



Board of
Behavioral
Sciences

1625 North Market Blvd.
Suite S-200
Sacramento, CA 95834
(916) 574-7830
TDD (916) 332-1700
Fax (916) 574-8625
www.bbs.ca.gov

MEETING NOTICE

May 31, 2007

State Capitol, Room 447
Sacramento, CA 95814

June 1, 2007

Department of Consumer Affairs
1625 N. Market Blvd., 1st Floor Hearing Room
Sacramento, CA 95834

Thursday, May 31
9:00 a.m.

FULL BOARD OPEN SESSION - Call to Order & Establishment of a Quorum

- I. Chairperson's Report
- II. Executive Officer's Report
 - A. Personnel Update
 - B. Examination Update
 - C. Miscellaneous Matters
 - D. Future Meeting Dates
- III. Approval of February 15-16, 2007 Board Meeting Minutes
- IV. Discussion and Possible Action on Assembly Bill 1486 (Calderon) Regarding Licensure of Professional Counselors
- V. Discussion and Possible Action Regarding Emergency Regulations Related to MFT Degrees from BPPVE Approved Schools.
- VI. Report of the Policy and Advocacy Committee
 - A. Recommendation #1 – Sponsor legislation to allow Marriage and Family Therapy Interns Credit for “Client Centered Advocacy.”
 - B. Recommendation #2 – Support the following legislation:

Assembly Bill 164 (Smyth)



State of California
State and Consumer
Services Agency
Arnold Schwarzenegger
Governor

Assembly Bill 249 (Eng)
Assembly Bill 509 (Hayashi)
Assembly Bill 1525 (Cook)

Senate Bill 851 (Steinberg & Romero)

- C. Recommendation #3 – Oppose Assembly Bill 1025 (Bass)
- D. Discussion and Possible Action on 2007 Legislation
- E. Regulation Update
- F. Legislation Update
- G. Strategic Plan Update
- H. Budget Update
- I. Quarterly Licensing Statistics

VII. Report of the Consumer Protection Committee

- A. Recommendation #1 – Sponsor Legislation to Adopt a Retired License Status for Marriage and Family Therapists (MFTs), Licensed Clinical Social Workers (LCSWs), and Licensed Educational Psychologists (LEPs)
- B. Recommendation #2 – Sponsor Legislation to Revise LEP Statutes Affected by Senate Bill 1475
- C. Recommendation #3 – Sponsor Legislation to Allow Supervisors the Ability to Conduct Required One-On-One Supervisions Sessions with MFT Interns and ASW Registrants via Videoconferencing
- D. Recommendation #4 – Amend California Code of Regulations (CCR) Section 1887.2 Regarding Exceptions to Continuing Education Requirements
- E. Recommendation #5 – Amend CCR Sections 1887, 1887.2, 1887.3, and 1887.7 Minor Clean-Up of CE Regulations
- F. Recommendation #6 – Amend CCR Section 1870 Regarding Two-Year Practice Requirement for Supervisors of Associate Clinical Social Workers
- G. Enforcement Statistics
- H. Examination Statistics

VIII. Review and Possible Action on Proposed Amendments to CCR Sections 1887.2 and 1887.3 Regarding Continuing Education Course Requirements

IX. Report of the Marriage and Family Therapist Education Committee

X. Election of Officers

XI. Public Comment for Items Not on the Agenda

FULL BOARD CLOSED SESSION

XII. Pursuant to Government Code Section 11126(c)(3) to Deliberate on Disciplinary Decisions:

- A. Regarding Stipulated Settlement of Lila Karoub MFC 36460
- B. Concerning Penalty for Gary Vincent Ventimiglia MFC 21132

Friday, June 1
8:30 a.m.

FULL BOARD OPEN SESSION - Call to Order & Establishment of a Quorum

XIII. Strategic Planning Work Session

FULL BOARD CLOSED SESSION – If Necessary

XIV. Pursuant to Government Code Section 11126(c)(3) to Deliberate on Disciplinary Decisions:

- A. Regarding Stipulated Settlement of Lila Karoub MFC 36460
- B. Concerning Penalty for Gary Vincent Ventimiglia MFC 21132

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT www.bbs.ca.gov

NOTICE: The meeting facilities are accessible to persons with disabilities. Please make requests for accommodations to the attention of Christina Kitamura at the Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834, or by phone at (916) 574-7835, no later than one week prior to the meeting. If you have any questions please contact the Board at (916) 574-7830.

Blank Page

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

To: Board Members

Date: May 15, 2007

From: Steve Sodergren
Program Manager

Telephone: (916) 574-7840

Subject: Personnel Update

Promotions:

Christina Kitamura, who has been working as an Office Technician, has been promoted to a Management Services Technician effective April 1, 2007.

New Employees:

Kari O'Connor joined the BBS in April filling the vacant Office Technician position in Enforcement. Kari returned to BBS after working a short time with the Board of Barbering and Cosmetology.

Departures:

Justin Sotelo, who served as an analyst in the Board's Administration Unit, left the Board on April 26, 2007. Justin is now an analyst at the California Architects Board. The recruitment process to fill this position has begun.

Training:

The following employees have completed the following training classes:

Gordon Redoble	Nitty Gritty Grammar (DCA)	March 27, 2007
Kim Higginbotham	Nitty Gritty Grammar (DCA)	March 27, 2007
Michelle Eernisse	Understanding DCA's Upward Mobility Program	April 11, 2007
Lora Romero	Achieving Your Highest Priorities	April 19, 2007
Michelle Eernisse	Interviewing Skills (DCA)	April 26, 2007
Jason Reinhardt	CPR Training	May 7, 2007
Cindy Finan	Achieving Your Highest Priorities	May 15, 2007
Nikki Cotto	Achieving Your Highest Priorities	May 15, 2007
Michelle Eernisse	Achieving Your Highest Priorities	May 15, 2007
Jessica Upadhye	Achieving Your Highest Priorities	May 15, 2007
Kari O'Connor	Achieving Your Highest Priorities	May 15, 2007

Blank Page

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

To: Board Members

Date: May 11, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Examination Update

The Department of Consumer Affairs (DCA) has finalized a new contract computer based testing. BBS is a participant in the contract which was awarded to PSI. PSI (www.psonline.com) is a Burbank based testing firm that provides the full range of testing services from exam development to administration. The BBS contract with PSI is limited to exam administration.

This new contract is effective June 1, 2007. The DCA Office of Examination Resources is responsible for administering this new contract and they are working to transition all affected examination programs to the new vendor before June 1. This is a very aggressive implementation schedule. At this time, we know with certainty that testing with Thomson Prometric will cease on May 31, 2007. PSI is opening 13 new testing centers throughout California that will be dedicated to DCA examinations. We are still waiting for PSI to begin scheduling examinations for June 1 and after.

The BBS has mailed notices to all currently eligible candidates informing them of the change in vendor. When PSI is prepared to begin scheduling, all currently eligible candidates will receive a new candidate handbook that will include instructions on how to schedule their examination.

As with any such transition, there will be some problems but we are hopeful that PSI will provide better service to BBS candidates and the BBS than has been our recent experience with Thomson Prometric.

Attachment

Blank Page



PRODUCTS

■ Employee Selection Tests ■

Implement pre-employment selection tests. Predict employee performance. Improve productivity. Maximize investment in people.

[» Learn More](#)

■ Licensing and Certification Tests ■

Outsource your professional licensing or skill certification program. Test development. Technology services. Test Administration.

[» Learn More](#)



Delivering Quality Through Assessment

PSI is an industry-leading provider of assessment and evaluation programs for corporations, state governments and professional associations. PSI provides a range of assessments for pre-employment selection, evaluation, placement, and licensure and certification to deliver solutions that enable our clients to match candidate capabilities with key job demands. One-third of the Fortune 100 and dozens of state agencies use PSI's solutions.

NEWS

PSI Introduces New Mechanical Principles Test.

[» Press Release](#)

New Employment Tests from PSI - Hire Productive Sales Employees and Reduce Turnover in All Jobs.

[» Press Release](#)

PSI Wins Tennessee Testing Contract for Cosmetology.

[» Press Release](#)

PSI HIGHLIGHTS

Click here to tour PSI's online platform for employee selection tests.

[» ATLAS™ Product Tour](#)

Blank Page

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

To: Board Members

Date: May 11, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7830

Subject: Future Meeting Dates

2007/2008 Board Meeting Dates

Below are proposed board meeting dates for 2008 and tentative locations. These dates follow the pattern of past years in scheduling board meetings.

August 30-31, 2007 [San Diego]
November 8-9, 2007 [Bay Area]

February 21-22, 2008 [Los Angeles/Orange Counties]
May 29-30, 2008 [Sacramento]
August 21-22, 2008 [San Diego]
November 21-22, 2008 [Bay Area]

Committee Structure and Proposed Meeting Dates

Staff is recommending alterations in the committee structure to the chair. Staff recommendations include continuing the existing *Consumer Protection* and *Policy and Advocacy Committees* on the regular quarterly meeting schedule. However, both committees would meet on the same day in the same location. Based on board member feedback, the committees will meet on Fridays. The following dates are proposed for the remainder of 2007 and 2008:

October 5, 2007 [Los Angeles/Orange County]
January 11, 2008 [Sacramento]
April 11, 2008 [Los Angeles/Orange County]
July 11, 2008 [Sacramento]
October 10, 2008 [Los Angeles/Orange County]

In addition, staff is recommending the creation of a *Planning Committee* that will oversee the board's strategic planning efforts, board budget, and communications/outreach efforts. This committee would meet at least twice a year in conjunction with regular board meetings and on an as needed basis. Proposed meetings for this committee would be in conjunction with the November and May board meetings.

In addition, the Marriage and Family Therapist Education Committee will continue its work. The next meeting is June 15, 2007 [Sacramento]. A meeting is tentatively scheduled for September 28, 2007 [TBA].

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

To: Board Members **Date:** May 15, 2007

From: Christy Berger
Legislation Analyst **Telephone:** (916) 574-7847

Subject: **Discussion and Possible Action on Assembly Bill 1486 (Calderon) Regarding Licensure of Professional Counselors**

Background

Legislation proposing the licensure of professional counselors (LPC) has been attempted for a number of years, most recently in 2005 (AB 894, LaSuer). The Board took an "oppose" position on that bill mainly due to concerns about certain grandparenting provisions and confusion regarding the types of counselors the bill was intending to regulate. The California Coalition for Counselor Licensure (CCCL), the sponsor of AB 894, is again sponsoring legislation in 2007 (AB 1486, Calderon).

Staff has been working with the CCCL on the bill's text in order to ensure the proposal is generally technically sound. A draft bill was provided to staff by CCCL in early 2007, and an analysis was performed for the Policy and Advocacy Committee. At its January 3, 2007 meeting, the Committee recommended that the Board take a position of "support" if all staff concerns are addressed. This included a list of desired amendments, all of which have been addressed by the sponsor in the bill.

Discussion

There are four outstanding issues regarding this bill that were either concerns previously expressed by the Board or need to be addressed by the Board. A discussion of each of the issues is provided below:

1. Scope of Practice

A comparison of the scope of practice as proposed for LPCs with the scope of practice for MFTs and LCSWs is provided on Page 2 of Attachment A. The scopes of practice are very comparable, and would permit LPCs to perform psychotherapy, consistent with the proposed LPC education and experience requirements, which are also comparable with MFT education and experience requirements, except that all experience must be gained post-degree.

2. Fiscal Issues

The bill proposes that the LPC program be supported from fees assessed to applicants, interns and licensees. However, to get the program up and running, an loan of approximately \$168,542 would be needed from the Board's reserve fund. This could be repaid in the second fiscal year.

Another loan of approximately \$21,044 would be needed in the third fiscal year, which could be repaid in year four. Beyond the fourth year, the program would be self-supporting. A provision has been added to the bill that the Board is not required to implement the program until funds have been appropriated.

3. Grandparenting

The bill now includes three different routes to obtaining a license via grandparenting, as follows:

- 1) Possession of a MFT license and a degree that meets LPC coursework requirements; or,
- 2) Possession of a LCSW license, a degree that meets LPC coursework requirements, and passage of two specified examinations; or,
- 3) Possession of all of the following qualifications:
 - A 48 unit qualifying degree that meets the same requirements as for regular LPC licensure, including a complete practicum. The applicant must have completed all core curriculum.
 - Two years of full time post-degree counseling experience that includes at least 1,000 hours of supervised direct client contact.
 - Passage of specified examinations (see #4 below).

In addition, anyone granted a license under the requirements of #2 or #3 above would be required to become recertified after a six-year period, which would require the licensee to pass the examinations required for counselor licensure at that time, or his or her license would expire and not be renewable.

4. Examinations for Grandparenting

The legislation proposes requiring two examinations for grandparenting under routes #2 or #3 described above:

- The National Counselor Examination (NCE) or the Certified Rehabilitation Counselors Examination (CRC or CRCE).
- AND**
- The National Clinical Mental Health Counselor Examination (NCMHCE).

Attachments D through G provide information regarding these examinations. Attachments D through F provide information on the CRC examination, which the sponsors of the bill as well as the Commission on Rehabilitation Counselor Certification believe is comparable to the NCE.

Action Items

- The Board needs to determine whether it will accept the CRCE examination for grandparenting.
- The Board needs determine a position, if any, on this legislation.

Attachments

- A. Comparison of Requirements and Scope of Practice (LPC, MFT, LCSW)
- B. Bill Analysis
- C. AB 1486 (Calderon) Amended April 30, 2007
- D. Letter from the Commission on Rehabilitation Counselor Certification
- E. Excerpt from CRC Certification Guide
- F. Comparison of CRC and NCE Examination Content Areas
- G. NCE and NCMHCE Content and Exam Design
- H. Fiscal Analysis

COMPARISON of LPC LICENSURE REQUIREMENTS and SCOPE OF PRACTICE with MFT and LCSW

LICENSED PROFESSIONAL COUNSELOR (LPC)	MARRIAGE AND FAMILY THERAPIST (MFT)	LICENSED CLINICAL SOCIAL WORKER (LCSW)
EDUCATION: 48-unit master's degree in counseling, or a closely related degree, increasing to 60 units with a 48-unit degree in 5 years	EDUCATION: 48-unit master's degree in marriage, family and child counseling, or one of 6 other related degrees	EDUCATION: Master's degree from an accredited school of social work
Coursework to prepare counselors for the general practice of counseling. Instruction includes a minimum of 29 units, including a minimum of 7 of the 9 following core courses:	Single, integrated program primarily designed to train marriage & family therapists. Instruction includes 12 units in marital and family systems approaches to treatment as well as the following:	Council on Social Work Education requirements: All social work programs provide content in the areas specified below. The master's curriculum addresses the content in greater depth.
Professional orientation, ethics & law in counseling	CA law and professional ethics for marriage & family therapists	Values & ethics
Multicultural counseling theories and techniques	Cross-cultural mores and values	Diversity
Human growth and development across the lifespan, including normal and abnormal behavior	Developmental issues & life events & their effect on family relationships	Human behavior & the social environment
Counseling and psychotherapeutic theories & techniques	Theories of marriage, family, & child therapy	
Assessment, appraisal, & testing of individuals	Psychological testing	
Research and evaluation		Social Work research
Group counseling theories & techniques		
Career development theories & techniques		
Principles of diagnosis, treatment planning & prevention of mental & emotional disorders & dysfunctional behavior, including use of the DSM (Psychopathology)	Diagnosis, assessment, prognosis, & treatment of mental disorders (Psychopathology)	
Psychopharmacology	Psychopharmacology	
Additional coursework includes counseling modalities and/or treatment with special populations	Psychotherapeutic orientations directly related to marriage and family therapy A variety of approaches to treatment of children	Social Work practice Social welfare policy Populations at risk & economic justice
Supervised practicum/field work: Minimum of 6 units (150 hours of face-to-face experience, increasing to 280 hours in 5 years)	Supervised practicum: Minimum of 6 units (150 hours of face-to-face experience)	Field education: Total of 900 hours for master's programs

LICENSED PROFESSIONAL COUNSELOR (LPC)**MARRIAGE AND FAMILY THERAPIST (MFT)****LICENSED CLINICAL SOCIAL WORKER (LCSW)**

Additional coursework such as alcoholism & chemical abuse, human sexuality, spousal or partner abuse, child abuse, aging, etc. and continuing education

Same

Same

SUPERVISED EXPERIENCE: 3,000 hours post-degree

SUPERVISED EXPERIENCE: 3,000 hours, 1,300 of which can be earned pre-degree

SUPERVISED EXPERIENCE: 3,200 hours post-degree

SCOPE OF PRACTICE:

Professional counseling means the application of psychotherapeutic techniques and mental health or human development principles through assessment, cognitive, affective, behavioral, verbal or non-verbal, or systemic intervention strategies, consistent with scope of competence and coursework and training required in subdivision (c) of Section 4989.22, 4989.23, and 4989.30 that address wellness, personal growth, adjustment to disability, career development, crisis intervention, as well as pathology, and empower individuals to deal adequately with life situations, reduce stress, experience growth, and make well-informed, rational decisions.

Professional counselors are restricted to the use of specific methods, techniques, or modalities for which they have the appropriate education and training. Professional counselors are obligated to refer clients to other mental health professionals, when they identify issues beyond their own scope of education, training, supervision and experience.

SCOPE OF PRACTICE:

For purposes of this chapter, the practice of marriage and family therapy shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling.

The application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training required by Sections 4980.37, 4980.40 and 4980.41.

SCOPE OF PRACTICE:

The practice of clinical social work is defined as a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, or groups; providing information and referral services; providing or arranging for the provision of social services; explaining or interpreting the psychosocial aspects in the situations of individuals, families, or groups; helping communities to organize, to provide, or to improve social or health services; or doing research related to social work.

Psychotherapy, within the meaning of this chapter, is the use of psychosocial methods within a professional relationship, to assist the person or persons to achieve a better psychosocial adaptation, to acquire greater human realization of psychosocial potential and adaptation, to modify internal and external conditions which affect individuals, groups, or communities in respect to behavior, emotions, and thinking, in respect to their intrapersonal and interpersonal processes.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1486 **VERSION:** AMENDED APRIL 30, 2007

AUTHOR: CALDERON **SPONSOR:** CALIFORNIA COALITION FOR
COUNSELOR LICENSURE

RECOMMENDED POSITION: NONE

SUBJECT: LICENSED PROFESSIONAL COUNSELORS

Existing Law:

- 1) Defines unprofessional conduct for each of the license types authorized to perform psychotherapy.
- 2) Generally establishes the following requirements for licensure of psychotherapists:
 - A graduate degree from an accredited school in a related clinical field
 - Extensive hours of supervised experience gained over two years
 - Registration with the regulatory Board while gaining the supervised experience
 - Standard and Clinical Vignette licensing examinations
- 3) Defines professions authorized to perform psychotherapy as Licensed Clinical Social Workers (LCSW), Marriage and Family Therapists (MFT), Psychologists, and Physicians and Surgeons.
- 4) Requires professions authorized to perform psychotherapy to be licensed and overseen by a regulatory Board.
- 5) Requires the licensing and regulation of LCSWs, MFTs, and Licensed Educational Psychologists (LEP) by the Board of Behavioral Sciences (BBS, Board).
- 6) Requires the author or sponsor of legislation proposing a new category of licensed professional to develop a plan that includes specific information and data. The plan must be provided to the legislature with the initial legislation, and forwarded to the appropriate policy committees. The plan must include the following: (GC § 9148.4)
 - The source of revenue and funding.
 - The problem that the new category of licensed professional would address, including evidence of need for the state to address the problem.
 - Why the new category of licensed professional was selected to address the problem, the alternatives considered and why each alternative was not selected. Alternatives to be considered include:
 - No action taken.
 - A category of licensed professional to address the problem currently exists. Include any changes to the mandate of the existing category of licensed professional.
 - The levels of regulation or administration available to address the problem.
 - Addressing the problem by federal or local agencies.
 - The public benefit or harm that would result from establishing a new category of licensed professional, how a new category of licensed professional would achieve this benefit, and the standards of performance to review the professional practice.

- 7) Permits the chairpersons of the appropriate policy committees of the Legislature to refer to the Joint Committee on Boards, Commissions, and Consumer Protection (JCBCCP) for review of any legislative issues, plans, or proposals to create new regulatory categories. Requires evaluations prepared by the JCBCCP to be provided to the respective policy and fiscal committees. (B&P Code § 473.6, GC 9148.8)
- 8) Prohibits a healing arts licensing Board under the Department of Consumer Affairs to require an applicant for licensure to be registered by or otherwise meet the standards of a private voluntary association or professional society. (B&P Code § 850).

This Bill:

- 1) Requires the licensing and regulation of Licensed Professional Counselors (LPC) and professional counselor interns by the BBS.
- 2) Defines LPCs, professional counselor interns, and counselor trainees as psychotherapists who are required to provide a brochure to patients who have been sexually involved with a former psychotherapist. (B&P Code § 728(c))
- 3) Adds LPCs to the list of licensees to whom a licensed health care facility, clinic, or their staff must report should the licensee's application for staff privileges or membership be rejected, revoked or suspended, or whose employment is terminated or suspended, for a medical disciplinary reason. (B&P Code § 805)
- 4) Requires the Governor to appoint two LPCs to the Board, and two additional public members. (B&P Code § 4990)
- 5) Establishes the sunset date of the chapter as July 1, 2009, with a repeal date of January 1, 2010, unless a later enacted statute which becomes effective on or before January 1, 2010, deletes or extends those dates. (B&P Code § 4990(i))
- 6) Defines "Applicant" as an unlicensed person who has completed the qualifying degree program and is described by one of the following: (B&P Code § 4999.12(d))
 - Whose application for registration as a professional counselor intern is pending.
 - Is in the examination process.
 - Has completed the requirements for licensure, is no longer registered as an intern, and is in the examination process.
- 8) Defines "Licensed professional counselor" as a person licensed to practice professional counseling. (B&P Code § 4999.12 (f))
- 9) Defines "Intern" as an unlicensed person who is registered with the Board as a counselor intern. (B&P Code § 4999.12 (g))
- 10) Defines "Trainee" as an unlicensed person who is enrolled in a degree program that qualifies for LPC licensure and who has completed a minimum of 12 semester or 18 quarter units of coursework. (B&P Code § 4999.12 (h))
- 11) Defines "Approved Supervisor" as an individual who has two years of clinical experience as any one of the following licensees: (B&P Code § 4999.12 (i))
 - LPC

- Marriage and family therapist (MFT)
 - Clinical psychologist
 - Clinical social worker (LCSW)
 - Physician certified in psychiatry by the American Board of Psychiatry and Neurology
- 12) Defines “Professional enrichment activities” as any of the following: (B&P Code § 4999.12 (j))
- Supervisor-approved workshops, seminars, training sessions, or conferences directly related to professional counseling.
 - Participation in group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional.
- 13) Defines “advertising” or “advertise” as including: (B&P Code § 4999.12(k))
- The issuance of any card, sign, or device to any person.
 - The causing, or allowing of any sign or marking on or in any building or structure, or in any printed matter whatsoever.
 - Business solicitations communicated by radio or television broadcasting.
 - Does not include signs within church buildings or notices in church bulletins mailed to a congregation.
- 14) Defines “Assessment” as selecting, administering, scoring, and interpreting psychological and educational instruments, and the use of methods and techniques for understanding human behavior. (B&P Code § 4999.12 (l))
- 15) Defines “Consulting” as the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving problems in relation to a third party. (B&P Code § 4999.12 (m))
- 16) Defines “Counseling interventions” as the application of counseling strategies that reflect a diverse society, a variety of counseling theories and approaches, and include principles of development, wellness, and pathology. (B&P Code § 4999.12 (n))
- 17) Defines “Referral” as evaluating and identifying the needs of a client to determine the need for referral to other specialists and communicating with referral sources. (B&P Code § 4999.12 (o))
- 18) Defines “Research” as a systematic effort to collect, analyze, and interpret data that describes the interaction between social characteristics, behavior, emotion, cognitions, disabilities, mental disorders, and interpersonal transactions among individuals and organizations. (B&P Code § 4999.12(p))
- 19) Defines “Supervision” as including all of the following: (B&P Code § 4999.12(q))
- Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised.
 - Reviewing client or patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions.
 - Monitoring and evaluating the ability of the intern or trainee to provide services to the particular clientele at the site or sites where he or she will be practicing.
 - Ensuring compliance with laws and regulations governing the practice of professional counseling.
 - Direct observation, or review of audio or videotapes of therapy.

