA proposal, recruitment could be expedited.

Should the board wish to reconsider its action from the January 2018 Board Meeting, the following language could be used as a motion to facilitate implementation of the proposal.

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**MOTION:** Table the action taken by the board during its January 2018 Board Meeting related to the hiring of counsel. Approve the DCA proposal to enter into an MOU with the DCA for purposes of establishing an Attorney IV position and authorize the Executive Officer to carry out the proposal, including by securing the necessary funding to pay for the position.

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