- 20) Requires the Board to communicate information about its activities, the requirements and qualifications for licensure, and the practice of professional counseling to stakeholders. (B&P Code § 4999.14(a))
- 21) Requires the Board to develop policies and procedures to assist educational institutions in meeting the curricula requirements for LPC licensure. (B&P Code § 4999.14 b)
- 22) Defines “Professional counseling” as the application of psychotherapeutic techniques and mental health and human development principles consistent with required coursework and training in order to: (B&P Code § 4999.20(a))
 - Address wellness, personal growth
 - Address disability, crisis intervention and pathology
 - Empower individuals to deal adequately with life situations, reduce stress, experience growth and make well-informed, rational decisions
 - Provide a variety of intervention strategies
- 23) Restricts LPCs to using specific methods, techniques or modalities for which they have the appropriate education and training. (B&P Code § 4999.20(b))
- 24) Requires LPCs to refer clients to other mental health professionals when they identify issues beyond their own scope of education, training, supervision and experience. (B&P Code § 4999.20)
- 25) Permits persons to do work of a psychosocial nature, but prohibits such persons from (B&P Code § 4999.22(a)):
 - Using any title or description of services incorporating the words professional counselor
 - Stating that they are licensed to practice professional counseling
- 26) Clarifies that LPC laws would not limit medical, social work, nursing, psychology, or marriage and family therapy licensing laws. (B&P Code § 4999.22(b)):
- 27) Clarifies that LPC laws would not apply to (B&P Code § 4999.22(c)):
 - Any priest, rabbi, or minister any religious denomination who performs counseling services as part of his or her pastoral or professional duties.
 - Any person who is admitted to practice law in California who provides counseling services as part of his or her professional practice.
 - Any person who is licensed to practice medicine who provides counseling services as part of his or her professional practice.
- 28) Clarifies that LPC laws would not apply to an employee of a governmental entity or of a school, college or university, or of an institution both nonprofit and charitable if the practice is performed under the employer’s supervision. (B&P Code § 4999.22(d))
- 29) Clarifies that LPC laws do not restrict activities of a psychotherapeutic nature on the part of persons employed by the following entities engaged in the training of graduate students or professional counselor trainees provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by a title that clearly indicates the status appropriate to the level of training: (B&P Code § 4999.24)
 - Accredited or state-approved academic institution
 - Public school

- Government agency
 - Nonprofit institution
- 30) Prohibits a person from practicing or advertising the performance of professional counseling services without a license issued by the Board. (B&P Code § 4999.30)
- 31) Requires the following educational qualifications for licensure as a LPC: (B&P Code § 4999.32)
- A master's or doctor's degree from an accredited or approved school in counseling or a closely related degree.
 - A minimum of 48 semester or 72 quarter graduate units of instruction.
 - Effective January 1, 2013, a minimum of 60 semester or 90 quarter graduate units is required, including a 48 semester or 72 quarter unit master's degree.
 - A person deficient in overall units may satisfy the requirement by completing coursework at an accredited or approved institution in counseling modalities and/or treatment with special populations. (B&P Code § 4999.32(c)(3))
 - The equivalent of at least three semester or four and one-half quarter units included within the 48 semester or 72 quarter units, in each of the following areas: (B&P Code § 4989.22(c)(1))
 1. Counseling and psychotherapeutic theories and techniques
 2. Human growth and development across the lifespan, including normal and abnormal behavior
 3. Career development theories and techniques
 4. Group counseling theories and techniques
 5. Assessment and testing of individuals
 6. Multicultural counseling theories and techniques
 7. Principles of diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior including the use of the Diagnostic and Statistical Manual of Mental Disorders (DSM).
 8. Research and evaluation
 9. Professional ethics and law in counseling
- 32) Requires the degree to include additional coursework including special treatment issues and special population issues. (B&P Code § 4999.32(c)(2))
- 33) Requires the degree to contain the required units in 7 of the 9 required subject areas, but all 9 areas must be completed upon application by completing post-degree coursework at an accredited or approved institution consisting of the equivalent of three semester or four and one-half quarter units in each deficient area. (B&P Code § 4999.32(c)(3))
- 34) Permit's the board to make the final determination as to whether a degree meets all requirements including but not limited to course requirements, regardless of accreditation. (B&P Code § 4999.32(c)(3))
- 35) A minimum of six semester or nine quarter units or the equivalent of supervised practicum or field study experience, or the equivalent, as follows: (B&P Code § 4999.32(c)(4))
- 150 hours face-to-face supervised experience counseling individuals, families, or groups. Minimum increases to 280 hours on January 1, 2013.

- Applied psychotherapeutic techniques
 - Assessment and diagnosis
 - Prognosis and treatment
 - Development, adjustment and maladjustment
 - Health and wellness promotion
 - Other recognized counseling interventions
- 36) Requires practicum or field experience to be in a clinical or counseling setting that meets the following requirements: (B&P Code § 4999.34)
- Lawfully and regularly provides counseling or psychotherapy
 - Provides oversight to ensure that the trainee's work meets the practicum and field study requirements and is within the scope of practice
 - Is not a private practice
- 37) Requires trainees and interns to gain experience only within each position for which he or she volunteers or is employed. (B&P Code § 4999.34(d), 4999.44(a)(3))
- 38) Permits trainees to perform services if the activities and services constitute part of the trainee's supervised course of study and the person's title is "trainee." (B&P Code § 4999.36(a))
- 39) Requires all hours of experience gained as a trainee to be coordinated between the school and the work site. (B&P Code § 4999.36(b))
- 40) Requires schools to approve the work site of each trainee, and to have a written agreement with each site that details each party's responsibilities including the methods by which supervision must be provided. Requires the agreement to include provisions for regular progress reports and evaluations of the student's performance at the site. (B&P Code § 4999.36(b))
- 41) Requires the applicant to provide satisfactory evidence that hours of experience gained as a trainee while enrolled in an institution other than the one that confers the qualifying degree were gained in compliance with all trainee requirements. (B&P Code § 4999.36(c))
- 42) Prohibits hours earned as a trainee from counting toward the 3,000 hours of post-degree internship hours. (B&P Code § 4999.36(e))
- 43) Requires a trainee to receive at least one hour of individual or triadic supervision and one and one-half hours of group supervision for each week the trainee sees clients. (B&P Code § 4999.36(f))
- Defines "individual supervision" as face-to-face contact with the supervisor alone
 - Defines "triadic supervision" as face-to-face contact with the supervisor and one other trainee
 - Defines "group supervision" as face-to-face contact with the supervisor in a group of not more than 10 persons.
- 44) Requires applicants to complete all of the following coursework or training prior to licensure: (B&P Code § 4999.38)
- Alcoholism and other chemical substance dependency for those who began graduate study on or after January 1, 1986. No minimum hours or units specified.
 - Human sexuality. Minimum of 10 hours required.

- Psychological testing for those who began graduate study on or after January 1, 2001. Minimum of two semester or three quarter units required.
 - Psychopharmacology for those who began graduate study on or after January 1, 2001. Minimum of two semester or three quarter units required.
 - o After January 1, 2013, this shall expand to a three semester or four and one-half quarter unit course and include the biological bases for behavior.
 - Spousal or partner abuse assessment, detection, and intervention strategies for those who began graduate study on or after January 1, 1995. For those who began graduate study on or after January 1, 2004, a minimum of 15 hours is required. Otherwise, there is no minimum number of hours required.
 - Child abuse assessment and reporting. Minimum of seven hours required.
 - California law and professional ethics for professional counselors. Minimum of two semester or three quarter units required.
 - Aging and long-term care for those who began graduate study on or after January 1, 2004. Minimum of 10 hours required.
- 45) Requires a school that is preparing applicants to qualify for LPC licensure to notify each student in writing that its degree program is designed to meet licensing requirements and to certify to the Board that it has so notified its students. (B&P Code § 4999.40(a))
- 46) Requires education obtained outside of the United States to be equivalent to a degree earned from a regionally accredited institution in the United States or that is state-approved, as determined by the Board, in order to qualify for professional counselor intern registration or licensure. Requires the applicant to submit a comprehensive evaluation of the degree performed by a foreign credential evaluation service. (B&P Code § 4999.40(b))
- 47) Requires the following qualifications for registration as an intern: (B&P Code § 4999.42)
- Has earned a master's degree which meets all qualifications.
 - Has not committed acts constituting grounds for denial of licensure.
 - Has not been convicted of a crime that involves sexual abuse of children and is not required to register as a sex offender.
- 48) Requires the board to begin accepting applications for intern registration on January 1, 2009. (B&P Code § 4999.42(b))
- 49) Permits interns to be credited with supervised experience in any setting that lawfully and regularly provides counseling or psychotherapy and provides oversight to ensure that the intern's work meets experience and supervision requirements and is within the scope of practice. (B&P Code § 4999.44(a))
- 50) Prohibits applicants or trainees from being employed or volunteering in a private practice until registered as an intern. (B&P Code § 4999.44(a)(4))
- 51) Requires an applicant to be registered with the Board as an intern prior to performing any duties other than those provided by trainees. (B&P Code § 4999.45(a))
- 52) Prohibits interns from working in a private practice until registered as an intern. (B&P Code § 4999.45(b))
- 53) Requires counselor trainees and interns to inform each client prior to performing any

professional services that he or she is unlicensed and under supervision. (B&P Code § § 4999.36(d), 4999.45(c))

- 54) Requires interns to file for renewal yearly for a maximum of five years after initial registration. (B&P Code § 4999.45(d))
- 55) Requires employment as an intern to cease after six years, unless the applicant meets current educational requirements and obtains a new intern registration. (B&P Code § 4999.45(e),(f))
 - Permits an applicant issued a subsequent intern registration to be employed or volunteer in any allowable work setting except private practice.
- 56) Requires applicants for licensure to complete 3,000 hours of supervised experience completed in a minimum of 104 weeks which meets the following requirements: (B&P Code § 4999.46)
 - Performed under the supervision of an approved supervisor.
 - Includes a maximum of 40 hours in any seven consecutive days.
 - Includes a minimum of 1750 hours of direct counseling with individuals or groups in a clinical or counseling setting.
 - Includes a minimum of 150 hours in a hospital or community mental health setting.
 - Includes a maximum of 1000 hours of direct supervision and professional enrichment activities.
 - Includes a maximum of 500 hours providing group therapy or group counseling.
 - Includes a maximum of 250 hours of experience administering and evaluating psychological tests, writing clinical reports, progress notes or process notes.
 - Includes a maximum of 250 hours providing counseling or crisis counseling on the telephone.
 - Performed within the six years immediately preceding the application for licensure.
- 57) Requires applicants to register with the Board as an intern in order to be credited for post-degree hours of experience toward LPC licensure. (B&P Code § 4999.46(c))
- 58) Requires applicants and interns to be under supervision at all times. (B&P Code § 4999.46(d))
- 59) Prohibits a supervisor from supervising more than two interns. (B&P Code § 4999.46(d))
- 60) Requires supervision of interns to meet all of the following requirements: (B&P Code § 4999.46(e))
 - Includes at least one hour of direct supervisor contact during each week and for each work setting in which experience is claimed.
 - Includes an average of one hour of direct supervisor contact for every 10 hours of client contact in each setting.
 - o A maximum of five hours of supervision will be credited during any week.
 - o One hour of direct supervisor contact means face-to-face contact on an individual basis, or two hours of face-to-face contact in a group of not more than eight.
- 61) Prohibits counselor trainees and interns from working as independent contractors. (B&P Code § 4999.47(a))
- 62) Prohibits applicants, trainees, and interns from receiving any remuneration directly from patients or clients, and encourages employers to provide fair remuneration. (B&P Code §

4999.47(b),(c))

- 63) Requires applicants, trainees, and interns who provide voluntary or other services in any setting other than a private practice, and who receive no more than a total, from all work settings, of \$500 per month as reimbursement for expenses incurred, to be considered an employee and not an independent contractor. (B&P Code § 4999.47(d),(e))
- Permits the Board to audit such applicants, who must demonstrate that the payments received were for reimbursement of expenses actually incurred.
- 64) Requires applicants, trainees, and interns to perform services only at the location where their employer regularly conducts business and services, which may include other locations as long as the services are performed under the direction and control of the employer and supervisor. (B&P Code § 4999.47(f))
- 65) Prohibits trainees and interns from having a proprietary interest in the employer's business. (B&P Code § 4999.47(f))
- 66) Requires educational institutions which prepare applicants for LPC licensure to encourage and to consider requiring its students to participate in psychotherapy or counseling. Requires supervisors to consider, advise, and encourage each of his or her professional counselor interns and trainees regarding the advisability of participating in psychotherapy or counseling. (B&P Code § 4999.47(g))
- Encourages educational institutions to assist students and supervisors to assist trainees and interns in locating psychotherapy or counseling at a reasonable cost.
- 67) Requires the Board to adopt regulations regarding the supervision of interns, including but not limited to: (B&P Code § 4999.48)
- Supervisor qualifications.
 - Continuing education requirements for supervisors.
 - Registration or licensing of supervisors.
 - General responsibilities of supervisors.
 - The Board's authority in cases of supervisor noncompliance or negligence.
- 68) Permits the Board to issue a LPC license to any person who meets all of the following requirements: (B&P Code § 4999.50)
- Has received a qualifying master's or doctor's degree.
 - Has completed the required 3,000 hours of supervised experience.
 - Provides evidence of a passing score on an examination approved by the Board.
 - Meets the Board's regulatory requirements for licensure.
 - Has not committed acts or crimes constituting grounds for denial of licensure.
 - Has not been convicted of a crime in this or another state or territory of the United States that involves sexual abuse of children
 - Is not required to register as a sex offender.
 - Has passed a fingerprint check.
- 69) Permits the Board to issue a LPC license to any person who has held for at least two years a valid license as a professional counselor, or an equivalent title in another jurisdiction of the United States, if: (B & P Code § 4999.50(b))
- The education and supervised experience requirements are substantially equivalent.
 - The person has passed an examination required by the Board.

- The person has paid the required fees.
- 70) Requires the LPC licensing examination to be administered a minimum of twice per year at a time and place and under supervision, at the Board's determination. (B&P Code § 4999.52(b))
- 71) Requires the Board to evaluate various national examinations to determine whether they: (B&P Code § 4999.52(c))
- Meet the prevailing standards for the validation and use of licensing and certification tests in California, as determined by the Office of Examination Resources.
 - Measure knowledge and abilities demonstrably important to safe, effective LPC practice.
 - Should a national examination not meet the above standards, the Board may develop and require a supplemental examination in addition to a national examination.
- 72) Prohibits the Board from denying an applicant admission to the examination whose application for licensure is complete if he or she meets all requirements and has not committed any acts or engaged in conduct that would constitute grounds to deny licensure. (B&P Code § 4999.52(d))
- 73) Prohibits the Board from postponing or delaying an applicant's examination or results solely because the Board has received a complaint alleging acts or conduct that would constitute grounds to deny licensure. (B&P Code § 4999.52(e))
- 74) Requires the Board to permit an applicant who is the subject of a complaint or under investigation for a reason that would constitute grounds for denial of licensure to take the examination. Permits the Board to notify the applicant that licensure will not be granted pending completion of the investigation. (B&P Code § 4999.52(f))
- 75) Permits the Board to deny an applicant who has previously failed the examination permission to retake the examination pending completion of an investigation against that applicant. (B&P Code § 4999.52(g))
- 76) Permits the Board to deny an applicant admission to an examination, withhold results, or refuse to issue a license when an accusation or statement of issues has been filed against the applicant, or when his or her application for licensure has been denied. (B&P Code § 4999.52(h))
- 77) Permits the Board to destroy all examination materials two years following the date of an examination. (B&P Code § 4999.52(i))
- 78) Permits the Board to issue a LPC license to any person who meets one of the following sets of criteria (A or B), who applies between October 1, 2008 and March 1, 2009, provided all documentation is submitted within 12 months of the board's evaluation of the application (grandparenting provisions): (B&P Code § 4999.54)

A. Meets the following requirements:

1. Possesses a qualifying degree in counseling or a closely related degree. Degree must meet the same requirements as for regular licensure except as follows:
 - Degrees issued prior to 1996 must have a minimum of 30 semester or 45 quarter units and must include at least five of the nine required courses.

- Degrees issued in 1996 and after must have a minimum of 48 semester or 72 quarter units and must include at least seven of the nine required courses.
 - If the degree is lacking in any of the nine required courses or in overall units, documentation of completion must be provided.
- 2. Completes post-degree coursework required for regular licensure (i.e., human sexuality, child abuse assessment and reporting, spousal and partner abuse, etc.)
- 3. Has two years full time, or the equivalent, of post-degree counseling experience that includes 1,000 hours of direct client contact supervised by a licensed mental health professional or a certified master's level counselor.
- 4. Has a passing score on two of the following examination(s):
 - The National Certified Counselor Examination for Licensure and Certification (NCE) OR the Certified Rehabilitation Counselor Examination (CRCE)
 - AND the National Clinical Mental Health Counseling Examination (NCMHCE).

B. Meets the following two requirements:

1. Is licensed as a Marriage and Family Therapist (MFT) in California
2. Meets LPC coursework requirements

- 79) Limits a license issued under Section 4999.54 (grandparenting provisions) to being valid for a six-year period from its issuance date. After the six-year period, such a license will be canceled unless the licensee passes the examinations required for licensure at that time. (B&P Code § 4999.56)
- 80) Requires a LPC to display his or her license in a conspicuous place in his or her primary place of practice. (B&P Code § 4999.70)
- 81) Prohibits a LPC who conducts a private practice under a fictitious business name from using a name that is false or misleading. Requires the LPC to inform the patient prior to the commencement of treatment of the name and license type of the owner of the practice. (B&P Code § 4999.72)
- 82) Requires LPCs to provide each client with a document containing all of the following: (B&P Code § 4999.74)
- The fee schedule listed by type of service or hourly rate.
 - An explanation of the limits of confidentiality.
 - Information regarding the BBS.
- 83) Requires LPCs to complete 36 contact hours of continuing education in a related field by an approved provider every two years. (B&P Code § 4999.76)
- 84) Prohibits the Board from renewing a license unless the applicant certifies to the Board that he or she has completed the required continuing education. (B&P Code § 4999.76(a))
- 85) Authorizes the Board to audit the records of any licensee to verify completion of the required continuing education, and requires licensees to maintain records of completed continuing education for two years. (B&P Code § 4999.76(b))
- 86) Requires the continuing education to be obtained from one of the following approved providers:

(B&P Code § 4999.76(d))

- School, college, or university that offers a qualifying LPC degree program.
- Professional counseling association
- Licensed health facility
- Governmental entity
- Continuing education unit of an accredited or state-approved four-year educational institution
- Mental health professional association

87) Requires the Board to establish by regulation a procedure for approving continuing education providers. (B&P Code § 4999.76(e))

88) Permits the Board to revoke or deny the right of a provider to offer continuing education for failure to comply with requirements. (B&P Code § 4999.76(e))

89) Requires continuing education to contain one or more of the following: (B&P Code § 4999.76(f))

- Aspects of professional counseling that are fundamental to the understanding or practice of professional counseling.
- Recent developments in professional counseling.
- Aspects of other disciplines that enhance the understanding or practice of professional counseling.

90) Requires continuing education to include courses directly related to the diagnosis, assessment, and treatment of clients. (B&P Code § 4999.76(g))

91) Requires the Board to fund the administration of its continuing education program through continuing education provider fees. (B&P Code § 4999.76(h))

92) Requires continuing education requirements to comply with the guidelines for mandatory continuing education established by the Department of Consumer Affairs. (B&P Code § 4999.76(i))

93) Requires the Board to enforce laws designed to protect the public from incompetent, unethical, or unprofessional practitioners. (B&P Code § 4999.80(a))

94) Requires the Board to investigate complaints concerning the conduct of any LPC. (B&P Code § 4999.80(b))

95) Requires the Board to revoke, suspend, or fail to renew a LPC license for just cause, as enumerated in the Board's laws. (B&P Code § 4999.80(c))

96) Permits the Board to deny a LPC license for any of the following reasons: (B&P Code § 4999.80(c))

- The applicant knowingly made a false statement of fact required in the application.
- The applicant has been convicted of a crime substantially related to the qualifications, functions or duties of LPC practice.
- The applicant has committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another, substantially related to the qualifications, functions or duties of LPC practice.

- The applicant has committed an act which would be grounds for suspension or revocation of license.
- 97) Permits the Board to deny, suspend or revoke a LPC license for any of the following reasons: (B&P Code § 4999.80(c))
- Violation of examination security requirements
 - A license was secured by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.
 - In support of another person's application for license, a licensee knowingly made a false statement or knowingly omitted to state a fact to the Board regarding the application.
- 98) Prohibits persons from engaging in the following acts: (B&P Code § 4999.82)
- Engaging in LPC practice without holding a valid license.
 - Representing themselves as an LPC without being licensed.
 - Using any title, words, letters, or abbreviations which may reasonably be confused with a standard of professional competence without being licensed.
 - Refusing to furnish the Board with information or records required or requested.
- 99) Establishes the intent of the Legislature that any communication made by a client to a LPC is a privileged communication. (B&P Code § 4999.84)
- 100) Establishes that any person who violates any of the provisions of LPC law is guilty of a misdemeanor punishable by imprisonment in the county jail for up to six months, or by a fine of up to \$2,500, or by both. (B&P Code § 4999.86)
- 101) Permits the superior court to issue an injunction or other order to restrain conduct upon request of the Board, the Attorney General, or the district attorney of the county, when any person has or is about to engage in any acts or practices which constitute an offense against LPC law. (B&P Code § 4999.88)
- 102) Permits the Board to refuse to issue any registration or license, or to suspend or revoke a registration or license of any professional counselor intern or licensed professional counselor if he or she has been guilty of unprofessional conduct. (B&P Code § 4999.90)
- 103) Defines unprofessional conduct as including, but not being limited to, any of the following: (B&P Code § 4999.90)
- The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant.
 - The Board may inquire into the circumstances surrounding the commission of the crime.
 - Securing a license or registration by fraud or deceit
 - Misrepresentation by the applicant, or a licensee in support of the applicant, on any application for licensure or registration.
 - Administering to himself or herself any controlled substance, dangerous drug, or alcoholic beverage in a manner which is dangerous or injurious to the person who is applying for or holding a license or registration, or to any other person, or to the extent that use impairs ability to safely practice as a LPC.
 - The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any controlled substance, dangerous drug, or alcoholic beverage.

- Gross negligence or incompetence in the performance of LPC services.
- Violating, attempting to violate, or conspiring to violate any of the laws pertaining to professional counseling.
- Misrepresentation as to the type or status of a license or registration held.
- Misrepresentation or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations.
- Impersonation of another by any licensee, registrant, applicant for a license, or registrant, or allowing another person to use his or her license or registration.
- Assisting or employing, directly or indirectly, any unlicensed or unregistered person to engage in practice for which a license or registration is required.
- Intentionally or recklessly causing physical or emotional harm to any client.
- The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.
- Engaging in sexual relations with a client or a former client within two years following termination of therapy.
- Soliciting sexual relations with a client or committing an act of sexual abuse or misconduct with a client.
- Committing an act punishable as a sexually related crime if that act is substantially related to the qualifications, functions, or duties of a LPC.
- Performing or holding oneself out as able to perform, or offering to perform, or permitting any supervisee to perform any professional services beyond the scope of the license.
- Failure to maintain confidentiality except as otherwise permitted by law.
- Prior to the commencement of treatment, failing to disclose to the client the fee to be charged or the basis upon which the fee will be computed.
- Paying, accepting, or soliciting any consideration or compensation, whether monetary or otherwise, for the referral of clients.
- Advertising in a manner that is false, misleading, or deceptive.
- Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, in ways that might invalidate the test or device.
- Any conduct in the supervision of an intern or trainee that violates LPC law.
- Performing or holding oneself out as able to perform professional services beyond the scope of one's competence.
- Permitting a supervisee to hold himself or herself out as competent to perform professional services beyond the supervisee's scope of competence.
- The violation of any law governing the gaining and supervision of experience.
- Failure to keep records consistent with sound clinical judgment.
- Failure to comply with child, elder, or dependent adult abuse reporting requirements.
- Repeated acts of negligence.

104) Requires a professional counselor intern registration to expire one year from the last day of the month in which it was issued. (B&P Code § 4999.100(a))

105) Requires a professional counselor intern to do all of the following in order to renew: (B&P Code § 4999.100(b))

- Apply for renewal on a Board-issued form
- Pay the required renewal fee
- Notify the Board whether he or she has been convicted of a misdemeanor or felony or

whether any disciplinary action has been taken by any other regulatory or licensing Board since the last renewal.

- 106) Requires a LPC license to expire no more than 24 months after the issue date. (B&P Code § 4999.102(a))
- 107) Requires a LPC to do the following in order to renew an unexpired license: (B&P Code § 4999.102(b))
 - Apply for renewal on a Board-issued form
 - Pay the required renewal fee
 - Certify compliance with continuing education requirements
 - Notify the Board whether he or she has been convicted of a misdemeanor or felony or whether any disciplinary action has been taken by any other regulatory or licensing Board since the last renewal.
- 108) Allows an expired LPC license to be renewed at any time within three years of expiration. (B&P Code § 4999.104)
- 109) Requires the licensee to do the following in order to renew an expired LPC license: (B&P Code § 4999.104)
 - Apply for renewal on a Board-issued form
 - Pay the renewal fees that would have been paid if the license had not been delinquent
 - Pay all delinquency fees
 - Certify compliance with continuing education requirements
 - Notify the Board whether he or she has been convicted of a misdemeanor or felony or whether any disciplinary action has been taken by any other regulatory or licensing Board since the last renewal.
- 110) Prohibits a license that has not been renewed within three years after its expiration from being renewed, restored, reinstated or reissued. However, a former licensee may apply for and obtain a new license if he or she complies with all of the following: (B&P Code § 4999.106)
 - No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.
 - He or she takes and passes the current licensing examination.
 - He or she submits an application for licensure.
- 111) Establishes that a suspended license is subject to expiration and must be renewed as required, and that the renewal does not entitle the licensee to practice or engage in prohibited conduct while it remains suspended. (B&P Code § 4999.108)
- 112) Establishes that a revoked license is subject to expiration but may not be renewed. If it is reinstated after expiring, the licensee must pay a reinstatement fee equal to the last renewal fee plus any delinquency fee owing at the time of revocation. (B&P Code § 4999.110)
- 113) Permits a LPC to apply to the Board to request his or her license be placed on inactive status. (B&P Code § 4999.112(a))
- 114) Requires a licensee on inactive status to do all of the following: (B&P Code § 4999.112(a))
 - Pay a biennial fee of half of the active renewal fee.

- Be exempt from continuing education requirements.
 - Not engage in LPC practice in California.
 - Be subject to LPC-related laws.
- 115) Permits reactivation of an inactive license by: (B&P Code § 4999.112(b))
- Submitting a request to the Board
 - Certifying that he or she has not committed any acts or crimes constituting grounds for denial of licensure.
 - Paying the remaining half of the renewal fee.
 - Showing proof of completion of 18 hours of continuing education within the past two years if the license will expire in less than one year.
 - Showing proof of completion of 36 hours of continuing education within the past two years if the license will expire in more than one year.
- 116) Requires the Board to report each month to the Controller the amount and source of all revenue received under the LPC chapter and deposit the entire amount in the State Treasury for credit to the Behavioral Sciences Fund. (B&P Code § 4999.114)
- 117) Requires moneys credited to the Behavioral Sciences Fund to be continuously appropriated without regard to fiscal years to the BBS for carrying out and enforcing the provisions of the LPC chapter, except when the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance. (B&P Code § 4999.116(a))
- 118) Requires the Board to keep records that will reasonably ensure that funds expended in the administration of each licensing or registration category bear a reasonable relation to the revenue derived from each category, and to notify the department of such by May 31 of each year. (B&P Code § 4999.116(b))
- 119) Permits the Board to use any surpluses in a way which bears a reasonable relation to the revenue derived from each category, including but not limited to, expenditures for education and research related to each of the licensing or registration categories. (B&P Code § 4999.116(c))
- 120) Requires a licensee or registrant to give written notice to the Board of any name change within 30 days, including a copy of the legal document authorizing the change. (B&P Code § 4999.118)
- 121) Requires the Board to assess fees for the application for and registration of interns and for issuance and renewal of licenses to cover related administrative and operating expenses. (B&P Code § 4999.120)
- 122) Requires the licensing program to be supported from fees assessed to applicants, interns and licensees. (B&P Code § 4999.122)
- 123) Requires start-up funds to implement this program to be derived as a loan from the reserve fund of the Board, with the approval of the board and subject to an appropriation by the Legislature in the Budget Act. (B&P Code § 4999.122)
- 124) Does not require the Board to implement the program until funds have been appropriated. (B&P Code § 4999.122)

Comment:

- 1) **Author's Intent.** According to the sponsor, the California Coalition for Counselor Licensure, licensure of professional counselors is needed in California for several reasons:
- To address the documented shortage of mental health workers
 - To broaden accessibility to mental health services to meet an increasing need
 - To provide qualified people the ability to serve when counselors are deployed to federal disaster areas
 - To keep California competitive, as licensure exists in 48 other states

The sponsor believes there are benefits of licensure to counselors and consumers:

- Provides consumers with a wider range of therapists competent to work with diverse populations, issues, and programs
 - Allows portability of credentials from state to state
 - Third party payments can provide financial support to consumers for services provided by LPCs.
- 2) **Prior Legislation.** The sponsor previously introduced legislation that proposed to license professional counselors (AB 894, LaSuer, 2005). The Board took a position of "oppose unless amended" on the prior legislation due to concerns regarding the necessity for licensure, scope of practice, timelines, funding, and grandparenting provisions. The sponsor has been very cooperative in working with the Board to resolve these issues.
- 3) **Sunrise Questionnaire.** The author or sponsor of legislation proposing a new license type is typically required to respond to the "sunrise" questionnaire, which is forwarded to the appropriate legislative policy committees. The questionnaire requires the author or sponsor to justify the need for a new license type by:
- Identifying whether unregulated practice will harm or endanger the public
 - Addressing whether existing protections are insufficient
 - Discussing whether alternatives to regulation will adequately protect the public
 - Identifying whether the occupation is clearly distinguishable from others already regulated

The Board has a copy of the questionnaire completed for the prior legislation, AB 894, but has not yet received a copy for the current proposal.

- 4) **Educational Requirements.** The educational requirements are generally equivalent to the requirements for MFT licensure. A comparison table is attached. The bill includes a provision that would help to address the potential sunset of the Bureau for Private, Postsecondary and Vocational Education (BPPVE).
- 5) **Supervised Experience.** Supervised experience requirements are comparable to that of MFTs, except that all experience must be gained post-degree (comparable to LCSWs). A comparison table is attached.
- 6) **Grandparenting Provisions.** This bill includes three different methods by which a person could be granted a license via grandparenting. The application window would be six months, and applicants would have one year to make up any deficiencies. The first method of qualifying requires the following:
- Possesses a degree that meets the same requirements as for regular licensure, except that a limited amount of coursework can be made up.

- Completes post-degree coursework required for regular licensure (i.e., human sexuality, spousal and partner abuse, etc.)
- Has two years full time of post-degree counseling experience that includes 1,000 supervised hours of direct client contact.
- Has a passing score on two of the following examination(s):
 - The National Certified Counselor Examination for Licensure and Certification (NCE) OR the Certified Rehabilitation Counselor Examination (CRCE) AND
 - The National Clinical Mental Health Counseling Examination (NCMHCE).
- Limits this license to being valid for a six-year period from its issuance date. After the six-year period, the license will be canceled unless he or she passes the examinations required for licensure at that time.

The second method of qualifying requires:

- Licensure as a MFT in California
- Meets LPC coursework requirements

The second third of qualifying requires:

- Licensure as a LCSW in California
- Meets LPC coursework requirements
- Passes the two examinations required for regular grandparenting

The only outstanding issue pertaining to grandparenting is whether the CRCE examination, which would be required along with the NCMHCE, is acceptable for grandparenting.

- 7) **Funding.** This bill requires program start-up funds to come from a reserve loan, which would require support of the other professions regulated by the Board. The sponsors have added language, as requested, that the Board does not have to implement the program until funds have been appropriated. A fiscal estimate is attached.
- 8) **Timelines for Implementation.** Implementation dates for different areas have been staggered in the bill to allow the Board time to obtain spending authority, hire staff, perform an occupational analysis, audit national examinations, and should any California examinations be needed, time to develop and implement those examinations.
- 9) **Suggested Technical Amendment.**
Section 4999.32:
(a) He or she meets all of the following requirements:
 - (1) Has a master's or doctoral degree in counseling, or a closely related degree, from a school, college, or university as specified in Section 4999.32. Closely related degrees are degrees that include the minimum core coursework required in this section. If the person's degree does not include all the graduate coursework in all nine subject areas as required by paragraph (1) of subdivision (c) of Section 4999.32, a person shall provide documentation that he or she has completed the required coursework postdegree. Any qualifying degree must include the supervised practicum or field study experience as required in paragraph (4) of subdivision (c) of Section 4999.32.
 - (A) Degrees issued prior to ~~1996~~, 1996 shall include a minimum of 30 semester units or 45 quarter units, ~~shall include~~ and at least five of the nine required courses specified in paragraph (1) of subdivision (c) of Section 4999.32. The total number of units shall be no less than 48 semester units or 72 quarter units.

(B) Degrees issued in 1996 and ~~after~~, after shall include a minimum of 48 semester units or 72 quarter units, shall include and at least seven of the nine courses specified in paragraph (1) of subdivision (c) of Section 4999.32.

10) Support and Opposition.

Support:

California Coalition for Counselor Licensure (sponsor)
American Association of State Counseling Boards
American Counseling Association
American Dance Therapy Association
American Dance Therapy Association, Southern California Chapter
American Mental Health Counselors Association
California Association for Counselor Educators and Supervisors
California Counseling Association
California Mental Health Counselors Association
California Registry of Professional Counselors and Paraprofessionals
California Rehabilitation Association - North Inc.
California Rehabilitation Counseling Association
California School Counselor Association
Commission on Rehabilitation Counselor Certification
National Board for Certified Counselors
Northern California Art Therapy Association
Over 200 individuals

Oppose:

California Association of Marriage and Family Therapists
California Psychological Association
San Mateo Psychological Association
14 individuals

11) History

2007

May 1	Re-referred to Com. on APPR.
Apr. 30	From committee chair, with author's amendments: Amend, and re-refer to Com. on APPR. Read second time and amended.
Apr. 24	Re-referred to Com. on APPR.
Apr. 23	Read second time and amended.
Apr. 19	From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 10. Noes 0.) (April 17).
Apr. 12	Re-referred to Com. on B. & P.
Apr. 11	From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
Mar. 22	Referred to Com. on B. & P.
Feb. 26	Read first time.
Feb. 25	From printer. May be heard in committee March 27.
Feb. 23	Introduced. To print.

Blank Page

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY APRIL 23, 2007

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1486

Introduced by Assembly Member Charles Calderon
(Principal coauthor: Senator Steinberg)
(Coauthor: Assembly Member Saldana)

February 23, 2007

An act to amend Sections 728, 805, and 4990 of, and to add Chapter 16 (commencing with Section 4999.10) to Division 2 of, the Business and Professions Code, relating to professional counselors, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1486, as amended, Charles Calderon. Licensed professional counselors.

Existing law provides for the licensure and regulation of marriage and family therapists and social workers by the Board of Behavioral Sciences, in the Department of Consumer Affairs. Under existing law, the Board of Behavioral Sciences consists of 11 members.

This bill would provide for the licensure or registration and regulation of licensed professional counselors and interns by the Board of Behavioral Sciences. The bill would add 4 additional members to the board, to be appointed by the Governor. The bill would enact various provisions concerning the practice of licensed professional counselors, interns, and trainees including, but not limited to, practice requirements, and enforcement specifications. The bill would authorize the issuance

of licenses between October 1, 2008, and March 31, 2009, to individuals who meet certain criteria. The bill would authorize the board to begin accepting applications for intern registration on January 1, 2009, and for professional counselor licensure on January 1, 2010. The bill would authorize the board to impose specified fees on licensed professional counselors and interns which would be deposited in the Behavioral Sciences Fund and would make a continuous appropriation from that fund to the board to carry out the provisions of the bill. The bill would provide that the startup costs of the program shall be funded by a loan from the Behavioral Sciences Fund, upon appropriation by the Legislature. The bill would provide that a violation of its provisions is a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

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 728 of the Business and Professions Code
- 2 is amended to read:
- 3 728. (a) Any psychotherapist or employer of a psychotherapist
- 4 who becomes aware through a patient that the patient had alleged
- 5 sexual intercourse or alleged sexual contact with a previous
- 6 psychotherapist during the course of a prior treatment, shall provide
- 7 to the patient a brochure promulgated by the department that
- 8 delineates the rights of, and remedies for, patients who have been
- 9 involved sexually with their psychotherapist. Further, the
- 10 psychotherapist or employer shall discuss with the patient the
- 11 brochure prepared by the department.
- 12 (b) Failure to comply with this section constitutes unprofessional
- 13 conduct.
- 14 (c) For the purpose of this section, the following definitions
- 15 apply:
- 16 (1) "Psychotherapist" means a physician and surgeon
- 17 specializing in the practice of psychiatry or practicing

1 psychotherapy, a psychologist, a clinical social worker, a marriage
2 and family therapist, a licensed professional counselor, a
3 psychological assistant, a marriage and family therapist registered
4 intern or trainee, an intern or trainee as specified in Chapter 16
5 (commencing with Section 4999.10), or an associate clinical social
6 worker.

7 (2) “Sexual contact” means the touching of an intimate part of
8 another person.

9 (3) “Intimate part” and “touching” have the same meaning as
10 defined in subdivisions (f) and (d), respectively, of Section 243.4
11 of the Penal Code.

12 (4) “The course of a prior treatment” means the period of time
13 during which a patient first commences treatment for services that
14 a psychotherapist is authorized to provide under his or her scope
15 of practice, or that the psychotherapist represents to the patient as
16 being within his or her scope of practice, until the
17 psychotherapist-patient relationship is terminated.

18 SEC. 2. Section 805 of the Business and Professions Code is
19 amended to read:

20 805. (a) As used in this section, the following terms have the
21 following definitions:

22 (1) “Peer review body” includes:

23 (A) A medical or professional staff of any health care facility
24 or clinic licensed under Division 2 (commencing with Section
25 1200) of the Health and Safety Code or of a facility certified to
26 participate in the federal Medicare Program as an ambulatory
27 surgical center.

28 (B) A health care service plan registered under Chapter 2.2
29 (commencing with Section 1340) of Division 2 of the Health and
30 Safety Code or a disability insurer that contracts with licentiates
31 to provide services at alternative rates of payment pursuant to
32 Section 10133 of the Insurance Code.

33 (C) Any medical, psychological, marriage and family therapy,
34 social work, licensed professional counseling, dental, or podiatric
35 professional society having as members at least 25 percent of the
36 eligible licentiates in the area in which it functions (which must
37 include at least one county), which is not organized for profit and
38 which has been determined to be exempt from taxes pursuant to
39 Section 23701 of the Revenue and Taxation Code.

1 (D) A committee organized by any entity consisting of or
2 employing more than 25 licentiates of the same class that functions
3 for the purpose of reviewing the quality of professional care
4 provided by members or employees of that entity.

5 (2) “Licentiate” means a physician and surgeon, podiatrist,
6 clinical psychologist, marriage and family therapist, clinical social
7 worker, licensed professional counselor, or dentist. “Licentiate”
8 also includes a person authorized to practice medicine pursuant to
9 Section 2113.

10 (3) “Agency” means the relevant state licensing agency having
11 regulatory jurisdiction over the licentiates listed in paragraph (2).

12 (4) “Staff privileges” means any arrangement under which a
13 licentiate is allowed to practice in or provide care for patients in
14 a health facility. Those arrangements shall include, but are not
15 limited to, full staff privileges, active staff privileges, limited staff
16 privileges, auxiliary staff privileges, provisional staff privileges,
17 temporary staff privileges, courtesy staff privileges, locum tenens
18 arrangements, and contractual arrangements to provide professional
19 services, including, but not limited to, arrangements to provide
20 outpatient services.

21 (5) “Denial or termination of staff privileges, membership, or
22 employment” includes failure or refusal to renew a contract or to
23 renew, extend, or reestablish any staff privileges, if the action is
24 based on medical disciplinary cause or reason.

25 (6) “Medical disciplinary cause or reason” means that aspect
26 of a licentiate’s competence or professional conduct that is
27 reasonably likely to be detrimental to patient safety or to the
28 delivery of patient care.

29 (7) “805 report” means the written report required under
30 subdivision (b).

31 (b) The chief of staff of a medical or professional staff or other
32 chief executive officer, medical director, or administrator of any
33 peer review body and the chief executive officer or administrator
34 of any licensed health care facility or clinic shall file an 805 report
35 with the relevant agency within 15 days after the effective date of
36 any of the following that occur as a result of an action of a peer
37 review body:

38 (1) A licentiate’s application for staff privileges or membership
39 is denied or rejected for a medical disciplinary cause or reason.

1 (2) A licentiate's membership, staff privileges, or employment
2 is terminated or revoked for a medical disciplinary cause or reason.

3 (3) Restrictions are imposed, or voluntarily accepted, on staff
4 privileges, membership, or employment for a cumulative total of
5 30 days or more for any 12-month period, for a medical disciplinary
6 cause or reason.

7 (c) The chief of staff of a medical or professional staff or other
8 chief executive officer, medical director, or administrator of any
9 peer review body and the chief executive officer or administrator
10 of any licensed health care facility or clinic shall file an 805 report
11 with the relevant agency within 15 days after any of the following
12 occur after notice of either an impending investigation or the denial
13 or rejection of the application for a medical disciplinary cause or
14 reason:

15 (1) Resignation or leave of absence from membership, staff, or
16 employment.

17 (2) The withdrawal or abandonment of a licentiate's application
18 for staff privileges or membership.

19 (3) The request for renewal of those privileges or membership
20 is withdrawn or abandoned.

21 (d) For purposes of filing an 805 report, the signature of at least
22 one of the individuals indicated in subdivision (b) or (c) on the
23 completed form shall constitute compliance with the requirement
24 to file the report.

25 (e) An 805 report shall also be filed within 15 days following
26 the imposition of summary suspension of staff privileges,
27 membership, or employment, if the summary suspension remains
28 in effect for a period in excess of 14 days.

29 (f) A copy of the 805 report, and a notice advising the licentiate
30 of his or her right to submit additional statements or other
31 information pursuant to Section 800, shall be sent by the peer
32 review body to the licentiate named in the report.

33 The information to be reported in an 805 report shall include the
34 name and license number of the licentiate involved, a description
35 of the facts and circumstances of the medical disciplinary cause
36 or reason, and any other relevant information deemed appropriate
37 by the reporter.

38 A supplemental report shall also be made within 30 days
39 following the date the licentiate is deemed to have satisfied any
40 terms, conditions, or sanctions imposed as disciplinary action by

1 the reporting peer review body. In performing its dissemination
2 functions required by Section 805.5, the agency shall include a
3 copy of a supplemental report, if any, whenever it furnishes a copy
4 of the original 805 report.

5 If another peer review body is required to file an 805 report, a
6 health care service plan is not required to file a separate report
7 with respect to action attributable to the same medical disciplinary
8 cause or reason. If the Medical Board of California or a licensing
9 agency of another state revokes or suspends, without a stay, the
10 license of a physician and surgeon, a peer review body is not
11 required to file an 805 report when it takes an action as a result of
12 the revocation or suspension.

13 (g) The reporting required by this section shall not act as a
14 waiver of confidentiality of medical records and committee reports.
15 The information reported or disclosed shall be kept confidential
16 except as provided in subdivision (c) of Section 800 and Sections
17 803.1 and 2027, provided that a copy of the report containing the
18 information required by this section may be disclosed as required
19 by Section 805.5 with respect to reports received on or after
20 January 1, 1976.

21 (h) The Medical Board of California, the Osteopathic Medical
22 Board of California, and the Dental Board of California shall
23 disclose reports as required by Section 805.5.

24 (i) An 805 report shall be maintained by an agency for
25 dissemination purposes for a period of three years after receipt.

26 (j) No person shall incur any civil or criminal liability as the
27 result of making any report required by this section.

28 (k) A willful failure to file an 805 report by any person who is
29 designated or otherwise required by law to file an 805 report is
30 punishable by a fine not to exceed one hundred thousand dollars
31 (\$100,000) per violation. The fine may be imposed in any civil or
32 administrative action or proceeding brought by or on behalf of any
33 agency having regulatory jurisdiction over the person regarding
34 whom the report was or should have been filed. If the person who
35 is designated or otherwise required to file an 805 report is a
36 licensed physician and surgeon, the action or proceeding shall be
37 brought by the Medical Board of California. The fine shall be paid
38 to that agency but not expended until appropriated by the
39 Legislature. A violation of this subdivision may constitute
40 unprofessional conduct by the licentiate. A person who is alleged

1 to have violated this subdivision may assert any defense available
2 at law. As used in this subdivision, “willful” means a voluntary
3 and intentional violation of a known legal duty.

4 (l) Except as otherwise provided in subdivision (k), any failure
5 by the administrator of any peer review body, the chief executive
6 officer or administrator of any health care facility, or any person
7 who is designated or otherwise required by law to file an 805
8 report, shall be punishable by a fine that under no circumstances
9 shall exceed fifty thousand dollars (\$50,000) per violation. The
10 fine may be imposed in any civil or administrative action or
11 proceeding brought by or on behalf of any agency having
12 regulatory jurisdiction over the person regarding whom the report
13 was or should have been filed. If the person who is designated or
14 otherwise required to file an 805 report is a licensed physician and
15 surgeon, the action or proceeding shall be brought by the Medical
16 Board of California. The fine shall be paid to that agency but not
17 expended until appropriated by the Legislature. The amount of the
18 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
19 violation, shall be proportional to the severity of the failure to
20 report and shall differ based upon written findings, including
21 whether the failure to file caused harm to a patient or created a
22 risk to patient safety; whether the administrator of any peer review
23 body, the chief executive officer or administrator of any health
24 care facility, or any person who is designated or otherwise required
25 by law to file an 805 report exercised due diligence despite the
26 failure to file or whether they knew or should have known that an
27 805 report would not be filed; and whether there has been a prior
28 failure to file an 805 report. The amount of the fine imposed may
29 also differ based on whether a health care facility is a small or
30 rural hospital as defined in Section 124840 of the Health and Safety
31 Code.

32 (m) A health care service plan registered under Chapter 2.2
33 (commencing with Section 1340) of Division 2 of the Health and
34 Safety Code or a disability insurer that negotiates and enters into
35 a contract with licentiates to provide services at alternative rates
36 of payment pursuant to Section 10133 of the Insurance Code, when
37 determining participation with the plan or insurer, shall evaluate,
38 on a case-by-case basis, licentiates who are the subject of an 805
39 report, and not automatically exclude or deselect these licentiates.

1 SEC. 3. Section 4990 of the Business and Professions Code is
2 amended to read:

3 4990. (a) There is in the Department of Consumer Affairs, a
4 Board of Behavioral Sciences that consists of 15 members
5 composed as follows:

- 6 (1) Two state licensed clinical social workers.
- 7 (2) One state licensed educational psychologist.
- 8 (3) Two state licensed marriage and family therapists.
- 9 (4) Two licensed professional counselors.
- 10 (5) Eight public members.

11 (b) Each member, except the eight public members, shall have
12 at least two years of experience in his or her profession.

13 (c) Each member shall reside in the State of California.

14 (d) The Governor shall appoint six of the public members and
15 the seven licensed members with the advice and consent of the
16 Senate. The Senate Committee on Rules and the Speaker of the
17 Assembly shall each appoint a public member.

18 (e) Each member of the board shall be appointed for a term of
19 four years. A member appointed by the Speaker of the Assembly
20 or the Senate Committee on Rules shall hold office until the
21 appointment and qualification of his or her successor or until one
22 year from the expiration date of the term for which he or she was
23 appointed, whichever first occurs. Pursuant to Section 1774 of the
24 Government Code, a member appointed by the Governor shall
25 hold office until the appointment and qualification of his or her
26 successor or until 60 days from the expiration date of the term for
27 which he or she was appointed, whichever first occurs.

28 (f) A vacancy on the board shall be filled by appointment for
29 the unexpired term by the authority who appointed the member
30 whose membership was vacated.

31 (g) Not later than the first of June of each calendar year, the
32 board shall elect a chairperson and a vice chairperson from its
33 membership.

34 (h) Each member of the board shall receive a per diem and
35 reimbursement of expenses as provided in Section 103.

36 (i) This section shall become inoperative on July 1, 2009, and,
37 as of January 1, 2010, is repealed, unless a later enacted statute,
38 that is enacted before January 1, 2010, deletes or extends the dates
39 on which it becomes inoperative and is repealed.

1 SEC. 4. Chapter 16 (commencing with Section 4999.10) is
2 added to Division 2 of the Business and Professions Code, to read:

3
4 CHAPTER 16. LICENSED PROFESSIONAL COUNSELORS

5
6 Article 1. Administration

7
8 4999.10. This chapter constitutes, and may be cited as, the
9 Licensed Professional Counselor Act.

10 4999.12. For purposes of this chapter, the following terms have
11 the following meanings:

12 (a) "Board" means the Board of Behavioral Sciences.

13 (b) "Accredited" means a school, college, or university
14 accredited by the Western Association of Schools and Colleges,
15 or its equivalent regional accrediting association.

16 (c) "Approved" means a school, college, or university that
17 possessed unconditional approval by the Bureau for Private
18 Postsecondary and Vocational Education at the time of the
19 applicant's graduation from the school, college, or university.

20 (d) "Applicant" means an unlicensed person who has completed
21 a master's or doctoral degree program, as specified in Section
22 4999.32, and whose application for registration as an intern is
23 pending or who is in the examination process, or an unlicensed
24 person who has completed the requirements for licensure specified
25 in this chapter, is no longer registered with the board as an intern,
26 and is currently in the examination process.

27 (e) "Licensed professional counselor" or "LPC" means a person
28 licensed under this chapter to practice professional counseling, as
29 defined in Section 4999.20.

30 (f) "Intern" means an unlicensed person who meets the
31 requirements of Section 4999.42 and is registered with the board.

32 (g) "Trainee" means an unlicensed person who is currently
33 enrolled in a master's or doctoral degree program, as specified in
34 Section 4999.32, that is designed to qualify him or her for licensure
35 under this chapter, and who has completed no less than 12 semester
36 units or 18 quarter units of coursework in any qualifying degree
37 program.

38 (h) "Approved supervisor" means an individual who meets the
39 following requirements:

- 1 (1) Has documented two years of clinical experience as a
- 2 licensed professional counselor, licensed marriage and family
- 3 therapist, licensed clinical psychologist, licensed clinical social
- 4 worker, or licensed physician and surgeon who is certified in
- 5 psychiatry by the American Board of Psychiatry and Neurology.
- 6 (2) Has received professional training in supervision.
- 7 (3) Has not provided therapeutic services to the trainee or intern.
- 8 (4) Has a current and valid license that is not under suspension
- 9 or probation.
- 10 (i) “Professional enrichment activities” includes the following:
- 11 (1) Workshops, seminars, training sessions, or conferences
- 12 directly related to professional counseling attended by the applicant
- 13 and approved by the applicant’s supervisor.
- 14 (2) Participation by the applicant in group, marital or conjoint,
- 15 family, or individual psychotherapy by an appropriately licensed
- 16 professional.
- 17 (j) “Advertising” or “advertise” includes, but is not limited to,
- 18 the issuance of any card, sign, or device to any person, or the
- 19 causing, permitting, or allowing of any sign or marking on, or in,
- 20 any building or structure, or in any newspaper or magazine or in
- 21 any directory, or any printed matter whatsoever, with or without
- 22 any limiting qualification. It also includes business solicitations
- 23 communicated by radio or television broadcasting. Signs within
- 24 church buildings or notices in church bulletins mailed to a
- 25 congregation shall not be construed as advertising within the
- 26 meaning of this chapter.
- 27 (k) “Assessment” means selecting, administering, scoring, and
- 28 interpreting psychological and educational instruments designed
- 29 to assess an individual’s attitudes, abilities, achievements, interests,
- 30 personal characteristics, disabilities, and mental, emotional, and
- 31 behavioral disorders and the use of methods and techniques for
- 32 understanding human behavior in relation to coping with, adapting
- 33 to, or changing life situations.
- 34 (l) “Consulting” means the application of scientific principles
- 35 and procedures in counseling and human development to provide
- 36 assistance in understanding and solving current or potential
- 37 problems that the consultee may have in relation to a third party,
- 38 be it an individual, a group, or an organization.
- 39 (m) “Counseling interventions” means the application of
- 40 cognitive, affective, behavioral, or holistic counseling strategies

1 that include principles of development, wellness, and pathology
2 that reflect a pluralistic society. Such interventions are specifically
3 implemented in the context of a professional counseling
4 relationship and use a variety of counseling theories and
5 approaches.

6 (n) “Referral” means evaluating and identifying the needs of a
7 client to determine whether it is advisable to refer the client to
8 other specialists, informing the client of that judgment, and
9 communicating that determination as requested or deemed
10 appropriate to referral sources.

11 (o) “Research” means a systematic effort to collect, analyze,
12 and interpret quantitative and qualitative data that describes how
13 social characteristics, behavior, emotion, cognitions, disabilities,
14 mental disorders, and interpersonal transactions among individuals
15 and organizations interact.

16 (p) “Supervision” includes the following:

17 (1) Ensuring that the extent, kind, and quality of counseling
18 performed is consistent with the education, training, and experience
19 of the person being supervised.

20 (2) Reviewing client or patient records, monitoring and
21 evaluating assessment, diagnosis, and treatment decisions of the
22 trainee.

23 (3) Monitoring and evaluating the ability of the intern or trainee
24 to provide services to the particular clientele at the site or sites
25 where he or she will be practicing.

26 (4) Ensuring compliance with laws and regulations governing
27 the practice of licensed professional counseling.

28 (5) That amount of direct observation, or review of audio or
29 video tapes of therapy, as deemed appropriate by the supervisor.

30 4999.14. The board shall do all of the following:

31 (a) Communicate information about its activities, the
32 requirements and qualifications for licensure, and the practice of
33 professional counseling to the relevant educational institutions,
34 supervisors, professional associations, applicants, trainees, interns,
35 and the public.

36 (b) Develop policies and procedures to assist educational
37 institutions in meeting the educational qualifications of Section
38 4999.32.

1 Article 2. Scope of Practice

2
3 4999.20. (a) Professional counseling means the application of
4 psychotherapeutic techniques and mental health or human
5 developmental principles through assessment, cognitive, affective,
6 behavioral, verbal or nonverbal, or systemic intervention strategies,
7 consistent with scope and coursework and training required in
8 subdivision (c) of Section 4999.32, and Sections 4999.38 and
9 4999.46 that address wellness, personal growth, adjustment to
10 disability, crisis intervention, as well as pathology, and empower
11 individuals to deal adequately with life situations, reduce stress,
12 experience growth, and make well-informed, rational decisions.

13 (b) Professional counselors are restricted to the use of specific
14 methods, techniques, or modalities for which they have the
15 appropriate education and training. Professional counselors ~~are~~
16 ~~obligated to~~ shall refer clients to other mental health professionals
17 when they identify issues beyond their own scope of education,
18 training, supervision, and experience.

19 4999.22. (a) Nothing in this chapter shall prevent qualified
20 persons from doing work of a psychosocial nature consistent with
21 the standards and ethics of their respective professions. However,
22 these qualified persons shall not hold themselves out to the public
23 by any title or description of services incorporating the words
24 *licensed* professional counselor and shall not state that they are
25 licensed to practice professional counseling.

26 (b) Nothing in this chapter shall be construed to constrict, limit,
27 or withdraw provisions of the Medical Practice Act, the Clinical
28 Social Worker Practice Act, the Nursing Practice Act, the
29 Psychology Licensing Law, or marriage and family therapy
30 licensing laws.

31 (c) This chapter shall not apply to any priest, rabbi, or minister
32 of the gospel of any religious denomination who performs
33 counseling services as part of his or her pastoral or professional
34 duties, or to any person who is admitted to practice law in this
35 state, or who is licensed to practice medicine, who provides
36 counseling services as part of his or her professional practice.

37 (d) This chapter shall not apply to an employee of a
38 governmental entity or of a school, college, or university, or of an
39 institution both nonprofit and charitable, if his or her practice is
40 performed solely under the supervision of the entity, school, or

1 organization by which he or she is employed, and if he or she
2 performs those functions as part of the position for which he or
3 she is employed.

4 (e) All persons registered as interns or licensed under this
5 chapter shall not be exempt from this chapter or the jurisdiction
6 of the board.

7 4999.24. Nothing in this chapter shall restrict or prevent
8 activities of a psychotherapeutic nature on the part of persons
9 employed by accredited or state-approved academic institutions,
10 public schools, government agencies, or nonprofit institutions
11 engaged in the training of graduate students or trainees pursuing
12 a course of study leading to a degree that qualifies for professional
13 counselor licensure at an accredited or state-approved college or
14 university, or working in a recognized training program, provided
15 that these activities and services constitute a part of a supervised
16 course of study and that those persons are designated by a title
17 such as “trainee” or other title clearly indicating the training status
18 appropriate to the level of training.

19

20

Article 3. Licensure

21

22 4999.30. Except as otherwise provided in this chapter, a person
23 shall not practice or advertise the performance of professional
24 counseling services without a license issued by the board, and shall
25 pay the license fee required by this chapter.

26 4999.32. The educational qualifications for licensure as a
27 professional counselor include all of the following:

28 (a) A master’s or doctoral degree in counseling, or a closely
29 related degree, obtained from an accredited or approved institution.

30 (b) Not less than 48 graduate semester units or 72 graduate
31 quarter units of instruction. On January 1, 2013, the minimum
32 number of graduate units required shall increase to 60 semester
33 units or 90 quarter units, and shall include a 48 graduate semester
34 unit or 72 graduate quarter unit master’s or doctoral degree.

35 (c) The 48 graduate semester units or 72 graduate quarter units
36 shall include all of the following:

37 (1) The equivalent of at least three semester units or four and
38 one-half quarter units of graduate study in each of following areas:

39 (A) Counseling and psychotherapeutic theories and techniques.

- 1 (B) Human growth and development across the lifespan,
2 including normal and abnormal behavior.
- 3 (C) Career development theories and techniques.
- 4 (D) Group counseling theories and techniques.
- 5 (E) Assessment, appraisal, and testing of individuals.
- 6 (F) Multicultural counseling theories and techniques.
- 7 (G) Principles of diagnosis, treatment planning, and prevention
8 of mental and emotional disorders and dysfunctional behavior,
9 including the use of the American Psychiatric Association's
10 "Diagnostic and Statistical Manual of Mental Disorders."
- 11 (H) Research and evaluation.
- 12 (I) Professional orientation, ethics, and law in counseling.
- 13 (2) Additional coursework including special treatment issues
14 and special population issues, as well as supervised clinical
15 practicum or field study experience, as defined in paragraph (4).
- 16 (3) The master's or doctoral degree shall contain at least seven
17 of the nine courses listed in subparagraphs (A) through (I) of
18 paragraph (1).
- 19 (A) An applicant whose degree is deficient in the required areas
20 of study or in the required units pursuant to this section may satisfy
21 the requirements by successfully completing postmaster's or
22 postdoctoral degree coursework at an accredited or approved
23 institution.
- 24 (B) Coursework taken to meet deficiencies in the required areas
25 of study listed in subparagraphs (A) to (I), inclusive, of paragraph
26 (1) shall be the equivalent of three semester units or four and
27 one-half quarter units of study. Coursework taken beyond the
28 required areas of study shall include counseling modalities or
29 treatment with special populations.
- 30 (C) The board shall make the final determination as to whether
31 a degree meets all requirements, including, but not limited to,
32 course requirements, regardless of accreditation.
- 33 (4) Not less than six semester units or nine quarter units of
34 supervised practicum or field study experience, or the equivalent,
35 in a clinical or counseling setting that provides a range of
36 professional counseling experience, including the following:
- 37 (A) Applied psychotherapeutic techniques.
- 38 (B) Assessment.
- 39 (C) Diagnosis.
- 40 (D) Prognosis.

- 1 (E) Treatment.
- 2 (F) Issues of development, adjustment, and maladjustment.
- 3 (G) Health and wellness promotion.
- 4 (H) Other recognized counseling interventions.
- 5 (I) A minimum of 150 hours of face-to-face supervised
- 6 experience counseling individuals, families, or groups. On January
- 7 1, 2013, the minimum number of hours of face-to-face experience
- 8 shall increase to 280 hours.
- 9 4999.34. A trainee may be credited with predegree supervised
- 10 practicum and field study experience completed in a setting that
- 11 meets all of the following requirements:
- 12 (a) Lawfully and regularly provides counseling or
- 13 psychotherapy.
- 14 (b) Provides oversight to ensure that the trainee’s work at the
- 15 setting meets the practicum and field study experience and
- 16 requirements set forth in this chapter and is within the scope of
- 17 practice for licensed professional counselors.
- 18 (c) Is not a private practice.
- 19 (d) Experience may be gained by the trainee solely as part of
- 20 the position for which the trainee volunteers or is employed.
- 21 4999.36. (a) Trainees may perform activities and services
- 22 provided that the activities and services constitute part of the
- 23 trainee’s supervised course of study and that the person is
- 24 designated by the title “trainee.”
- 25 (b) All practicum and field study hours gained as a trainee shall
- 26 be coordinated between the school and the site where hours are
- 27 being accrued. The school shall approve each site and shall have
- 28 a written agreement with each site that details each party’s
- 29 responsibilities, including the methods by which supervision shall
- 30 be provided. The agreement shall provide for regular progress
- 31 reports and evaluations of the student’s performance at the site.
- 32 (c) If an applicant has gained practicum and field study hours
- 33 while enrolled in an institution other than the one that confers the
- 34 qualifying degree, it shall be the applicant’s responsibility to
- 35 provide to the board satisfactory evidence that those practicum
- 36 and field study hours were gained in compliance with this section.
- 37 (d) A trainee shall inform each client or patient, prior to
- 38 performing any professional services, that he or she is unlicensed
- 39 and under supervision.

1 (e) No hours earned while a trainee may count toward the 3,000
2 hours of postdegree internship hours.

3 (f) A trainee shall receive at least one hour of individual or
4 triadic supervision and one and one-half hours of group supervision
5 for each week the trainee sees clients, for a total of two and
6 one-half hours of supervision per week. For purposes of this
7 subdivision, “individual supervision” means face-to-face contact
8 with the supervisor alone, “triadic supervision” means face-to-face
9 contact with the supervisor and one other trainee, and “group
10 supervision” means face-to-face contact with the supervisor in a
11 group of not more than 10 persons.

12 4999.38. In addition to the educational requirements of Section
13 4999.32, all applicants shall complete the following coursework
14 or training prior to licensure:

15 (a) Instruction in alcoholism and other chemical substance
16 dependency as specified by regulation. When coursework in a
17 master’s or doctoral degree program is acquired to satisfy this
18 requirement, it shall be considered as part of the 48 semester unit
19 or 72 quarter unit requirement in subdivision (b) of Section
20 4999.32. This subdivision applies to those individuals who began
21 graduate study on or after January 1, 1986.

22 (b) A minimum of 10 contact hours of training or coursework
23 in human sexuality as specified in Section 25, and any regulations
24 promulgated thereunder. When coursework in a master’s or
25 doctoral degree program is acquired to satisfy this requirement, it
26 shall be considered as part of the 48 semester unit or 72 quarter
27 unit requirement in subdivision (b) of Section 4999.32.

28 (c) A minimum of a two semester unit or three quarter unit
29 survey course in psychological testing. This subdivision applies
30 to individuals who began graduate study on or after January 1,
31 2001. The requirement added by this subdivision is intended to
32 improve the educational qualifications for licensure in order to
33 better prepare future licentiates for practice, and is not intended
34 in any way to expand or restrict the scope of licensure for
35 professional counselors.

36 (d) A two semester unit or three quarter unit survey course in
37 psychopharmacology. This subdivision applies to individuals who
38 began graduate study on or after January 1, 2001. After January
39 1, 2013, this requirement shall expand to a three semester unit or
40 four and one-half quarter unit course and include the biological

1 bases for behavior. The requirement added by this subdivision is
2 intended to improve the educational qualifications for licensure in
3 order to better prepare future licentiates for practice, and is not
4 intended in any way to expand or restrict the scope of licensure
5 for professional counselors.

6 (e) Coursework in spousal or partner abuse assessment,
7 detection, and intervention strategies, including knowledge of
8 community resources, cultural factors, and same gender abuse
9 dynamics. This subdivision shall apply to individuals who began
10 graduate study on or after January 1, 1995. Applicants who began
11 graduate study on or after January 1, 2004, shall complete a
12 minimum of 15 contact hours of coursework to satisfy this
13 requirement.

14 (f) A minimum of seven contact hours of training or coursework
15 in child abuse assessment and reporting as specified in Section 28
16 and any regulations adopted thereunder.

17 (g) A minimum of two semester unit or three quarter units in
18 California law and professional ethics for professional counselors,
19 which shall include, but not be limited to, the following areas of
20 study:

21 (1) Contemporary professional ethics and statutory, regulatory,
22 and decisional law that delineates the profession's scope of
23 practice.

24 (2) The therapeutic, clinical, and practical considerations
25 involved in the legal and ethical practice of professional counseling.

26 (3) The current legal patterns and trends in the mental health
27 profession.

28 (4) The psychotherapist-patient privilege, confidentiality, the
29 patient dangerous to self or others, and the treatment of minors
30 with and without parental consent.

31 (5) A recognition and exploration of the relationship between
32 a practitioner's sense of self and human values and his or her
33 professional behavior and ethics.

34 (h) A minimum of 10 contact hours of coursework in aging and
35 long-term care, which may include, but is not limited to, the
36 biological, social, and psychological aspects of aging.

37 (1) Coursework taken in fulfillment of other educational
38 requirements for licensure as a professional counselor, or in a
39 separate course of study, may, at the discretion of the board, fulfill
40 the requirements of this subdivision.

1 (2) This subdivision shall apply to individuals who began
2 graduate study on or after January 1, 2004.

3 4999.40. (a) Each educational institution preparing applicants
4 to qualify for licensure shall notify each of its students by means
5 of its public documents or otherwise in writing that its degree
6 program is designed to meet the requirements of Section 4999.32
7 and shall certify to the board that it has so notified its students.

8 (b) An applicant trained at an educational institution outside the
9 United States shall demonstrate to the satisfaction of the board
10 that he or she possesses a qualifying degree that is equivalent to a
11 degree earned from an institution of higher education that is
12 accredited or approved. These applicants shall provide the board
13 with a comprehensive evaluation of the degree performed by a
14 foreign credential evaluation service that is a member of the
15 National Association of Credential Evaluation Services and shall
16 provide any other documentation the board deems necessary.

17 4999.42. (a) To qualify for registration as an intern, an
18 applicant shall have all of the following qualifications:

19 (1) The applicant shall have earned a master’s or doctoral degree
20 as specified in Section 4999.32.

21 (2) The applicant shall not have committed acts or crimes
22 constituting grounds for denial of licensure under Section 480.

23 (3) The board shall not issue a registration to any person who
24 has been convicted of a crime in this or another state or in a
25 territory of the United States that involves sexual abuse of children
26 or who is required to register pursuant to Section 290 of the Penal
27 Code or the equivalent in another state or territory.

28 (b) The board shall begin accepting applications for intern
29 registration on January 1, 2009.

30 4999.44. (a) An intern may be credited with supervised
31 experience completed in any setting that meets all of the following
32 requirements:

33 (1) Lawfully and regularly provides counseling or
34 psychotherapy.

35 (2) Provides oversight to ensure that the intern’s work at the
36 setting meets the experience and supervision requirements set forth
37 in this chapter and is within the scope of practice for the profession
38 as specified in Article 2 (commencing with Section 4999.20).

39 (3) Experience may be gained by the intern solely as part of the
40 position for which the intern volunteers or is employed.

1 (4) An intern shall not be employed or volunteer in a private
2 practice until registered as an intern.

3 4999.45. An intern employed under this chapter shall:

4 (a) Not perform any duties, except for those services provided
5 as a trainee, until registered as an intern.

6 (b) Not be employed or volunteer in a private practice until
7 registered as an intern.

8 (c) Inform each client prior to performing any professional
9 services that he or she is unlicensed and under supervision.

10 (d) File for renewal annually for a maximum of five years after
11 initial registration with the board.

12 (e) Cease continued employment as an intern after six years
13 unless the requirements of subdivision (f) are met.

14 (f) When no further renewals are possible, an applicant may
15 apply for and obtain a new intern registration if the applicant meets
16 the educational requirements for registration in effect at the time
17 of the application for a new intern registration. An applicant issued
18 a subsequent intern registration pursuant to this subdivision may
19 be employed or volunteer in any allowable work setting except
20 private practice.

21 4999.46. (a) Each applicant for licensure shall complete
22 experience under the general supervision of an approved supervisor
23 as defined in Section 4999.12.

24 (b) The experience shall include the following:

25 (1) A minimum of 3,000 postdegree hours of supervised
26 experience related to the practice of professional counseling,
27 performed over a period of not less than two years (104 weeks)
28 which shall include:

29 (A) Not more than 40 hours in any seven consecutive days.

30 (B) Not less than 1,750 hours of direct counseling with
31 individuals or groups in a clinical or counseling setting using a
32 variety of psychotherapeutic techniques and recognized counseling
33 interventions within the scope of practice of licensed professional
34 counselors.

35 (C) Not less than 150 hours of experience in a hospital or
36 community mental health setting.

37 (D) Not more than 1,000 hours of direct supervisor contact and
38 professional enrichment activities.

39 (E) Not more than 500 hours of experience providing group
40 therapy or group counseling.

1 (F) Not more than 250 hours of experience administering and
2 evaluating psychological tests of counselees, writing clinical
3 reports, writing progress notes, or writing process notes.

4 (G) Not more than 250 hours of experience providing counseling
5 or crisis counseling on the telephone.

6 (H) No hours of experience may be gained more than six years
7 prior to the date the application for licensure was filed.

8 (c) An applicant shall register with the board as an intern in
9 order to be credited for postdegree hours of experience toward
10 licensure. Postdegree hours of experience shall be credited toward
11 licensure, provided that the applicant applies for intern registration
12 within 90 days of the granting of the qualifying degree and is
13 registered as an intern by the board.

14 (d) All applicants and interns shall be at all times under the
15 supervision of a supervisor who shall be responsible for ensuring
16 that the extent, kind, and quality of counseling performed is
17 consistent with the training and experience of the person being
18 supervised, and who shall be responsible to the board for
19 compliance with all laws, rules, and regulations governing the
20 practice of professional counseling. At no time shall a supervisor
21 supervise more than two interns.

22 (e) Supervision shall include at least one hour of direct
23 supervisor contact in each week for which experience is credited
24 in each work setting.

25 (1) No more than than five hours of supervision, whether
26 individual or group, shall be credited during any single week.

27 (2) An intern shall receive an average of at least one hour of
28 direct supervisor contact for every 10 hours of client contact in
29 each setting.

30 (3) For purposes of this section, “one hour of direct supervisor
31 contact” means one hour of face-to-face contact on an individual
32 basis or two hours of face-to-face contact in a group of not more
33 than eight persons.

34 4999.47. (a) Trainees, interns, and applicants shall perform
35 services as an employee or as a volunteer, not as an independent
36 contractor.

37 The requirements of this chapter regarding gaining hours of
38 experience and supervision are applicable equally to employees
39 and volunteers.

1 (b) Trainees, interns, and applicants shall not receive any
2 remuneration from patients or clients, and shall only be paid by
3 their employers.

4 (c) While an intern may be either a paid employee or a volunteer,
5 employers are encouraged to provide fair remuneration.

6 (d) Trainees, interns, and applicants who provide voluntary
7 services or other services, and who receive no more than a total,
8 from all work settings, of five hundred dollars (\$500) per month
9 as reimbursement for expenses actually incurred by those trainees,
10 interns, and applicants for services rendered in any lawful work
11 setting other than a private practice shall be considered an
12 employee and not an independent contractor.

13 (e) The board may audit a trainee, intern, or applicant who
14 receives reimbursement for expenses and the trainee, intern, or
15 applicant shall have the burden of demonstrating that the payments
16 received were for reimbursement of expenses actually incurred.

17 (f) Trainees, interns, and applicants shall only perform services
18 at the place where their employer regularly conducts business and
19 services, which may include other locations, as long as the services
20 are performed under the direction and control of the employer and
21 supervisor in compliance with the laws and regulations pertaining
22 to supervision. Trainees, interns, and applicants shall have no
23 proprietary interest in the employer's business.

24 (g) Each educational institution preparing applicants for
25 licensure pursuant to this chapter shall consider requiring, and
26 shall encourage, its students to undergo individual, marital or
27 conjoint, family, or group counseling or psychotherapy, as
28 appropriate. Each supervisor shall consider, advise, and encourage
29 his or her interns and trainees regarding the advisability of
30 undertaking individual, marital or conjoint, family, or group
31 counseling or psychotherapy, as appropriate. Insofar as it is deemed
32 appropriate and is desired by the applicant, the educational
33 institution and supervisors are encouraged to assist the applicant
34 in locating that counseling or psychotherapy at a reasonable cost.

35 4999.48. The board shall adopt regulations regarding the
36 supervision of interns which may include, but not be limited to,
37 the following:

38 (a) Supervisor qualifications.

39 (b) Continuing education requirements of supervisors.

40 (c) Registration or licensing of supervisors, or both.

1 (d) General responsibilities of supervisors.

2 (e) The board's authority in cases of noncompliance or
3 negligence by supervisors.

4 4999.50. (a) The board may issue a license in professional
5 counseling to any person who meets all of the following
6 requirements:

7 (1) He or she has received a master's or doctoral degree in
8 counseling, or a closely related degree, as provided in Section
9 4999.32, from an institution that is accredited or approved.

10 (2) He or she has completed 3,000 hours of supervised
11 experience in the practice of professional counseling as provided
12 in Section 4999.46.

13 (3) He or she provides evidence of a passing score, as
14 determined by the board, on examinations approved by the board.

15 (4) He or she meets the board's regulatory requirements for
16 professional counselor licensure, including the following:

17 (A) The applicant has not committed acts or crimes constituting
18 grounds for denial of licensure under Section 480.

19 (B) The board shall not issue a license to any person who has
20 been convicted of a crime in this or another state or in a territory
21 of the United States that involves sexual abuse of children or who
22 is required to register pursuant to Section 290 of the Penal Code
23 or the equivalent in another state or territory.

24 (C) He or she has passed a fingerprint check.

25 (b) The board may issue a license to any person who, at the time
26 of application, has held for at least two years, a valid license as a
27 professional counselor, or an equivalent title, in another jurisdiction
28 of the United States, if the education and supervised experience
29 requirements are substantially equivalent to this chapter, and the
30 person has successfully completed an examination as specified in
31 paragraph (3) of subdivision (a) and has paid the required fees.

32 (c) An applicant who has satisfied the requirements of this
33 chapter shall be issued a license as a professional counselor in the
34 form that the board may deem appropriate.

35 (d) The board shall begin accepting applications for licensure
36 on January 1, 2010.

37 4999.52. (a) Every applicant for a license as a professional
38 counselor shall be examined by the board pursuant to paragraph
39 (3) of subdivision (a) of Section 4999.50. The board shall examine
40 the candidate with regard to his or her knowledge and professional

1 skills and his or her judgment in the utilization of appropriate
2 techniques and methods.

3 (b) The examination shall be given at least twice a year at a time
4 and place and under supervision as the board may determine.

5 (c) (1) It is the intent of the Legislature that a national licensing
6 examination, such as the National Counselor Examination for
7 Licensure and Certification (NCE) and the National Clinical Mental
8 Health Counselor Examination (NCMHCE), be evaluated by the
9 board as a requirement for licensure as a professional counselor.

10 (2) The board shall evaluate various national examinations in
11 order to determine whether they meet the prevailing standards for
12 the validation and use of licensing and certification tests in
13 California, as determined by the Office of Examination Resources
14 of the Department of Consumer Affairs.

15 (3) Examinations shall measure knowledge and abilities
16 demonstrably important to the safe, effective practice of the
17 profession.

18 (4) If national examinations do not meet the standards specified
19 in paragraph (2), then the board may develop and require a
20 supplemental examination in addition to national examinations.
21 Under these circumstances, national examinations, as well as a
22 supplemental examination developed by the board, are required
23 for licensure as a professional counselor pursuant to paragraph (3)
24 of subdivision (a) of Section 4999.50 and this section.

25 (d) The board shall not deny any applicant who has submitted
26 a complete application for examination admission to the licensure
27 examination required by this section if the applicant meets the
28 educational and experience requirements of this chapter, and has
29 not committed any acts or engaged in any conduct that would
30 constitute grounds to deny licensure.

31 (e) The board shall not deny any applicant whose application
32 for licensure is complete, admission to the examination, nor shall
33 the board postpone or delay any applicant's examination or delay
34 informing the candidate of the results of the examination, solely
35 upon the receipt by the board of a complaint alleging acts or
36 conduct that would constitute grounds to deny licensure.

37 (f) If an applicant for examination is the subject of a complaint
38 or is under board investigation for acts or conduct that, if proven
39 to be true, would constitute grounds for the board to deny licensure,
40 the board shall permit the applicant to take the examination, but

1 may notify the applicant that licensure will not be granted pending
2 completion of the investigation.

3 (g) Notwithstanding Section 135, the board may deny any
4 applicant who has previously failed an examination permission to
5 retake that examination pending completion of the investigation
6 of any complaints against the applicant.

7 (h) Nothing in this section shall prohibit the board from denying
8 an applicant admission to any examination, withholding the results,
9 or refusing to issue a license to any applicant when an accusation
10 or statement of issues has been filed against the applicant pursuant
11 to Section 11503 or 11504 of the Government Code, respectively,
12 or the applicant has been denied in accordance with subdivision
13 (b) of Section 485.

14 (i) Notwithstanding any other provision of law, the board may
15 destroy all examination materials two years following the date of
16 an examination.

17 4999.54. Notwithstanding Section 4999.50, the board may
18 issue a license to any person who submits an application for a
19 license between October 1, 2008, and March 31, 2009, provided
20 that all documentation is submitted within 12 months of the board's
21 evaluation of the application, and provided he or she meets one of
22 the following sets of criteria:

23 (a) He or she meets all of the following requirements:

24 (1) Has a master's or doctoral degree in counseling, or a closely
25 related degree, from a school, college, or university as specified
26 in Section 4999.32. Closely related degrees are degrees that include
27 the minimum core coursework required in this section. If the
28 person's degree does not include all the graduate coursework
29 equivalent to three semester units, four and one-half quarter units,
30 or 45 contact hours, in all nine subject areas required by paragraph
31 (1) of subdivision (c) of Section 4999.32, a person shall provide
32 documentation that he or she has completed the required
33 coursework postdegree. Any qualifying degree must include the
34 supervised practicum or field study experience as required in
35 paragraph (4) of subdivision (c) of Section 4999.32.

36 (A) Degrees issued prior to 1996, minimum of 30 semester units
37 or 45 quarter units, shall include at least five of the nine required
38 courses specified in paragraph (1) of subdivision (c) of Section
39 4999.32. The total number of units shall be no less than 48 semester
40 units or 72 quarter units.

1 (B) Degrees issued in 1996 and after, minimum of 48 semester
2 units or 72 quarter units, shall include at least seven of the nine
3 courses specified in paragraph (1) of subdivision (c) of Section
4 4999.32.

5 (2) Coursework required outside the degree program, as required
6 by Section 4999.38.

7 (3) Has at least two years, full-time or the equivalent, postdegree
8 counseling experience, that includes at least 1,000 hours of direct
9 client contact experience supervised by a licensed mental health
10 professional, or a certified master's level counselor or therapist.

11 (4) Has a passing score on the following examinations:

12 (A) The National Counselor Examination for Licensure and
13 Certification or the Certified Rehabilitation Counselor
14 Examination.

15 (B) The National Clinical Mental Health Counselor
16 Examination.

17 (b) Is currently licensed as a marriage and family therapist in
18 the State of California and meets the coursework requirements
19 described in paragraph (1) of subdivision (a).

20 (c) *Is currently licensed as a clinical social worker in the State*
21 *of California and meets the coursework requirements described*
22 *in paragraph (1) of subdivision (a) and the examination*
23 *requirements described in paragraph (4) of subdivision (a).*

24 4999.56. A license issued under subdivision (a) *or (c)* of
25 Section 4999.54 shall be valid for six years from the issuance date
26 of the initial license. After this six-year period, it shall be canceled
27 unless the licensee obtains a licensure renewal. The board shall
28 begin accepting applications for licensure renewal on January 1,
29 2010. A person applying for licensure renewal shall pass the
30 examinations specified in Section 4999.52, which are required for
31 licensure on and after July 1, 2009, *or document that he or she has*
32 *already passed those examinations.*

33

34 Article 4. Practice Requirements

35

36 4999.70. A licensee shall display his or her license in a
37 conspicuous place in his or her primary place of practice.

38 4999.72. Any licensed professional counselor who conducts a
39 private practice under a fictitious business name shall not use any
40 name that is false, misleading, or deceptive, and shall inform the

1 patient, prior to the commencement of treatment, the name and
2 license designation of the owner or owners of the practice.

3 4999.74. Licensed professional counselors shall provide to
4 each client an accurate and informative document containing all
5 of the following:

6 (a) The fee schedule listed by type of service or hourly rate.

7 (b) An explanation of the limits of confidentiality.

8 (c) The words, “This information is required by the Board of
9 Behavioral Sciences which regulates all licensed professional
10 counselors.”

11 (d) The name, address, and telephone number of the board.

12 4999.76. (a) Except as provided in subdivision (c), the board
13 shall not renew any license pursuant to this chapter unless the
14 applicant certifies to the board, on a form prescribed by the board,
15 that he or she has completed not less than 36 hours of approved
16 continuing education in or relevant to the field of professional
17 counseling in the preceding two years, as determined by the board.

18 (b) The board shall have the right to audit the records of any
19 applicant to verify the completion of the continuing education
20 requirement. Applicants shall maintain records of completed
21 continuing education coursework for a minimum of two years and
22 shall make these records available to the board for auditing
23 purposes upon request.

24 (c) The board may establish exceptions from the continuing
25 education requirement of this section for good cause, as defined
26 by the board.

27 (d) The continuing education shall be obtained from one of the
28 following sources:

29 (1) A school, college, or university that meets the requirements
30 set forth in subdivision (a) of Section 4999.32. Nothing in this
31 paragraph shall be construed as requiring coursework to be offered
32 as part of a regular degree program.

33 (2) Other continuing education providers, including, but not
34 limited to, a professional counseling association, a licensed health
35 facility, a governmental entity, a continuing education unit of a
36 four-year institution of higher learning that is accredited or
37 approved, or a mental health professional association, approved
38 by the board.

39 (e) The board shall establish, by regulation, a procedure for
40 approving providers of continuing education courses, and all

1 providers of continuing education, as described in paragraphs (1)
2 and (2) of subdivision (d), shall adhere to procedures established
3 by the board. The board may revoke or deny the right of a provider
4 to offer continuing education coursework pursuant to this section
5 for failure to comply with the requirements of this section or any
6 regulation adopted pursuant to this section.

7 (f) Training, education, and coursework by approved providers
8 shall incorporate one or more of the following:

9 (1) Aspects of the discipline that are fundamental to the
10 understanding or the practice of professional counseling.

11 (2) Significant recent developments in the discipline of
12 professional counseling.

13 (3) Aspects of other disciplines that enhance the understanding
14 or the practice of professional counseling.

15 (g) A system of continuing education for licensed professional
16 counselors shall include courses directly related to the diagnosis,
17 assessment, and treatment of the client population being served.

18 (h) The board shall, by regulation, fund the administration of
19 this section through continuing education provider fees to be
20 deposited in the Behavioral Sciences Fund. The fees related to the
21 administration of this section shall be sufficient to meet, but shall
22 not exceed, the costs of administering the corresponding provisions
23 of this section. For the purposes of this subdivision, a provider of
24 continuing education as described in paragraph (1) of subdivision
25 (d) shall be deemed to be an approved provider.

26 (i) The continuing education requirements of this section shall
27 fully comply with the guidelines for mandatory continuing
28 education established by the Department of Consumer Affairs
29 pursuant to Section 166.

30

31

Article 5. Enforcement

32

33 4999.80. In order to carry out the provisions of this chapter,
34 the board shall do all of the following:

35 (a) Enforce laws designed to protect the public from
36 incompetent, unethical, or unprofessional practitioners.

37 (b) Investigate complaints concerning the conduct of any
38 licensed professional counselor.

39 (c) Revoke, suspend, or fail to renew a license that it has
40 authority to issue for just cause, as enumerated in rules and

1 regulations of the board. The board may deny, suspend, or revoke
2 any license granted under this chapter pursuant to Section 480,
3 481, 484, 496, 498, or 499.

4 4999.82. It shall be unlawful for any person to engage in any
5 of the following acts:

6 (a) Engage in the practice of professional counseling, as defined
7 in Section 4999.20, without first having complied with the
8 provisions of this chapter and without holding a valid license as
9 required by this chapter.

10 (b) Represent himself or herself by the title “licensed
11 professional counselor,” “LPC,” “licensed counselor,” or
12 “professional counselor” without being duly licensed according
13 to the provisions of this chapter.

14 (c) Make any use of any title, words, letters, or abbreviations,
15 that may reasonably be confused with a designation provided by
16 this chapter to denote a standard of professional or occupational
17 competence without being duly licensed.

18 (d) Materially refuse to furnish the board information or records
19 required or requested pursuant to this chapter.

20 4999.84. It is the intent of the Legislature that any
21 communication made by a person to a licensed professional
22 counselor in the course of professional services shall be deemed
23 a privileged communication.

24 4999.86. Any person who violates any of the provisions of this
25 chapter is guilty of a misdemeanor punishable by imprisonment
26 in the county jail not exceeding six months, or by a fine not
27 exceeding two thousand five hundred dollars (\$2,500), or by both
28 that fine and imprisonment.

29 4999.88. In addition to other proceedings provided in this
30 chapter, whenever any person has engaged, or is about to engage,
31 in any acts or practices that constitute, or will constitute, an offense
32 against this chapter, the superior court in and for the county
33 wherein the acts or practices take place, or are about to take place,
34 may issue an injunction, or other appropriate order, restraining
35 such conduct on application of the board, the Attorney General,
36 or the district attorney of the county.

37 The proceedings under this section shall be governed by Chapter
38 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
39 of Civil Procedure.

1 4999.90. The board may refuse to issue any registration or
2 license, or may suspend or revoke the registration or license of
3 any intern or licensed professional counselor, if the applicant,
4 licensee, or registrant has been guilty of unprofessional conduct.
5 Unprofessional conduct includes, but is not limited to, the
6 following:

7 (a) The conviction of a crime substantially related to the
8 qualifications, functions, or duties of a licensee or registrant under
9 this chapter. The record of conviction shall be conclusive evidence
10 only of the fact that the conviction occurred. The board may inquire
11 into the circumstances surrounding the commission of the crime
12 in order to fix the degree of discipline or to determine if the
13 conviction is substantially related to the qualifications, functions,
14 or duties of a licensee or registrant under this chapter. A plea or
15 verdict of guilty or a conviction following a plea of nolo contendere
16 made to a charge substantially related to the qualifications,
17 functions, or duties of a licensee or registrant under this chapter
18 shall be deemed to be a conviction within the meaning of this
19 section. The board may order any license or registration suspended
20 or revoked, or may decline to issue a license or registration when
21 the time for appeal has elapsed, or the judgment of conviction has
22 been affirmed on appeal, or, when an order granting probation is
23 made suspending the imposition of sentence, irrespective of a
24 subsequent order under Section 1203.4 of the Penal Code allowing
25 the person to withdraw a plea of guilty and enter a plea of not
26 guilty, or setting aside the verdict of guilty, or dismissing the
27 accusation, information, or indictment.

28 (b) Securing a license or registration by fraud, deceit, or
29 misrepresentation on any application for licensure or registration
30 submitted to the board, whether engaged in by an applicant for a
31 license or registration, or by a licensee in support of any application
32 for licensure or registration.

33 (c) Administering to himself or herself any controlled substance
34 or using ~~of~~ any of the dangerous drugs specified in Section 4022,
35 or ~~of~~ any alcoholic beverage to the extent, or in a manner, as to be
36 dangerous or injurious to the person applying for a registration or
37 license or holding a registration or license under this chapter, or
38 to any other person, or to the public, or, to the extent that the use
39 impairs the ability of the person applying for or holding a
40 registration or license to conduct with safety to the public the

1 practice authorized by the registration or license, or the conviction
2 of more than one misdemeanor or any felony involving the use,
3 consumption, or self-administration of any of the substances
4 referred to in this subdivision, or any combination thereof. The
5 board shall deny an application for a registration or license or
6 revoke the license or registration of any person, other than one
7 who is licensed as a physician and surgeon, who uses or offers to
8 use drugs in the course of performing licensed professional
9 counseling services.

10 (d) Gross negligence or incompetence in the performance of
11 licensed professional counseling services.

12 (e) Violating, attempting to violate, or conspiring to violate any
13 of the provisions of this chapter or any regulation adopted by the
14 board.

15 (f) Misrepresentation as to the type or status of a license or
16 registration held by the person, or otherwise misrepresenting or
17 permitting misrepresentation of his or her education, professional
18 qualifications, or professional affiliations to any person or entity.

19 (g) Impersonation of another by any licensee, registrant, or
20 applicant for a license or registration, or, in the case of a licensee
21 or registrant, allowing any other person to use his or her license
22 or registration.

23 (h) Aiding or abetting, or employing, directly or indirectly, any
24 unlicensed or unregistered person to engage in conduct for which
25 a license or registration is required under this chapter.

26 (i) Intentionally or recklessly causing physical or emotional
27 harm to any client.

28 (j) The commission of any dishonest, corrupt, or fraudulent act
29 substantially related to the qualifications, functions, or duties of a
30 licensee or registrant.

31 (k) Engaging in sexual relations with a client, or a former client
32 within two years following termination of therapy, soliciting sexual
33 relations with a client, or committing an act of sexual abuse, or
34 sexual misconduct with a client, or committing an act punishable
35 as a sexually related crime, if that act or solicitation is substantially
36 related to the qualifications, functions, or duties of a licensed
37 professional counselor.

38 (l) Performing, or holding oneself out as being able to perform,
39 or offering to perform, or permitting any trainee or intern under

1 supervision to perform, any professional services beyond the scope
2 of the license authorized by this chapter.

3 (m) Failure to maintain confidentiality, except as otherwise
4 required or permitted by law, of all information that has been
5 received from a client in confidence during the course of treatment
6 and all information about the client which is obtained from tests
7 or other means.

8 (n) Prior to the commencement of treatment, failing to disclose
9 to the client or prospective client the fee to be charged for the
10 professional services, or the basis upon which that fee will be
11 computed.

12 (o) Paying, accepting, or soliciting any consideration,
13 compensation, or remuneration, whether monetary or otherwise,
14 for the referral of professional clients. All consideration,
15 compensation, or remuneration shall be in relation to professional
16 counseling services actually provided by the licensee. Nothing in
17 this subdivision shall prevent collaboration among two or more
18 licensees in a case or cases. However, no fee shall be charged for
19 that collaboration, except when disclosure of the fee has been made
20 in compliance with subdivision (n).

21 (p) Advertising in a manner that is false, misleading, or
22 deceptive.

23 (q) Reproduction or description in public, or in any publication
24 subject to general public distribution, of any psychological test or
25 other assessment device, the value of which depends in whole or
26 in part on the naivete of the subject, in ways that might invalidate
27 the test or device.

28 (r) Any conduct in the supervision of any intern or trainee by
29 any licensee that violates this chapter or any rules or regulations
30 adopted by the board.

31 (s) Performing or holding oneself out as being able to perform
32 professional services beyond the scope of one's competence, as
33 established by one's education, training, or experience. This
34 subdivision shall not be construed to expand the scope of the
35 license authorized by this chapter.

36 (t) Permitting a trainee or intern under one's supervision or
37 control to perform, or permitting the trainee or intern to hold
38 himself or herself out as competent to perform, professional
39 services beyond the trainee's or intern's level of education, training,
40 or experience.

1 (u) The violation of any statute or regulation of the standards
2 of the profession, and the nature of the services being rendered,
3 governing the gaining and supervision of experience required by
4 this chapter.

5 (v) Failure to keep records consistent with sound clinical
6 judgment, the standards of the profession, and the nature of the
7 services being rendered.

8 (w) Failure to comply with the child abuse reporting
9 requirements of Section 11166 of the Penal Code.

10 (x) Failing to comply with the elder and dependent adult abuse
11 reporting requirements of Section 15630 of the Welfare and
12 Institutions Code.

13 (y) Repeated acts of negligence.

14

15

Article 6. Revenue

16

17 4999.100. (a) An intern registration shall expire one year from
18 the last day of the month in which it was issued.

19 (b) To renew a registration, the registrant shall, on or before the
20 expiration date of the registration, do the following:

21 (1) Apply for a renewal on a form prescribed by the board.

22 (2) Pay a renewal fee prescribed by the board.

23 (3) Notify the board whether he or she has been convicted, as
24 defined in Section 490, of a misdemeanor or felony, or whether
25 any disciplinary action has been taken by any regulatory or
26 licensing board in this or any other state, subsequent to the
27 registrant's last renewal.

28 4999.102. (a) Licenses issued under this chapter shall expire
29 no more than 24 months after the issue date. The expiration date
30 of the original license shall be set by the board.

31 (b) To renew an unexpired license, the licensee, on or before
32 the expiration date of the license, shall do all of the following:

33 (1) Apply for a renewal on a form prescribed by the board.

34 (2) Pay a two-year renewal fee prescribed by the board.

35 (3) Certify compliance with the continuing education
36 requirements set forth in Section 4999.76.

37 (4) Notify the board whether he or she has been convicted, as
38 defined in Section 490, of a misdemeanor or felony, or whether
39 any disciplinary action has been taken by any regulatory or

1 licensing board in this or any other state, subsequent to the
2 licensee's last renewal.

3 4999.104. A license that has expired may be renewed at any
4 time within three years of expiration. To renew an expired license,
5 the licensee shall do all of the following:

6 (a) File an application for renewal on a form prescribed by the
7 board.

8 (b) Pay all fees that would have been paid if the license had not
9 become delinquent.

10 (c) Pay all delinquency fees.

11 (d) Certify compliance with the continuing education
12 requirements set forth in Section 4999.76.

13 (e) Notify the board whether he or she has been convicted, as
14 defined in Section 490, of a misdemeanor or felony, or whether
15 any disciplinary action has been taken by any regulatory or
16 licensing board in this or any other state, subsequent to the
17 licensee's last renewal.

18 4999.106. A license that is not renewed within three years after
19 its expiration may not be renewed, restored, reinstated, or reissued,
20 except that a former licensee may apply for and obtain a new
21 license if he or she complies with all of the following:

22 (a) No fact, circumstance, or condition exists that, if the license
23 were issued, would justify its revocation or suspension.

24 (b) He or she takes and passes the current examination required
25 for licensing.

26 (c) He or she submits an application for initial licensure.

27 4999.108. A suspended license is subject to expiration and
28 shall be renewed as provided in this article, but that renewal does
29 not entitle the licensee, while it remains suspended and until it is
30 reinstated, to engage in the activity to which the license relates, or
31 in any other activity or conduct in violation of the order or
32 judgment by which it was suspended.

33 4999.110. A revoked license is subject to expiration as provided
34 in this article, but it may not be renewed. If it is reinstated after its
35 expiration, the licensee shall, as a condition precedent to its
36 reinstatement, pay a reinstatement fee in an amount equal to the
37 renewal fee in effect on the last regular renewal date before the
38 date on which it is reinstated, plus the delinquency fee, if any,
39 accrued at the time of its revocation.

1 4999.112. (a) A licensed professional counselor may apply to
2 the board to request that his or her license be placed on inactive
3 status. A licensee who holds an inactive license shall do all of the
4 following:

- 5 (1) Pay a biennial fee of one-half of the active renewal fee.
- 6 (2) Be exempt from continuing education requirements.
- 7 (3) Not engage in the practice of professional counseling in this
8 state.
- 9 (4) Otherwise be subject to this chapter.

10 (b) A licensee on inactive status may have his or her license
11 reactivated by complying with all of the following:

- 12 (1) Submitting a request to the board.
- 13 (2) Certifying that he or she has not committed any acts or
14 crimes constituting grounds for denial of licensure.
- 15 (3) Paying the remaining one-half of the renewal fee.
- 16 (4) Completing the following continuing education requirements:
 - 17 (A) Eighteen hours of continuing education is required within
18 the two years preceding the date of the request for reactivation if
19 the license will expire less than one year from the date of the
20 request for reactivation.
 - 21 (B) Thirty-six hours of continuing education is required within
22 the two years preceding the date of the request for reactivation if
23 the license will expire more than one year from the date of the
24 request for reactivation.

25 4999.114. The board shall report each month to the Controller
26 the amount and source of all revenue received pursuant to this
27 chapter and at the same time deposit the entire amount thereof in
28 the State Treasury for credit to the Behavioral Sciences Fund.

29 4999.116. (a) Notwithstanding Section 13340 of the
30 Government Code and except as otherwise provided in Section
31 207, the moneys credited to the Behavioral Sciences Fund under
32 Section 4999.114 are continuously appropriated, without regard
33 to fiscal year, to the Board of Behavioral Sciences for carrying out
34 and enforcing the provisions of this chapter.

35 (b) The board shall keep records that will reasonably ensure
36 that funds expended in the administration of each licensing or
37 registration category bear a reasonable relation to the revenue
38 derived from each category, and shall so notify the department no
39 later than May 31 of each year.

1 (c) Surpluses, if any, may be used in a way so as to bear a
2 reasonable relation to the revenue derived from each category, and
3 may include, but not be limited to, expenditures for education and
4 research related to each of the licensing or registration categories.

5 4999.118. A licensee or registrant shall give written notice to
6 the board of a name change within 30 days after each change,
7 giving both the old and new names. A copy of the legal document
8 authorizing the name change, such as a court order or marriage
9 certificate, shall be submitted with the notice.

10 4999.120. The board shall assess fees for the application for
11 and the issuance and renewal of licenses and for the registration
12 of interns to cover administrative and operating expenses of the
13 board related to this chapter.

14 4999.122. The professional counselor licensing program shall
15 be supported from fees assessed to applicants, interns, and
16 licensees. Startup funds to implement this program shall be derived,
17 as a loan, from the reserve fund of the Board of Behavioral
18 Sciences, subject to an appropriation by the Legislature in the
19 annual Budget Act. The board shall not be required to implement
20 this chapter until funds have been appropriated.

21 SEC. 5. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

O

Blank Page

December 8, 2006

Paul Riches, Executive Director
Board of Behavioral Sciences
1625 North Market Blvd., Suite S-200
Sacramento, CA 95824

Dear Mr. Riches:

The Commission on Rehabilitation Counselor Certification (CRCC) understands that a bill is to be proposed that would introduce licensure for counselors in the State of California and that the Board of Behavioral Sciences would ultimately administer the licensure program. CRCC is pleased to have been working with the California Coalition on Counselor Licensure over these past years in their efforts toward licensure for counselors.

By way of background, CRCC is the oldest national certification organization for counselors and the only one specifically for rehabilitation counselors. Much like licensure organizations, CRCC holds the purpose of certification to be to ensure that the professional who engages in rehabilitation counseling meets acceptable standards of quality in practice and that these standards reflect what is in the best interest of the consumers that rehabilitation counselors serve. Among the nearly 16,000 rehabilitation counselors who are certified by CRCC in the United States, CRCC represents nearly 1,000 Certified Rehabilitation Counselors in the State of California who provide professional counseling services.

CRCC has established rigorous certification criteria to include a consistently reliable and valid examination that measures knowledge about counseling principles, theories, and techniques as well as disability culture and disability and rehabilitation-specific concerns. More specifically, the CRC examination is scored using a conjunctive scoring model that requires examinees to achieve passing scores on two sections on the examination with one section related to counseling and one related to the rehabilitation and disability components. CRCC believes that demonstrated knowledge in both of these areas is critical when providing counseling to a variety of individuals, including the 54 million Americans with disabilities.

CRCC would contend that its examination appropriately measures an individual's knowledge with regard to the practice of counseling. Thirteen states have considered and recognize the CRC examination as an acceptable examination for their professional counselor licensure. While we understand that there are precedents in place within the State that would not support recognition of the examination on an ongoing basis, we do strongly encourage recognition of the examination during the grandfathering process so that those rehabilitation counselors who meet eligibility qualifications related to education and practice as established within the proposed bill are likewise recognized as having demonstrated their knowledge of the practice through passage of the Certified Rehabilitation Counselor Examination.

We hope that you will consider the construct of the CRC examination and support recognition of the exam during the grandfathering process. We invite you to contact us if we may provide additional information.

Respectfully,


Jodi L. Saunders, Ph.D., CRC
Chair


Cindy A. Chapman
Executive Director

JLS/CAC/sas

Blank Page

Comparison of CRC and NCE Examination Content Areas

CRC Examination Knowledge Domains	NCE Examination Content Areas & Work Behaviors
Mental Health Counseling	Fundamentals of Counseling
Group & Family Counseling	Group Work; Group Counseling
Individual Counseling	Helping Relationships; Human Growth & Development
Psychosocial & Cultural Issues in Counseling	Social & Cultural Foundations
Foundations, Ethics and Professional Issues	Research & Program Evaluations; Professional Orientation & Ethics; Professional Practice Issues
Case & Caseload Management	Programmatic & Clinical Intervention
Career Counseling & Assessment Techniques	Career & Lifestyle Development; Appraisal; Assessment & Career Counseling
Healthcare & Disability Systems	
Medical, Functional & Environmental Implications of Disability	
Rehabilitation Services & Resources	
Vocational Consultation & Employer	
Job Development & Placement	

NCE: 8 Content Areas/5 Work Behaviors
 200 multiple choice questions/40 items for field test only
 160 items scored

CRC: 12 Knowledge Domains/90 Sub domains
 300 multiple choice questions/50 items for field test only
 250 items scored

Conjunctive scoring model: Must achieve a passing score on both the Counseling Component & Rehabilitation/Disability Component

Sources for examination content areas and item pools:

http://www.crccertification.com/downloads/10certification/CRC_Certification_Guide_1106.pdf;
<http://www.nbcc.org/nce>

Blank Page

CRC[®]

CERTIFICATION

GUIDE

Certified Rehabilitation Counselor

**Commission on
Rehabilitation Counselor Certification
(CRCC[®])**

**300 N. Martingale Road, Suite 460
Schaumburg, Illinois 60173
(847) 944-1325
www.crccertification.com**



Accredited by the National Commission for Certifying Agencies

SECTION 10: THE CERTIFICATION EXAMINATION

Examination Content

The certification examination is comprised of questions across twelve (12) knowledge domains underlying rehabilitation counseling. Additionally, each of the twelve domains are further defined into subdomains. The titles of the domains, subdomains, and the number of questions for each is as follows:

KNOWLEDGE DOMAINS AND SUBDOMAINS	Mean Importance Rating
Vocational Consultation and Employer Services	(20 Questions) 2.53
Employer practices that affect the employment or return to work of individuals with disabilities	2.87
Ergonomics	2.44
Job modification and restructuring techniques	2.85
Job analysis	2.80
Consultation services available from rehabilitation counselors for employers	2.49
Methods and techniques used to conduct labor market surveys	2.20
Work conditioning or work hardening resources and strategies	2.39
Accommodation and rehabilitation engineering services	2.71
Marketing strategies and techniques for rehabilitation services	2.16
The workplace culture and environment	2.45
Job Development and Placement Services	(24 Questions) 3.00
Employer development and job placement	2.76
Client job seeking skills development	3.02
Client job retention skills	2.88
Job placement strategies	3.04
Job and employer development	3.29
Follow-up/post employment services	2.57
Occupational and labor market information	3.09
Vocational implications of functional limitations associated with disabilities	3.37
Career Counseling and Assessment Techniques	(26 Questions) 2.65
Tests and evaluation techniques available for assessing client's needs	2.88
Computer-based counseling tools in rehabilitation counseling	2.33
Computer-based job-matching systems	2.21
Interpretation of assessment results for rehabilitation planning purposes	3.05
Internet resources for rehabilitation counseling	2.44
Assistive technology	2.70
Theories of career development and work adjustment	2.62
Transferable skills analysis	2.97
Mental Health Counseling	(15 Questions) 2.56
Mental health and psychiatric disability concepts	3.01
Rehabilitation techniques for individuals with psychological disabilities	2.98
Treatment planning for clinical problems (e.g., depression and anxiety)	2.58
Substance abuse and treatment	2.57
Human sexuality and disability issues	2.05
Wellness and illness prevention concepts and strategies	2.13

Group and Family Counseling	(10 Questions)	2.00
Family counseling theories		2.00
Family counseling practices and interventions		2.04
Group counseling practices and interventions		1.99
Group counseling theories		1.97
Individual Counseling	(15 Questions)	2.91
Individual counseling theories		3.04
Individual counseling practices and interventions		3.22
Behavior and personality theory		2.93
Human growth and development		2.47
Psychosocial and Cultural Issues in Counseling	(20 Questions)	2.69
The psychosocial and cultural impact of disability on the family		2.74
The psychosocial and cultural impact of disability on the individual		3.07
Multicultural counseling issues		2.80
Gender issues		2.51
Societal issues, trends, and developments as they relate to rehabilitation		2.85
Techniques for working with individuals with limited English proficiency		2.15
Foundations, Ethics and Professional Issues	(22 Questions)	2.38
The design of research projects, program evaluation and needs assessment approaches		1.59
Basic research methods		1.73
The history of rehabilitation		1.57
The philosophical foundations of rehabilitation		2.18
The evaluation procedures for assessing the effectiveness of rehabilitation services and outcomes		2.46
Theories and techniques of clinical supervision		1.97
Ethical decision making models and processes		2.95
Advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients		2.62
The ethical standards for rehabilitation counselors		3.58
The legislation or laws affecting individuals with disabilities		3.16
Rehabilitation Services and Resources	(28 Questions)	2.58
Supported employment strategies and services		2.45
School to work transition for students with disabilities		2.29
The services available for a variety of rehabilitation populations, including persons with multiple disabilities		3.27
Planning the provision of independent living services with clients		2.29
Financial resources for rehabilitation services		2.75
Community resources and services for rehabilitation planning		3.18
Social Security programs, benefits and disincentives		2.80
The organizational structure of the public vocational rehabilitation service delivery system		2.22
Rehabilitation services in diverse settings		2.67
The organizational structure of the not-for-profit service delivery systems		2.14
Case and Caseload Management	(26 Questions)	3.10
Case management process and tools		3.16
Case recording and documentation		3.29
Principles of caseload management		2.92
Professional roles, functions, and relationships with other human service providers		2.88
Clinical problem-solving and critical-thinking skills		3.29
Negotiation and conflict resolution strategies		2.96
The case management process, including case finding, service coordination, referral to and utilization of other disciplines, and client advocacy		3.37
Techniques for working effectively in teams and across disciplines		2.93

Healthcare and Disability Systems	(16 Questions)	2.24
Managed care concepts		2.19
Health care delivery systems		2.23
Employer-based disability prevention and management strategies		2.11
Workers' compensation laws and practices		2.40
Techniques for evaluating earnings capacity and loss		2.03
Expert testimony		2.07
Life care planning		1.89
The organizational structure of the private-for-profit vocational rehabilitation systems		2.10
Healthcare benefits		2.47
Appropriate medical intervention resources		2.86
Medical, Functional and Environmental Implications of Disabilities	(28 Questions)	3.27
Environmental barriers for individuals with disabilities		3.17
The physical/functional capacities of individuals with disabilities		3.40
Medical aspects and implications of various disabilities		3.41
Rehabilitation terminology and concepts		3.10
Medical terminology		3.21
Attitudinal barriers for individuals with disabilities		3.31

Examination Structure

The exam is constructed to ensure that it is consistent with minimal competency requirements and criteria-referenced testing concepts. Standards for item selection include: item difficulty (between .39 and .95 with a median in the .60-.70 range); a positive point biserial; and appropriate content distribution. Using an intensive written field testing process, CRCC has developed a pool of questions that contains a comprehensive selection of statistically validated examination items. A task force of rehabilitation counseling professionals is charged with continually adding to and upgrading this "item pool."

The certification exam consists of 300 multiple-choice questions drawn from the commission's item pool. All candidates seeking certification must take this exam, which is based on a body of knowledge encompassing the laws, public regulations and existing delivery systems for rehabilitation services in the U.S. It is administered in two sections: 150 questions in the morning (Section I); and 150 questions in the afternoon (Section II). Each examination also includes 50 field test questions that will not be used in the scoring of the examination. Of the 250 scoreable items used for each examination, approximately 20% are included in every administration of the examination as "anchor items." The examination is comprised of 12 major domains and 90 subdomains. Each domain is represented by a specific number of questions. A subdomain with a mean importance rating of 3.0 or more will be assessed by the inclusion of at least three questions. Likewise, a subdomain with a mean importance rating of 2.5 to 2.9 will be assessed by the inclusion of at least two questions while those with a mean importance rating of less than 2.5 will be assessed by at least one question. Each question/response is referenced to the literature of rehabilitation service/laws and credit is given for each "correct" response based on that literature. Sample questions are included in this guide.

The examination is scored using a conjunctive scoring model whereby the examination is divided into two parts. One part tests knowledge with regard to counseling and the other part tests knowledge with regard to rehabilitation and disability issues. Candidates must achieve a passing score on both parts in order to pass the examination as a whole.

NCE and NCMHCE Content and Exam Design

Evidence of the NCE validity is established through Content Validity. Content validity refers to the degree to which the items on a licensure/certification examination are representative of the knowledge and/or skills that are necessary for competent performance. The job analysis for the National Counselor Examination for Licensure & Certification (NCE®) is completed by the National Board for Certified Counselors and Affiliates, Inc. every five to seven years. The purpose of the study is to describe the job activities of professional counselors in sufficient detail to provide a basis for continued development of a professional, job related licensure certification examination.

The resulting examination content outline has five (5) content domains consisting of 130 tasks. The five domains and a sampling of the tasks are listed below.

- I. Fundamentals of Counseling
 1. Assess client's progress toward counseling goals
 2. Assess client's psychological functioning
 3. Conduct diagnostic interview
 4. assess need for client referral
 5. Diagnose based on DSM-IV-TR criteria

- II. Assessment and Career Counseling
 1. Use test results for client decision making
 2. Select and administer assessment instruments for counseling
 3. Provide career counseling for persons with disabilities
 4. Administer and interpret achievement tests
 5. Assess client's educational preparation

- III. Group Counseling
 1. Facilitate group process
 2. Assist group members in providing feedback to each other
 3. Conduct post-group follow-up procedures
 4. Identify behaviors that disrupt group process
 5. Assess progress toward group goals

- IV. Programmatic and Clinical Interventions
 1. Participate as member of multidisciplinary team
 2. Provide crisis counseling to victims of disaster
 3. Assess programmatic needs
 4. Conduct community outreach
 5. Administer and manage counseling program

- V. Professional Practice Issues
 1. Evaluate the performance of other counselors
 2. Provide diversity training
 3. Provide clinical supervision for professionals
 4. Engage in data analysis
 5. Conduct community needs assessment

The National Counselor Examination for Licensure and Certification is a multiple-choice 200-item non-sectioned examination representing each of the original eight CACREP areas, with question context emerging from the five job analysis factors. Thus, the NCE® is not only anchored in the content validity of the eight original CACREP areas, but is also representative of the empirically determined five clusters of professional counselor work behaviors.

The NCE® is currently used not only for national certification but also as a component of most state counselor credentialing processes. The expanded adoption of the National Counselor Examination for Licensure and Certification has established a vital linkage between NBCC's national certification and the state credentialing processes, as well as establishing a significant link between state boards.

For any given form of the NCE®, the items are selected, and a computer-generated "examination" is returned to the authors for final review prior to publication. While the primary purpose of this review is to identify and correct any data entry errors, further editing of items sometimes occurs. Thus, the items on any particular form of the NCE® have been subjected to at least five full reviews prior to inclusion and publication.

A different form (version) of the NCE® is compiled for each administration of the examination. Each form's items, which are drawn from the item pool for the NCE®, have undergone extensive review and field-testing.

Although each form of the NCE® contains different items, the content areas and the respective numbers of items representing those areas are consistent. Within the set of 200 items on each form of the NCE®, only 80 percent of the items are counted for the purpose of determining whether you surpass the minimum criterion (i.e., "passing") score for that form. Thus, the maximum possible score a respondent can achieve is 160. The remaining 40 items in each form of the NCE® are being field tested to determine their appropriateness for future use.

NCMHCE Content and Design

Evidence of the NCMHCE validity is established through content validity. Content validity refers to the degree to which the items on a licensure/certification examination are representative of the knowledge and/or skills that are necessary for competent performance. The job analysis for the National Clinical Mental Health Counseling Examination (NCMHCE®) is completed by the National Board for Certified Counselors and Affiliates, Inc. every five to seven years. The purpose of the study is to describe the job activities of professional mental health counselors in sufficient detail to provide a basis for continued development of a professional, job related licensure certification examination

The problems on the National Clinical Mental Health Counseling Examination (NCMCHE) are designed to sample a broad area of competencies, not the recall of isolated facts. Therefore, the problems assess clinical problem-solving ability, including identifying, analyzing, diagnosing, and treating clinical problems.

The examination consists of 10 clinical mental health counseling cases. Each case is divided into 5-8 sections classified as either *Information Gathering* (IG) or *Decision Making* (DM). The exam covers the following areas:

Evaluation and Assessment

For example:

- * Identify precipitating problems or symptoms
- * Conduct mental status exam
- * Identify individual and relationship functioning
- * Provide other referral sources

Clinical Diagnosis and Treatment Planning

For example:

- * Integrate client assessment and observational data with clinical judgment to formulate a differential diagnosis
- * Develop a treatment plan in collaboration with the client
- * Coordinate treatment plan with other service providers
- * Monitor client progress toward goal attainment

Clinical Practice

For example:

- * Determine if services meet client's needs
- * Discuss ethical and legal issues
- * Understand scope of practice parameters
- * Provide prevention interventions

EXAMINATION FORMAT

A clinical mental health counselor is required to make important clinical decisions regarding the well being of clients. Therefore, a clinical simulation examination is used to more realistically assess knowledge in such decision-making.

The NCMHCE is a clinical simulation examination. Each problem consists of three components: Scenario, Information Gathering (IG) sections, and Decision Making (DM) sections. Each problem begins with a scenario. The scenario provides the setting and introductory client information (e.g., age, gender, presenting problem(s)).

In *Information Gathering* (IG) sections candidates gather all relevant information for answering the question. This might include family background, status of physical health, previous experience in counseling, etc. .

Decision Making (DM) sections provide opportunities for making clinical judgments or decisions. These sections may be formatted in one of two ways:

1. Single Best Option - There may be more than one acceptable option, but one option is generally regarded most acceptable.
2. Multiple Options - Several options are considered appropriate. These sections address decisions in which a combination of actions is required.

In the decision making section described in 1 above, candidates are instructed to "CHOOSE ONLY ONE" option. The multiple option type of decision-making described in 2 has instructions to "SELECT AS MANY."

TAKING THE EXAMINATION

The procedure for taking the National Clinical Mental Health Counseling Examination (NCMHCE) is different from that of the more common multiple-choice examination. Each simulation problem is identified by a number and the client's name and each section is identified by a letter. The progression through the problem is not in sequence (that is, one page directly after the preceding page).

State Use of NBCC Exams

The NCE and/or the NCMCHE are currently used by the 48 states that regulate professional counseling. The examinations have established a vital linkage between NBCC's national certification and the state credentialing processes, as well as establishing a significant link between state boards.

Presently twenty-one (21) states, the District of Columbia, and Puerto Rico use the NCE® exclusively, while seven (7) states use the NCMHCE exclusively. A total of twenty (20) states use a combination of the NCE® and NCMCHE. Some of these states allow the candidates to choose the exam they will take (9), others may require the candidate to take both (2), and still others may have two levels of licensure and require the candidate to take the NCE® or the NCMHCE, depending on the licensure they apply for (9).

Licensed Professional Counselors AB 1486 (2007)
Estimated Budget and Expenses

	Estimated Budget Program Needs	Estimated Expenses FY 08/09	Estimated Expenses FY 09/10	Estimated Expenses FY 10/11	Estimated Expenses FY 11/12	ONGOING EXPENSES
SALARIES & WAGES						
<u>Licensing & Registration</u>						
(1.0) OT (Registration)	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00
(1.0) OT (Licensing)	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00
(1.0) OT (Cashiering)	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00	\$34,530.00
<u>Enforcement</u>						
(1.0) AGPA (Enforcement)	\$56,562.00	\$56,562.00	\$56,562.00	\$56,562.00	\$56,562.00	\$56,562.00
(0.5) OT (Enforcement)	\$17,265.00	\$17,265.00	\$17,265.00	\$17,265.00	\$17,265.00	\$17,265.00
(1.0) 2-yr Limited Term AGPA (regulations)	\$56,562.00	\$56,562.00	\$56,562.00			
<u>Exam</u>						
(1.0) 2-yr Limited Term SSA	\$42,144.00	\$42,144.00	\$42,144.00			
<u>Other</u>						
(1.0) SSM-I	\$65,028.00	\$65,028.00	\$65,028.00	\$65,028.00	\$65,028.00	\$65,028.00
Salary Savings	-\$17,058.00	-\$17,058.00	-\$17,058.00	-\$12,122.00	-\$12,122.00	-\$12,122.00
Staff Benefits	\$152,446.00	\$152,446.00	\$152,446.00	\$109,636.00	\$109,636.00	\$109,636.00
<u>Blanket</u>						
(4.0) Board Member Per Diem	\$3,200.00	\$3,200.00	\$3,200.00	\$3,200.00	\$3,200.00	\$3,200.00
TOTAL PERSONAL SERVICES	\$479,739.00	\$479,739.00	\$479,739.00	\$343,159.00	\$343,159.00	\$343,159.00
OPERATING EXPENSES & EQUIPMENT						
Fingerprint Reports	\$25,000.00	\$20,000.00	\$25,000.00	\$13,000.00	\$17,000.00	\$17,000.00
General Expense (\$1,530 x PY)	\$11,475.00	\$11,475.00	\$11,475.00	\$8,415.00	\$8,415.00	\$8,415.00
Printing (\$530 x PY+\$18,000)	\$21,975.00	\$21,975.00	\$21,975.00	\$20,915.00	\$20,915.00	\$20,915.00
Communications (\$1,150 x PY)	\$8,625.00	\$8,625.00	\$8,625.00	\$6,325.00	\$6,325.00	\$6,325.00
Postage (\$530xPY+\$10,000)	\$13,975.00	\$13,975.00	\$13,975.00	\$12,915.00	\$12,915.00	\$12,915.00
Travel - In State (Board Members)	\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00
Training (\$530 x PY)	\$3,975.00	\$3,975.00	\$3,975.00	\$2,915.00	\$2,915.00	\$2,915.00
Data Processing (\$460xPY)	\$3,450.00	\$3,450.00	\$3,450.00	\$2,530.00	\$2,530.00	\$2,530.00
Facilities Operations	\$11,925	\$11,925.00	\$11,925.00	\$8,745.00	\$8,745.00	\$8,745.00
Rent (addl 2,027 sq ft)	\$48,653	\$48,653	\$48,653	\$48,653	\$48,653	\$48,653
Consulting & Prof Svcs (OER-Occup Analysis)*	\$100,000.00	\$100,000.00	\$0.00	\$0.00	\$0.00	\$0.00
OER IACs**	\$106,510.00	\$0.00	\$106,510.00	\$91,510.00	\$91,510.00	\$91,510.00
Exam Contracts	\$108,700.00	\$0.00	\$31,150.00	\$48,750.00	\$80,230.00	\$108,700.00
Subject Matter Experts	\$145,420.00	\$0.00	\$145,420.00	\$145,420.00	\$145,420.00	\$145,420.00
Site Rental	\$40,014.00	\$0.00	\$40,014.00	\$40,014.00	\$40,014.00	\$40,014.00
OIS Costs***	\$71,000.00	\$71,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
Equipment (Copier, Computers, Printers)	\$9,000.00	\$9,000.00	\$0.00	\$0.00	\$0.00	\$9,000.00
Modular Furniture and Installation*	\$54,300.00	\$54,300.00	\$0.00	\$0.00	\$0.00	\$0.00
Special Items of Expense	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
Enforcement (DOI, OAH, AG)	\$125,000.00	\$125,000.00	\$125,000.00	\$125,000.00	\$125,000.00	\$125,000.00
TOTAL, OE&E****	\$925,997.00	\$515,353.00	\$624,147.00	\$602,107.00	\$637,587.00	\$675,057.00
TOTAL	\$1,405,736.00	\$995,092.00	\$1,103,886.00	\$945,266.00	\$980,746.00	\$1,018,216.00

*One-time cost

**Includes \$15,000 one-time cost to audit national exam and \$43,090 for SW and \$48,420 for CV

***61,000 one-time cost for CAS and ATS; Includes website alterations

****Use of National Examinations would decrease costs by an average of \$251,000 over the four FYs and and by \$204,527 ongoing

Board of Behavioral Sciences

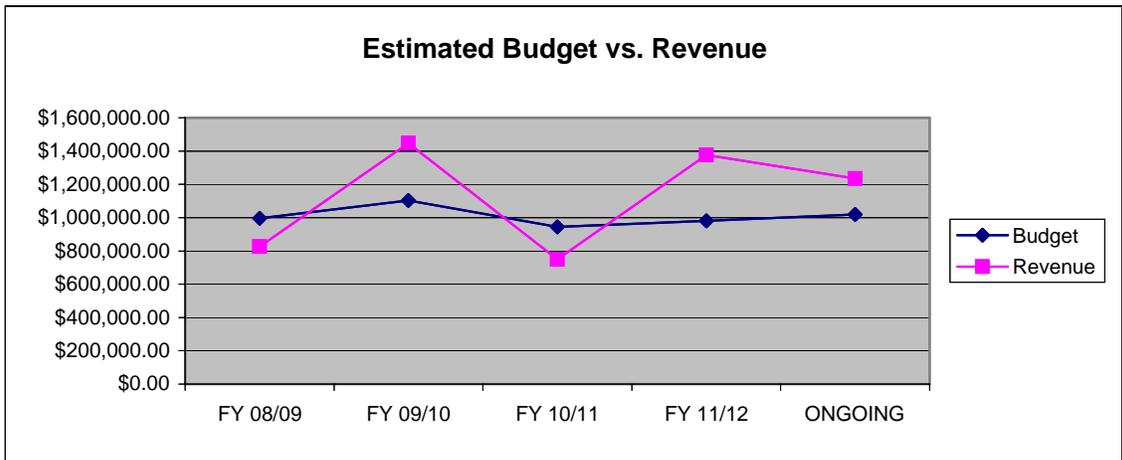
Licensed Professional Counselors, AB 1486 (2007)
Estimated Revenue

Fee Type	Pop.	FY 08/09	Pop.	FY 09/10	Pop.	FY 10/11	Pop.	FY 11/12	Pop.	ONGOING
Application Fee (GPT-MFT) (\$100)	3,567	\$356,700	3,567	\$356,700	0	0	0	0	0	0
Application Fee (GPT-LCSW) (\$100)	938	\$93,800	938	\$93,800	0	0	0	0	0	0
Application Fee (GPT) (\$125)	614	\$76,750.00	614	\$76,750.00	0	0	0	0	0	0
Application Fee (LPC) (\$100)	0	\$0	0	\$0	750	\$75,000	1,000	\$100,000	1,500	\$150,000
Application Fee (LPC Intern) (\$75)	1,000	\$75,000	2,000	\$150,000	2,000	\$150,000	2,000	\$150,000	2,000	\$150,000
Fingerprinting Fee OOS* Only (\$66)	250	\$16,500	300	\$19,800	150	\$9,900	200	\$13,200	200	\$13,200
Standard Written Exam Fee (\$100)	0	\$0	0	\$0.00	600	\$54,000	800	\$90,000	1,200	\$100,000
Clinical Vignette Exam Fee (\$100)	0	\$0	0	\$0.00	360	\$45,000	600	\$72,000	720	\$80,000
Initial License Fee (GPT & LPC) (\$100)	1,878	\$187,800	6,723	\$672,300	800	\$80,000	1,100	\$110,000	1,250	\$125,000
Renewal Fee (LPC Intern) (\$50)	0	\$0	950	\$47,500.00	2,850	\$142,500	3,750	\$187,500	3,850	\$192,500
Renewal Fee (LPC) (\$100)	0	\$0	0	0.00	1,784	\$178,400	6,386	\$638,600	4,085	\$408,500
CE Provider App & Renewal Fees (\$200)	100	\$20,000	150	\$30,000.00	75	\$15,000	75	\$15,000	75	\$15,000
TOTAL REVENUE		\$826,550		\$1,446,850		\$749,800		\$1,376,300		\$1,234,200

*Out of State applicants only

Licensed Professional Counselors AB 1486 (2007)
Estimated Budget vs. Revenue-Corrected

	FY 08/09	FY 09/10	FY 10/11	FY 11/12	ONGOING
Budget	\$995,092.00	\$1,103,886.00	\$945,266.00	\$980,746.00	\$1,018,216.00
Revenue	\$826,550.00	\$1,446,850.00	\$749,800.00	\$1,376,300.00	\$1,234,200.00
Difference	-\$168,542.00	\$342,964.00	-\$195,466.00	\$395,554.00	\$215,984.00



Blank Page

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

To: Board Members

Date: May 15, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Emergency Regulation Proposal

Background

Current law recognizes three separate entities for approving/accrediting marriage and family therapy degree programs including the Western Association of Schools and Colleges (WASC), Commission on Accreditation of Marriage and Family Therapy Education (COAMFTE), and the Bureau of Private Postsecondary and Vocational Education (BPPVE). In order to qualify for registration as a marriage and family therapist intern or a licensed marriage and family therapist, the candidate must have a qualifying degree from a program approved/accredited by one of these three organizations.

On September 30, 2006 the Governor vetoed Assembly Bill 2810 (Liu). This bill, among other elements, extended the sunset date for the Bureau of Private Postsecondary and Vocational Education for one year to July 1, 2008. The veto of this legislation has the effect of repealing both the BPPVE and the underlying statutes that govern the approval of thousands of educational institutions including 21 programs offering degrees in marriage and family therapy (list of programs attached). Absent further legislative action the board will be unable to accept degrees conferred by these 21 programs on or after July 1, 2007.

At its February 2007 meeting, the board agreed to sponsor legislation to address this problem in two ways:

1. Recognize schools in California that are accredited by regional accreditation agencies other than the Western Association of Schools and Colleges (WASC).
2. Recognize approvals granted by BPPVE until they would have expired irrespective of the BPPVE sunset.

Both of these proposals were submitted to the Legislature for consideration. However, the proposals were unacceptable to Senator Perata who is sponsoring legislation to reform the school approval system (Senate Bill 823) and were not included in proposed legislation addressing the issue (Assembly Bill 1525 attached for your reference). AB 1525 contains a general extension of BPPVE approvals that would allow the board to accept degrees from approved schools until July 1, 2008 and is an urgency bill that would take effect immediately if successful. Unfortunately, this measure cannot take effect unless the larger reform bill (Senate Bill 823) takes effect before July 1, 2007. At this time, it is unlikely that a reform bill will be completed by that date.

Board staff has been conferring with counsel and the Department of Consumer Affairs regarding this situation, and has developed an emergency regulation that will allow the board to continue to accept degrees from approved schools through July 1, 2008. Board counsel believes that the board has sufficient authority to adopt such a regulation and the situation clearly meets the criteria for establishing the existence of an emergency.

This regulation will allow students completing their programs to register and begin accumulating hours towards licensure while the interested parties work on the larger reform package. The board will need to revisit the issue at its August meeting (which coincides with the end of the legislative session) based on the outcome of the reform legislation.

Emergency Rulemaking Requirements and Procedures

An emergency regulation takes effect before any public notice and hearing. The Administrative Procedure Act (APA) governs the adoption of emergency regulations and the process is handled by the Office of Administrative Law (OAL).

Government Code section 11342.545 defines emergency as, "[a] situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare." An emergency must be supported by specific facts showing the need for immediate action, and must include a description of the specific facts demonstrating the existence of an emergency and the need for immediate action.

A finding of emergency based only upon expediency, convenience, best interest, general public need, or speculation, is not adequate to demonstrate the existence of an emergency. (Gov. Code sec. 11346.1(b).)

The agency is required to provide 5 working days advance notice to anyone who has requested notice of regulatory action by sending them the finding of emergency and the proposed text of the regulation. Members of the public may comment on the proposed regulations directly to OAL.

When OAL receives a comment, it must phone the agency to confirm the agency's receipt of the comment. If the agency wants to respond, it must respond within 8 (eight) calendar days of filing. OAL allows interested persons five calendar days to submit comments on the proposed emergency regulation. (Gov. Code sec. 11349.6(b).)

TIME LINE FOR INITIAL OAL REVIEW OF EMERGENCY REGULATIONS

Day 0 Agency submits emergency regulation to OAL; OAL reviews the submission to ensure it meets all standards and is complete.

Day 5 Public comment period ends

Day 8 Agency response to comments due

Day 10 OAL maximum time review ends. If OAL approves the regulation, it will file the approved regulation with the Secretary of State. If OAL disapproves the regulation, it must write a decision explaining the reasons for disapproving it.

EFFECTIVE PERIOD OF APPROVED EMERGENCY REGULATION

Day 0 Emergency regulation usually effective when filed with the Secretary of State.

Day 180 Emergency regulation lapses by operation of law unless the agency files a completed rulemaking action with OAL or OAL approves a readoption of the emergency regulation. An emergency regulation stays in effect during OAL review of the completed rulemaking action.

No more than two readoptions for 90 day periods each are permitted. (Gov. Code sec. 11346.1(h).)

Staff Recommendation

To authorize staff to file the proposed emergency regulation if legislation allowing the board to accept degrees from approved schools does not become law before July 1, 2007.

Attachments

Draft Rulemaking Documents
List of Approved Schools
Assembly Bill 1525

Blank Page

**BOARD OF BEHAVIORAL SCIENCES
PROPOSED EMERGENCY REGULATORY LANGUAGE**

Add Section 1832.5 to Division 18, Title 16 of the California Code of Regulations.

**§ 1832.5 Interim Recognition of Degrees from Institutions
Approved by the Bureau for Private Postsecondary and Vocational
Education.**

(a) A doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling, or marriage and family therapy, obtained from a school, college, or university that held an approval to operate from the Bureau for Private Postsecondary and Vocational Education (Bureau) as of its sunset date of June 30, 2007 will be considered by the Board to meet the course requirements necessary for licensure under Section 4980.40 or registration under Section 4980.44 of the Business and Professions Code provided that the degree is awarded on or before June 30, 2008.

(b) This Section will become inoperative if legislation is enacted reauthorizing the Private Postsecondary and Vocational Education Reform Act of 1989 (Chapter 7, Division 10, Title 3 of the Education Code (§ 94700 et seq.)) and the Bureau or a successor agency.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Section 4980.40, Business and Professions Code.

Blank Page

The Emergency Regulations Process

An emergency regulation takes effect before any public notice and hearing. The Administrative Procedure Act (APA) governs the adoption of emergency regulations and the process is handled by the Office of Administrative Law (OAL).

Government Code section 11342.545 defines emergency as, "[a] situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare." An emergency must be supported by specific facts showing the need for immediate action, and must include a description of the specific facts demonstrating the existence of an emergency and the need for immediate action.

A finding of emergency based only upon expediency, convenience, best interest, general public need, or speculation, is not adequate to demonstrate the existence of an emergency. (Gov. Code sec. 11346.1(b).)

The agency is required to provide 5 working days advance notice to anybody who has requested notice of regulatory action by sending them the finding of emergency and the proposed text of the regulation. Members of the public may comment on the proposed regulations directly to OAL.

When OAL receives a comment, it must phone the agency to confirm the agency's receipt of the comment. If the agency wants to respond, it must respond within 8 (eight) calendar days of filing. OAL allows interested persons five calendar days to submit comments on the proposed emergency regulation. (Gov. Code sec. 11349.6(b).)

Time Line for Initial OAL Review of Emergency Regulations

Day 0 Agency submits emergency regulation to OAL; OAL reviews the submission to ensure it meets all standards and is complete.

Day 5 Public comment period ends

Day 8 Agency response to comments due

Day 10 OAL maximum time review ends. If OAL approves the regulation, it will file the approved regulation with the Secretary of State. If OAL disapproves the regulation, it must write a decision explaining the reasons for disapproving it.

Effective Period of Approved Emergency Regulation

Day 0 Emergency regulation usually effective when filed with the Secretary of State.

Day 180 Emergency regulation lapses by operation of law unless the agency files a completed rulemaking action with OAL or OAL approves a readoption of the emergency regulation. An emergency regulation stays in effect during OAL review of the completed rulemaking action. No more than two readoptions for 90 day periods each are permitted. (Gov. Code sec. 11346.1(h).)

Blank Page

NOTICE OF PROPOSED EMERGENCY REGULATIONS

To All Interested Parties:

Government Code section 11346.1, as amended by AB 302, Chapter 73, Statutes of 2006, requires that an adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. The notice shall be provided to said interested parties at least five working days before submitting an emergency regulation to the Office of Administrative Law.

Attached are proposed emergency regulations by the Board of Behavioral Sciences relating to schools approved by the Bureau for Private, Postsecondary and Vocational Education that provide degrees which qualify persons for Marriage and Family Therapist (MFT) licensure and MFT intern registration. Also attached is the Board's Finding of Emergency.

If you have any questions, please contact:

Contact Person: Christy Berger
Board of Behavioral Sciences
1625 N. Market Blvd., Suite S-200
Sacramento, California 95834
Telephone No. (916) 574-7847
Fax No. (916) 574-8625
E-Mail Address: Christy_berger@dca.ca.gov

DATED: _____

PAUL RICHES
Executive Officer

Blank Page

BOARD OF BEHAVIORAL SCIENCES

FINDING OF EMERGENCY

Schools Approved by the Bureau for Private, Postsecondary and Vocational Education Relating to Marriage and Family Therapist Licensure

Add Section 1832.5 to Division 18, Title 16 California Code of Regulations

The Board of Behavioral Sciences (Board) hereby finds that adoption of emergency regulations concerning schools approved by the Bureau for Private, Postsecondary and Vocational Education (BPPVE) that provide degrees which qualify persons for Marriage and Family Therapist (MFT) intern registration and MFT licensure is necessary. The Board specifically finds these emergency regulations are necessary for the immediate preservation of the public health and safety, and general welfare of the citizens of California.

Specific Facts Showing the Need for Immediate Action

On September 30, 2006 the Governor vetoed Assembly Bill 2810 (Liu). This bill, among other elements, extended the sunset date for the BPPVE for one year to July 1, 2008. The veto of this legislation has the effect of repealing both the BPPVE and the underlying statutes that govern the approval of thousands of educational institutions including 21 programs offering degrees required for MFT intern registration and MFT licensure.

Absent further legislative action, the Board will be unable to accept degrees conferred by these 21 programs on or after July 1, 2007, preventing new applicants from obtaining a MFT intern registration. Reform proposals to establish a new law and administrative entity to succeed the BPPVE have been introduced (AB 1525 and SB 823), but it is unclear whether these proposals will pass.

Without BPPVE approvals, one of the major pathways for MFT internship would be blocked. Only graduates from accredited institutions would be eligible. California consumers would be denied services that could be provided by these new licensees and registrants. Additionally, as a result of the Mental Health Services Act, county agencies are expected to add approximately 3,525 new positions for direct service providers. MFT Interns are an important source of employees for these agencies, especially given that workforce needs and challenges identified by county agencies are language proficiency, cultural competency and representative diversity. A recent demographic survey by the Board indicated that MFT Interns are much more diverse than MFT licensees.

The attached proposed emergency regulations are therefore necessary for the health and safety, and general welfare provisions as required by Section 11346.1 of the California Government Code.

Authority and Reference:

Authority: Section 4990.20, Business and Professions Code.

Reference: Section 4980.40, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law authorizes the Board to regulate MFT licensure and MFT intern registration and specifies the requirements for licensure and registration. This proposal would continue the recognition of currently approved institutions offering MFT degrees by authorizing these approvals to extend beyond the BPPVE's sunset until either the approval's expiration or until a successor agency is appointed and able to review the next round of renewal applications.

Statutory Requirement

Business and Professions Code Section 4980.40(a) requires applicants for MFT licensure to possess a doctor's or master's degree from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the BPPVE. Business and Professions Code Section 4980.44(a)(1) requires the same for an MFT intern registration.

FISCAL IMPACT STATEMENTS

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None

Mandate on Local Agencies or Schools:

No local mandates or reimbursements are required as a result of the regulations.

Business Impact:

The Board has determined that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal would not have any negative impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effects on Housing Costs: None

Cost Estimate: The Board has determined that the regulation will involve no measurable costs or savings to any State agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

Approved Schools

Approval Expires

1. Trinity College of Graduate Studies	12/31/06
2. California Graduate Institute	12/31/08
3. Argosy University	12/31/08
4. Professional School of Psychology	12/31/08
5. Ryokan College	12/31/08
6. Western Institute for Social Research	6/30/07
7. World University of America	3/21/08
8. Institute of Imaginal Studies	12/31/07
9. Western Seminary	12/31/09
10. University of Phoenix, San Diego	extended per CEC 94905
11. Southern California Seminary	extended per CEC 94842
12. University of Phoenix, Sacramento	extended per CEC 94842
13. University of Santa Monica	12/31/08
14. Antioch University, LA	6/30/08
15. Antioch University, Santa Barbara	6/30/08
16. San Diego University for Integrative Studies	12/31/10
17. Santa Barbara Graduate Institute	3/1/09
18. Southern California University for Prof. Studies	extended per CEC 94842
19. HIS University	9/30/10
20. Webster University	extended per CEC 94905
21. Church of God Theological Seminary	12/27/09

Blank Page

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 2-98)

See SAM Sections 6600 - 6680 for Instructions and Code Citations

DEPARTMENT NAME Consumer Affairs/Bd of Behavioral Sciences	CONTACT PERSON Christy Berger	TELEPHONE NUMBER 574-7847
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Interim Recognition of Degrees from MFT Schools Approved by the Bureau for Private, Postsecondary and Vocational Education		NOTICE FILE NUMBER

ECONOMIC IMPACT STATEMENT**A. ESTIMATED PRIVATE SECTOR COST IMPACTS** *(include calculations and assumptions in the rulemaking record.)*

1. Check the appropriate box(es) below to indicate whether this regulation:

 a. Impacts businesses and/or employees e. Imposes reporting requirements b. Impacts small businesses f. Imposes prescriptive instead of performance standards c. Impacts jobs or occupations g. Impacts individuals d. Impacts California competitiveness h. None of the above *(Explain below. Complete the Fiscal Impact Statement as appropriate.)*h. (cont.) See attached.

(If any box items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: (See Attached) Describe the types of businesses (Include nonprofits): (See Attached)Enter the number or percentage of total businesses impacted that are small businesses: 03. Enter the number of businesses that will be created: 0 eliminated: 0Explain: N/A4. Indicate the geographic extent of impacts: Statewide Local or regional (list areas) _____5. Enter the number of jobs created: 0 or eliminated: 0 Describe the types of jobs or occupations impacted: _____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

 Yes NoIf yes, explain briefly: N/A**B. ESTIMATED COSTS** *(Include calculations and assumptions in the rulemaking record.)*1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ (See Attached)a. Initial cost for a small business: \$ (See Attached) Annual ongoing cost: \$ (See Attached) Years: (See Attached)b. Initial cost for a typical business: \$ (See Attached) Annual ongoing cost: \$ (See Attached) Years: (See Attached)c. Initial cost for an individual: \$ (See Attached) Annual ongoing cost: \$ (See Attached) Years: (See Attached)d. Describe other economic costs that may occur: (See Attached)

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 2-98)

2. If multiple industries are impacted, enter the share of total costs for each industry: N/A
-
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): \$ N/A
4. Will this regulation directly impact housing costs? Yes No If yes, enter the annual dollar cost per housing unit: \$ 0 and the number of units: 0
5. Are there comparable Federal Regulations? Yes No Explain the need for State regulation given the existence or absence of Federal regulations: This area of law is regulated at the state level
- Enter any additional costs to businesses and/or individuals that may be due to State – Federal differences: \$ 0

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: Persons who graduate from approved MFT schools will benefit because they will continue to be able to qualify for MFT Intern registration, an important qualification for jobs in that field. Existing licensees will not be impacted as these approved MFT schools are not used for Continuing Education.
2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority? Explain: B&P Code Sections 4980.40(a) and 4980.44(a)(1)
3. What are the total statewide benefits from this regulation over its lifetime? \$ (See Attached)

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: (See Attached)
-
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:
- | | | |
|----------------|-----------------------------------|--------------------------------|
| Regulation | Benefit: \$ <u>(See Attached)</u> | Cost: \$ <u>(See Attached)</u> |
| Alternative 1: | Benefit: \$ <u>(See Attached)</u> | Cost: \$ <u>(See Attached)</u> |
| Alternative 2: | Benefit: \$ <u>(See Attached)</u> | Cost: \$ <u>(See Attached)</u> |
| Alternative 3: | Benefit: \$ <u>0</u> | Cost: \$ <u>0</u> |
3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: N/A
-
4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? Yes No Explain: N/A
-

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 2-98)

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.)
Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? Yes No (If No, skip the rest of this section)
2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:
Alternative 1: N/A
Alternative 2: N/A
3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:
- | | | | |
|----------------|-------------|---------------------------|------------|
| Regulation: | \$ <u>0</u> | Cost-effectiveness ratio: | <u>N/A</u> |
| Alternative 1: | \$ <u>0</u> | Cost-effectiveness ratio: | <u>N/A</u> |
| Alternative 2: | \$ <u>0</u> | Cost-effectiveness ratio: | <u>N/A</u> |

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)

1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:
- a. is provided in (Item _____ Budget Act of _____ or (Chapter _____ Statutes of _____
 - b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____
(FISCALYEAR)
2. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:
- a. implements the Federal mandate contained in _____
 - b. implements the court mandate set forth by the _____
court in the case of _____ vs. _____
 - c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____
election; (DATE)
 - d. is issued only in response to a specific request from the _____
_____ which is/are the local entity(s) affected;
 - e. will be fully financed from the _____
(FEES, REVENUE, ETC.) authorized by Section _____
_____ of the _____ Code;
 - f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each unit.
3. Savings of approximately \$ _____ annually.
4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
5. No fiscal impact exists because the regulation does not affect any local entity or program.
6. Other (See Attached)

ECONOMIC AND FISCAL IMPACT STATEMENT *cont.* (STD. 399, Rev. 2-98)

B. FISCAL EFFECT ON STATE GOVERNMENT

(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent fiscal years.)

- 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year. It is anticipated that State agencies will:
 - a. be able to absorb these additional costs within their existing budgets and resources.
 - b. request an increase in the currently authorized budget level for the _____ fiscal year.

- 2. Savings of approximately \$ _____ in the current State Fiscal Year.

- 3. No fiscal impact exists because this regulation does not affect any State agency or program.

- 4. Other There is no fiscal impact on State Government anticipated. We anticipate no additional expenditures or savings.

C. FISCAL EFFECT OF FEDERAL FUNDING OF STATE PROGRAMS

(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent fiscal years.)

- 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year.

- 2. Savings of approximately \$ _____ in the current Fiscal State Year.

- 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

- 4. Other _____

SIGNATURE	TITLE	
	Paul Riches, Executive Officer	DATE
AGENCY SECRETARY ¹		DATE
APPROVAL/CONCURRENCE		
DEPARTMENT OF FINANCE ²	PROGRAM BUDGET MANAGER	DATE
APPROVAL/CONCURRENCE		

1. *The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.*

ECONOMIC AND FISCAL IMPACT STATEMENT

Board of Behavioral Sciences

Interim Recognition of Degrees from MFT Schools Approved by the Bureau for Private, Postsecondary and Vocational Education

Economic Impact Sections (Impact to Individuals and Businesses)

Section A

1 and # 5

The Bureau for Private, Postsecondary, and Vocational Education (BPPVE) issues approvals to non-accredited schools operating in California that provide degrees qualifying persons for licensure as a Marriage and Family Therapist (MFT), and registration as an MFT Intern with the Board of Behavioral Sciences (Board). The BPPVE is scheduled to sunset as of on June 30, 2007, which would mean that the schools approvals would be void and, thus, degrees from the then formerly approved schools would no longer be acceptable for licensure as an MFT or registration as a MFT Intern with the Board.

These proposed regulations would provide continued recognition of schools presently approved by the BPPVE that offer degrees qualifying students for licensure as an MFT and registration as an MFT Intern to extend beyond the BPPVEs sunset date, provided that the degree is awarded on or before June 30, 2008. Reform proposals have been introduced to establish a new administrative entity to succeed the BPPVE Sunset with new laws (AB 1525 & SB 823), but it is unclear whether or not these proposals will pass.

Impact on Individuals: This regulation is intended to ensure that students who have completed the majority of their coursework while the school had an approved status with the BPPVE would still be able to qualify for licensure or registration after the BPPVE is sunset, and if AB 1525 and SB 823 have not passed. This would benefit students who may otherwise be unable to obtain work as MFT Interns after graduation.

Section B

#1

There would be no costs to businesses or individuals to comply with this regulation, with no other economic costs possibly occurring. The economic impact of the proposal to individuals is to avoid the loss of income that could occur for graduates between July 1, 2007, and June 30, 2008, as a result of their schools not being recognized by a program that has sunset. To businesses, the economic impact of this proposal is to avoid potential loss of revenue from students who may decide not to enroll in a school that is no longer approved. See Section C3 on this attachment for information and calculations regarding benefits.

Section C

#3

This proposal would benefit recent MFT graduates because it would ensure that degrees from persons graduating from MFT programs at approved schools between July 1, 2007, and June 30, 2008, would still be legally acceptable by the Board. Recent graduates typically seek work as an MFT Intern to begin earning hours of experience toward licensure as an MFT, and at the same time provide mental health services to the public. To ensure that degrees are still acceptable for MFT Intern registration would result in a benefit to students graduating between July 1, 2007, and June 1, 2008, would benefit

Attachment

by being able to earn approximately \$7,196,432 in MFT Intern income over the one-year period that is covered by these proposed regulations. Without this proposal these individuals would be prevented

from earning this income due to the sunset of BPPVE. The calculations used to make this estimate are as follows:

Average of 358 students graduating from approved MFT programs per year:

After graduation, 25% (89) will work in a private practice setting making an average of \$40,320/yr and 75% (269) will be employed in other settings (i.e., county, nonprofit) making an average of \$49,818/yr.

89 students x \$40,320 average pay private practice = \$3,588,480
269 students x \$49,818 average pay other practice settings = \$13,401,042

Students would be expected to have other employment opportunities should they be unable to obtain a MFT Intern registration, and be paid an average of \$27,355/yr.

358 students x \$27,355 = \$9,793,090

\$13,401,042 average pay other setting (county, non-profit) over one year statewide
+\$3,588,480 average pay private practice over one year statewide
\$16,989,494 total average pay as an MFT Intern over one year statewide

(\$9,793,090) average pay as a non-MFT Intern over one year statewide
\$7,196,432 estimated additional income (benefit)

This proposal would also benefit county and local mental health agencies, as well as those who are recipients of their services. With the Mental Health Services Act recently in place, there has been the realization of greater mental health workforce needs, especially for those providers who can positively affect the language and cultural diversity that has created barriers to care. MFT Interns as the more recent graduates, and newer to the mental health field, have been found to be a good resource to providing care on our diverse climate. It is essential to ensure these graduates continue to have a pathway to become registered to fill the needed positions.

This proposal would benefit the 21 school programs offering degrees required for MFT intern registration and MFT licensure. While existing students may not opt to leave the program, there may be a loss of business from new students entering these programs as they hear of the loss of the approvals that allow the Boards acceptance of the degrees conferred by these schools. Without this proposal, there could be an economic impact to the BPPVE approved schools via the loss of new students who will be forced to find other schools that are accredited.

Section D

#1

These regulations would ensure that BPPVE approved schools continue to be recognized without interruption as such, so the graduates will not be denied registration as MFT Interns. With these regulations in place, the Board would continue to be allowed to accept the degrees conferred by one of the 21 programs approved by BPPVE, thereby ensuring continued MFT Intern employment in the marketplace.

Attachment

Regulation: These proposed regulations would ensure that MFT Interns do not lose approximately \$7,196,432 in income of the one-year period covered by these proposed regulations.

Alternative #1: Propose legislation to extend the Board's ability to accept MFT degrees from approved schools. Such legislation has been introduced, but has no guarantee of passing, and therefore there is no guarantee of protecting students and providing for the greater workforce needs and challenges as identified by county agencies. In any case, this legislation would not occur in time to prevent the loss of income, noted above.

Alternative #2: Do nothing. This is not acceptable, as it does not protect students to ensure that their degrees would be accepted and thus provide for the graduates or the growing workforce needs. This alternative would result in the loss of income noted above.

#2

See Section C3 on this attachment for calculations.

Fiscal Impact Statement Sections (Impact to Government)

Section A

#6

County and local mental health agencies, and those who are recipients of their services, would benefit from these proposed regulations. With the Mental Health Services Act recently in place, there has been the realization of greater mental health workforce needs, especially for those providers who can positively affect the language and cultural diversity that has created barriers to care. As recent graduates, MFT Interns are newer to the mental health field, and have been found to be a good resource to providing mental health care on our diverse climate. It is essential to ensure these graduates continue to have a pathway to become registered to fill the needed positions.

Blank Page

AMENDED IN ASSEMBLY APRIL 26, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1525

**Introduced by Assembly Member Cook
(Coauthor: Assembly Member Portantino)**

February 23, 2007

An act relating to private postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1525, as amended, Cook. Private postsecondary education.

(1) The Private Postsecondary and Vocational Education Reform Act of 1989 generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. Existing law requires the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

The act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes. A provision of the act

provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

The bill would express the intent of the Legislature to provide for the protection of the interests of students who, and institutions which, have pending matters, or any other pending business, before the bureau as of June 30, 2007.

The bill would require that each matter, as defined, pending before the bureau as of the close of business on June 30, 2007, be deemed to remain pending before the bureau or a successor agency as of ~~January~~ *February* 1, 2008, irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, the bill would require that no time be deemed to have elapsed between July 1, 2007, and ~~December 31, 2007~~ *January 31, 2008, inclusive*. The bill would require that any institution, program, or course of study that is approved by the bureau as of the close of business on June 30, 2007, be deemed to be approved as of ~~January~~ *February* 1, 2008, irrespective of any applicable conditions, deadlines, or additional requirements. The bill would also require that, with respect to any deadline applicable to the approval or conditional approval of an institution, program, or course of study, no time shall be deemed to have elapsed between July 1, 2007, and ~~December 31, 2007~~ *January 31, 2008, inclusive*. The bill would authorize the Director of Consumer Affairs to enter into voluntary contracts with institutions for compliance with statutes, rules, and regulations applicable to these institutions as of June 30, 2007.

The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, thereby making an appropriation.

These provisions would be repealed on ~~January~~ *February* 1, 2008.

(2) The bill would authorize the approval of private postsecondary institutions for specified purposes until July 1, 2008.

(3) The bill would become operative only if SB 823 is chaptered before July 1, 2007.

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

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

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

1 SECTION 1. (a) It is the intent of the Legislature to provide,
2 through the enactment of subdivision (b), for the protection of the
3 interests of students and institutions having any matter pending
4 before the Bureau for Private Postsecondary and Vocational
5 Education as of June 30, 2007. The Legislature further encourages
6 the Department of Consumer Affairs to provide information to
7 students and institutions during this time period to ensure their
8 understanding of their rights and responsibilities effective ~~January~~
9 *February 1, 2008*, and that student complaints received during this
10 time period continue to be duly recorded and, to the extent
11 practicable, investigated, so that no Californian is harmed by the
12 delay in the provision of full services.

13 (b) Notwithstanding any other provision of law:

14 (1) Each matter pending before the Bureau for Private
15 Postsecondary and Vocational Education as of the close of business
16 on June 30, 2007, shall be deemed to remain pending before the
17 bureau or a successor agency as of ~~January~~ *February 1, 2008*,
18 irrespective of any applicable deadlines. With respect to any
19 deadline applicable to a pending matter, no time shall be deemed
20 to have elapsed between July 1, 2007, and ~~December 31, 2007~~
21 *January 31, 2008, inclusive*. For the purposes of this paragraph,
22 “matter” includes, but is not necessarily limited to, an appeal, a
23 complaint, an evaluation, a hearing, a Student Tuition Recovery
24 Fund claim, or an investigation.

25 (2) Any institution, program, or course of study that is approved
26 by the bureau as of the close of business on June 30, 2007, shall
27 be deemed to be approved as of ~~January~~ *February 1, 2008*,
28 irrespective of any applicable conditions, deadlines, or additional
29 requirements. With respect to any deadline applicable to the
30 approval, renewal of approval, or conditional approval of an
31 institution, program, or course of study, no time shall be deemed
32 to have elapsed between July 1, 2007, and ~~December 31, 2007~~
33 *January 31, 2008, inclusive*.

34 (3) From July 1, 2007, to ~~December 31, 2007~~ *January 31, 2008*,
35 inclusive, the Director of Consumer Affairs may enter into
36 voluntary contracts with institutions to comply with statutes, rules,
37 and regulations pertaining to private postsecondary institutions in
38 effect as of the close of business on June 30, 2007, that had a valid

1 approval to operate as of the close of business on June 30, 2007,
2 for the purpose of ensuring continued student protection after
3 Chapter 7 (commencing with Section 94700) of Part 59 of Division
4 10 of Title 3 of the Education Code, as it exists on June 30, 2007,
5 becomes inoperative.

6 (4) From July 1, 2007, to ~~December 31, 2007~~ *January 31, 2008*,
7 inclusive, the Director of Consumer Affairs shall administer the
8 Student Tuition Recovery Fund.

9 SEC. 2. (a) The Private Postsecondary and Vocational
10 Education Administration Fund is continued in existence under
11 the administration of the Department of Consumer Affairs.

12 (b) (1) The Student Tuition Recovery Fund is continued in
13 existence under the administration of the Department of Consumer
14 Affairs.

15 (2) The moneys in the Student Tuition Recovery Fund are
16 continuously appropriated, without regard to fiscal years, to the
17 Director of Consumer Affairs for the purpose of paying claims
18 that had been filed with, and approved by, the former Bureau for
19 Private Postsecondary and Vocational Education prior to July 1,
20 2007, under the provisions of Chapter 7 (commencing with Section
21 94700) of Part 59 of Division 10 of Title 3 of the Education Code,
22 as it exists on June 30, 2007.

23 (3) *If, for any reason, between July 1, 2007 and January 31,*
24 *2008, inclusive, an institution is not liable for payments to the*
25 *Student Tuition Recovery Fund, that institution shall not collect*
26 *moneys from students for purposes of payments to that fund.*

27 (4) *It is the intent of the Legislature that, to the extent possible,*
28 *the Department of Consumer Affairs shall pay claims found to be*
29 *owed to students from the Student Tuition Recovery Fund between*
30 *July 1, 2007, and January 31, 2008, inclusive.*

31 SEC. 3. (a) It is the intent of the Legislature to provide
32 institutions with ~~a~~ *one* legal method by which they may comply
33 with applicable federal statutes, rules, and regulations from July
34 1, 2007, to ~~December 31, 2007~~ *January 31, 2008*, inclusive, and
35 to affirm for the United States Department of Education that
36 voluntary contracts, as referenced in paragraph (3) of subdivision
37 (b) of Section 1 of this act, demonstrate the legal authorization to
38 operate of schools under California law from July 1, 2007, to
39 ~~December 31, 2007~~ *January 31, 2008*, inclusive.

1 (b) From close of business on June 30, 2007, inclusive, until
2 close of business on ~~December 31, 2007~~ *January 31, 2008*,
3 wherever in law there is a reference to an institution “approved by
4 the Bureau for Private Postsecondary and Vocational Education,”
5 this shall mean any school that has entered into, and is complying
6 with, a voluntary contract under paragraph (3) of subdivision (b)
7 of Section 1 of this act.

8 (c) From ~~the July 1, 2007, to December 31, 2007~~ *July 1, 2007,*
9 *to January 31, 2008*, inclusive, any institution approved by the
10 Bureau of Private Postsecondary and Vocational Education as of
11 the close of business on June 30, 2007, shall disclose to all
12 prospective and current students, to the United States Department
13 of Education, and to any other interested parties whether it is
14 legally authorized by the State of California. ~~Only those schools~~
15 ~~that have entered into a voluntary contract under paragraph (3) of~~
16 ~~subdivision (b) of Section 1 of this act may claim to be authorized~~
17 ~~by the State of California.~~

18 SEC. 4. (a) For purposes of this section, “act” means the
19 Private Postsecondary and Vocational Education Reform Act of
20 1989 (Chapter 7 (commencing with Section 94700) of Part 59 of
21 Division 10 of Title 3 of the Education Code), as it exists on June
22 30, 2007.

23 (b) The rights and obligations established by the act on or before
24 June 30, 2007, shall be determined by the law in effect on or before
25 June 30, 2007, and any claim or cause of action in any manner
26 based on the act that arose on or before June 30, 2007, whether or
27 not reduced to a final judgment, shall be preserved, and shall
28 remain subject to the provisions of the act in effect on or before
29 June 30, 2007, notwithstanding the inoperative status or repeal of
30 the act on or after July 1, 2007.

31 *SEC. 5. Wherever in this act there is a provision related to a*
32 *voluntary contract, that provision shall be applicable only if the*
33 *Department of Consumer Affairs has proposed and tendered that*
34 *voluntary contract as permitted by this act.*

35 ~~SEC. 5.~~

36 SEC. 6. It is the intent of the Legislature that the Department
37 of Consumer Affairs shall continue to provide all applicable rights
38 and protections of civil service to its employees.

1 ~~SEC. 6.~~

2 *SEC. 7.* The provisions of this act are severable. If any
3 provision of this act or its application is held invalid, that invalidity
4 shall not affect other provisions or applications that can be given
5 effect without the invalid provision or application.

6 ~~SEC. 7. Private postsecondary educational institutions that~~

7 *SEC. 8. Private postsecondary institutions, and instructors*
8 *holding valid certificates of authorization, that have approval to*
9 *operate from the Bureau for Private Postsecondary and Vocational*
10 *Education as of June 30, 2007, shall retain those approvals for*
11 *purposes of interpreting other provisions of applicable law that*
12 *refer or relate to the issuance of a license or registration and*
13 *meeting qualifications for licensing examinations. Those approvals*
14 *shall be effective through July 1, 2008, unless a later enacted statute*
15 *modifies, extends, or deletes that date.*

16 ~~SEC. 8.~~

17 *SEC. 9.* This act shall only become operative if Senate Bill No.
18 823 is chaptered on or before July 1, 2007.

19 ~~SEC. 9. Sections 1 to 6~~

20 *SEC. 10. Sections 1 to 7, inclusive, of this act shall be repealed*
21 *on ~~January 1, 2008~~ February 1, 2008, unless a later enacted*
22 *statute, that is enacted before February 1, 2008, deletes or extends*
23 *that date.*

24 ~~SEC. 10.~~

25 *SEC. 11.* This act is an urgency statute necessary for the
26 immediate preservation of the public peace, health, or safety within
27 the meaning of Article IV of the Constitution and shall go into
28 immediate effect. The facts constituting the necessity are:

29 In order to provide for the protection of the interests of students
30 and institutions having matters pending before the Bureau for
31 Private Postsecondary and Vocational Education as of June 30,
32 2007, it is necessary that this act take effect immediately.

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

To: Board Members

Date: May 11, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Report of the Policy and Advocacy Committee

The committee met in Sacramento on April 4, 2007 and made the following recommendations to the board:

#1 – Sponsor legislation to allow marriage and family therapist interns to receive credit for “client centered advocacy.”

Please see attachment A for information regarding this recommendation.

#2 – Support Assembly Bills 164, 249, 509, and 1525 and Senate Bill 851.

Please see attachment B for information regarding this recommendation.

#3 – Oppose Assembly Bill 1025.

Please see attachment C for information regarding this recommendation.

Other Committee Items

In addition to the action items above, the committee:

- Conducted a review of progress on achieving the strategic objectives under Goals 2, 4, 5 & 6
- Received an update on current legislative and rulemaking activity
- Received an update on the board budget
- Discussed proposed legislation to license alcohol and drug abuse counselors
- Discussed “recognition” of PhD’s in social work in the licensing process
- Reviewed legislation introduced in the 2007 legislative session

The next meeting of the committee is scheduled for July 13, 2007 in Burbank.

Blank Page

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

To: Board Members

Date: May 15, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Client Centered Advocacy

Background

To qualify for licensure as a marriage and family therapist intern (IMF) must, among other things, complete 3000 hours of supervised experience. This experience can/must be gained in a number of areas including:

- Individual Counseling
- Diagnosing and treating couples, families, and children
- Personal psychotherapy
- Administering and evaluating psychological tests
- Group therapy or group counseling
- Direct supervisor contact
- Telephone counseling
- Writing clinical reports, progress notes, or process notes
- Professional enrichment activities

These areas presume that marriage and family therapists (MFT) and IMFs would be employed in private practice settings which focus on direct therapy skills and expertise. These areas contrast sharply in some respects with those for associate clinical social workers (ASW).

ASWs must obtain 3200 hours of supervised experience in two areas:

- Clinical psychosocial diagnosis
- Clinical psychosocial Assessment
- Clinical psychosocial treatment (including psychotherapy or counseling)
- Client-centered advocacy, consultation, evaluation, and research**

These areas presume that licensed clinical social workers and ASWs would frequently work in public mental health settings (among others) and included the "client centered advocacy" experience because the clients in public mental health settings need assistance in obtaining other benefits and services to support progress in therapy.

While there is significant overlap in what experience accepted for both licenses, IMFs may not gain hours for “client centered advocacy” as can an ASW. The reality that IMFs and ASWs are increasingly working in the same settings and in the same jobs undermines the presumptions upon which these requirements are based. The blending of both professions in public mental health settings suggests that these requirements be revisited.

This issue was highlighted at a recent meeting of the MFT Education Committee by supervisors who commented on the resistance of IMFs to engage in client centered advocacy functions because they did not count towards the licensing requirement.

Also attached to this memo is a letter from an individual articulating a number of concerns regarding this proposal. That letter was inadvertently not presented to the committee for its deliberations and is included here for the board’s consideration.

Proposed Text

The proposed text attached would allow IMFs to gain experience for “client centered advocacy” in much the same fashion as an ASW would. The proposal does not reduce the number of hours of direct patient contact required for licensure.

Recommendation

The committee recommends that the board sponsor legislation consistent with the attached proposal.

Attachments

Draft Proposal
Letter from an Individual

§4980.03. BOARD; INTERN; TRAINEE; ADVERTISE

(a) "Board," as used in this chapter, means the Board of Behavioral Sciences.

(b) "Intern," as used in this chapter, means an unlicensed person who has earned his or her master's or doctor's degree qualifying him or her for licensure and is registered with the board.

(c) "Trainee," as used in this chapter, means an unlicensed person who is currently enrolled in a master's or doctor's degree program, as specified in Section 4980.40, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(d) "Applicant" as used in this chapter, means an unlicensed person who has completed a master's or doctoral degree program, as specified in Section 4980.40, and whose application for registration as an intern is pending, or an unlicensed person who has completed the requirements for licensure as specified in this chapter, is no longer registered with the board as an intern, and is currently in the examination process.

(e) "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

(f) "Experience," as used in this chapter, means experience in interpersonal relationships, psychotherapy, marriage and family therapy, and professional enrichment activities that satisfies the requirement for licensure as a marriage and family therapist pursuant to Section 4980.40.

(g) "Supervisor," as used in this chapter, means an individual who meets all of the following requirements:

(1) Has been licensed for at least two years as a marriage and family therapist, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.

(2) Has not provided therapeutic services to the trainee or intern.

(3) Has been licensed or certified for at least two years prior to acting as a supervisor.

(4) Has a current and valid license that is not under suspension or probation.

(5) Complies with supervision requirements established by board regulations.

(h) "Professional enrichment activities," as used in this chapter, include both of the following:

(1) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor.

(2) Participation by the applicant in group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional.

(i) “Client centered advocacy” as used in this chapter includes researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.

§4980.43. PROFESSIONAL EXPERIENCE; INTERNS OR TRAINEES

(a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

(1) A minimum of 3,000 hours completed during a period of at least 104 weeks.

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctor's degree.

(4) Not more than 1,300 hours of experience obtained prior to completing a master's or doctor's degree. This experience shall be composed as follows:

(A) Not more than 750 hours of counseling and direct supervisor contact.

(B) Not more than 250 hours of professional enrichment activities and client centered advocacy, excluding personal psychotherapy.

(C) Not more than 100 hours of personal psychotherapy. The applicant shall be credited for three hours of experience for each hour of personal psychotherapy.

(5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.

(6) No hours of experience gained more than six years prior to the date the application for licensure was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (b) of Section 4980.40 shall be exempt from this six-year requirement.

(7) Not more than ~~4000~~ 1250 hours of experience for ~~direct supervisor contact~~ and related professional activities as follows :-

(A) Not more than 250 hours of professional enrichment activities.

(B) Not more than 250 hours of administering and evaluating psychological tests, writing clinical reports, progress notes, or process notes.

(C) Direct supervisor contact

(D) Client centered advocacy.

(E) Personal psychotherapy.

(8) Not more than 500 hours of experience providing group therapy or group counseling.

~~(9) Not more than 250 hours of experience administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes.~~

(10) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.

(11) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children.

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(c) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting.

(2) Each individual supervised after being granted a qualifying degree shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons.

(4) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.

(d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee enumerated in subdivision (f) of Section 4980.40. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(f) Except as provided in subdivision (g), all persons shall register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure.

(g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.

(h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in the employer's business.

(j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

I am unable to attend tomorrow's Policy and Advocacy Committee meeting in Sacramento but I hope my comments are incorporated in the discussion.

I reviewed the content of your memorandum regarding Client Centered Advocacy, dated March 21, 2007.

As written this memorandum is making many statements which I am addressing and questioning.

1.) You stated the following:

"This issue was highlighted at a recent meeting of the MFT Education Committee by supervisors who commented on the resistance of IMF's to engage in client centered advocacy functions because they did not count towards the licensing requirement". The statement reflects individuals (IMF's) recognize a need for their clients, claim they can meet the need, but **choose** not to because they can't get credit for it? This statement in itself is so disturbing because I understand as a trained social worker, we don't have the choice and it has nothing to do with the claiming of hours, it has to do with our scope of practice, code of ethics and educational training. By your own description, these distinctions makes it implausible to me that such a request would be granted without further discussion of the topic-Client Center Advocacy. I hope there is further discussion.

2. Your memorandum highlights the focused distinction between the two professions and then summarizes, "The blending of both professions in public mental health settings suggests that these requirements be revisited". I would suggest this be discussed further before any action be taken. Though the business settings in which we find ourselves working may be more of a shared reality, our scope of practices are still distinct (focus of relationship- MFT / focus on social adjustments-LCSW). You are only speaking to one public setting. Shouldn't this discussion be broaden out? Just because people are working in more vaired work settings doesn't in my mind justify their being able to claim practice hours that does not fit their scope. I work in an arena where everyone calls themselves a social worker and do the tasks that supposedly justify that title. Believe me, it isn't necessarily so.

3. You make the presumption that the language chosen to describe the tasks one does under either the MFT or LCSW scope of practice was used to reflect the arenas where people typically practiced. Is that an accurate presumption? If it is, then I would say this whole topic needs to be revisited, not just from the needs of the MFT experience, but also from the needs of the LCSW. When I look at the language I feel, at least for social workers, the language reflects my professions history, identity and practice.

4. If this issue was surfaced in a meeting of the MFT Education Committee, then I'm confused as to the role of the committee. I understood that the role of the committee was to look at the MFT licensure educational process and see if it can be broaden out to reflect current needs of client populations? If that is the focus of this committee, then how did this suggestion regarding client centered advocacy come from this committee? This coupled with Dr. Russ' statement at the last board meeting where he reflected how committee members stated, "we aren't social workers", leaves me very confused and a little defensive as a social worker. How extended is this process going to go and when does it start looking like the social work scope of practice?

5. Lastly, if the intention of the board is to blend the practice of MFT and LCSW as if we are one in the same; and if this blending is nothing more that the sharing of the language that describes the supposed tasks we do to gain or maintain our license, then why isn't it being looked at in both directions? For instance, why can't ASW's claim:

3000 hours of practice instead of 3200?

Claim hours prior to securing their master degree? Personal psychotherapy hours? Phone counseling with clients? Professional enrichment activities?

Charlene Gonzales, LCSW
4-3-07

Blank Page

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 164 **VERSION:** AMENDED MAY 9, 2007

AUTHOR: SMYTH **SPONSOR:** CAMFT

RECOMMENDED POSITION: SUPPORT

SUBJECT: CHILD CUSTODY: CHILD'S RECORDS

Existing Law:

- 1) Prohibits denying a parent with access to medical, dental and school records and information pertaining to a minor because that parent is not the custodial parent. (Family Code § 3025)
- 2) Allows a mental health provider to deny access to psychotherapy notes. (45 CFR § 164.524)
- 3) Prohibits a minor's representative from inspecting or obtaining copies of the minor's patient records when: (HSC § 123115(a))
 - The minor is legally able to consent for treatment
 - The health care provider determines that access to the records requested would have a detrimental effect on the provider's professional relationship with the minor
- 4) Allows a health care provider to prepare a summary of the patient's record for inspection and copying by a patient within 10 working days from the date of the patient's request, or within 30 days if the record is of extraordinary length. (HSC § 123130(a))
- 5) Defines "Mental health records" as patient records or a portion of a record, specifically relating to evaluation or treatment of a mental disorder. (HSC § 123105(b))

This Bill:

- 1) Prohibits denying a parent who has either physical or legal custody of a child with access to medical and other types of records and information pertaining to a minor, unless a court orders otherwise (Family Code § 3025(a))
- 2) Requires the court, when making an order for sole physical and legal custody to one parent, to specify whether the other parent shall have access to medical and other types of records and information pertaining to the child. (Family Code § 3025(b))

Comment:

- 1) **Author's Intent.** According to the sponsor, the California Association of Marriage and Family Therapists (CAMFT), this section of law is often cited and has been the source of some confusion on the part of therapists and attorneys. The sponsor believes that the law's

intent is to allow a parent with legal custody of a minor child access to his or her child's medical record information. This cannot currently be denied merely because the parent does not have physical custody. As currently worded, Section 3025 uses the phrase "not the child's custodial parent" which can be misinterpreted to mean that a parent who does not even have legal custody of a minor can have access to the child's health records. This bill would provide clarification for therapists who must confront these types of requests often.

2) Mental Health Records. This bill would provide clarification and additional specificity regarding provision of medical records to parents who do not have physical or legal custody of a child. This bill would require the court to expressly address the issue of access to records whenever it issues an order for sole legal or physical custody. This would provide a clear statement as to the access rights of the respective parents.

3) Enforcement. When the Board receives a complaint regarding a child's psychotherapist, staff attempts to obtain a signed release from both parents. If that attempt is unsuccessful, staff will request a copy of the custody agreement to see the terms. Staff also will write to the therapist in an attempt to obtain the records. Typically, if a custodial parent will not sign a release, staff cannot obtain records from the therapist. If staff is unable to obtain records, the Board often cannot pursue the case. This bill may assist the Board in pursuing some cases by providing greater access to records.

4) Support and Opposition.

Support

California Association of Marriage and Family Therapists (sponsor)

California Society for Clinical Social Work

The Joint Custody Association

AFCSME (letter in support of bill as originally introduced)

Opposition

Executive Committee of the Family Law Section of the State Bar (oppose unless amended)

California NOW

One letter from an individual

5) History

2007

May 9 Read second time and amended. Ordered returned to second reading.

May 8 From committee: Amend, and do pass as amended. (Ayes 9. Noes 1.)
(May 1).

Apr. 18 In committee: Set, first hearing. Hearing canceled at the request of author.

Apr. 17 Re-referred to Com. on JUD.

Apr. 16 From committee chair, with author's amendments: Amend, and re-refer
to Com. on JUD. Read second time and amended.

Mar. 27 In committee: Hearing postponed by committee.

Mar. 6 Re-referred to Com. on JUD.

Mar. 5 From committee chair, with author's amendments: Amend, and re-refer to Com.
on JUD. Read second time and amended.

Feb. 9 Referred to Com. on JUD.

Jan. 23 From printer. May be heard in committee February 22.

Jan. 22 Read first time. To print.

AMENDED IN ASSEMBLY MAY 9, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

AMENDED IN ASSEMBLY MARCH 5, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 164

Introduced by Assembly Member Smyth

January 22, 2007

An act to ~~add Section 3025.2 to~~ amend Section 3025 of the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

AB 164, as amended, Smyth. Child custody: child's records.

Under existing law, a parent shall not be denied access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, because that parent ~~does not have physical custody of the child~~ *is not the child's custodial parent*.

This bill would require the court, in making an order ~~of~~ *for* sole *physical and* legal custody *in one parent*, to specify whether the parent who has ~~no~~ *neither physical nor* legal custody shall have access to the records and information described above.

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

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

1 SECTION 1. Section 3025 of the Family Code is amended to
2 read:

1 3025. (a) Notwithstanding any other provision of law, access
 2 to records and information pertaining to a minor child, including,
 3 but not limited to, medical, dental, and school records, shall not
 4 be denied to a parent because that parent is not the child's custodial
 5 parent with either physical or legal custody of a child, unless a
 6 court orders otherwise.

7 (b) (1) In making an order for sole physical and legal custody
 8 in one parent, the court shall specify whether the parent who has
 9 neither physical nor legal custody shall have access to records
 10 and information pertaining to a minor child.

11 (2) This subdivision shall not be applicable to orders entered
 12 prior to January 1, 2008.

13 SECTION 1. ~~Section 3025.2 is added to the Family Code, to~~
 14 ~~read:~~

15 ~~3025.2. In making an order of sole legal custody, the court~~
 16 ~~shall specify whether the parent who has no legal custody shall~~
 17 ~~have access to the records and information specified in Section~~
 18 ~~3025.~~

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 249 **VERSION:** INTRODUCED FEBRUARY 1, 2007

AUTHOR: ENG **SPONSOR:** AUTHOR

RECOMMENDED POSITION: SUPPORT

SUBJECT: REGULATORY GAG CLAUSES

Existing Law:

- 1) Permits the Board of Behavioral Sciences (BBS) to take enforcement action against a licensee or registrant for unprofessional conduct or other violations of BBS law.
- 2) Requires every settlement or arbitration award against a Marriage and Family Therapist (MFT) or Licensed Clinical Social Worker (LCSW) over \$10,000 resulting from a claim or action for damages for death or personal injury caused by negligence, error or omission, or by providing unauthorized services, to be reported by the insurer to the BBS within 30 days. (B&P § 801(c), 802(b))

This Bill:

- 1) Prohibits a “healing arts” licensee, including LCSWs, MFTs, and Licensed Educational Psychologists, or an entity acting as an authorized agent of a licensee, from including any of the following provisions, known as “gag clauses” in a civil settlement:: (B&P Code § 809.10(a))
 - Prohibiting the other party from contacting the Department of Consumer Affairs (DCA) or the board
 - Prohibiting the other party from cooperating with the DCA or the board
 - Prohibiting the other party from filing a complaint with the DCA or the board
 - Requiring the other party to withdraw a complaint the DCA or the board
- 2) Declares that gag clauses are void as against public policy. (B&P Code § 809.10(a))
- 3) Specifies that a licensee who includes or permits a gag clause to be included in a civil settlement agreement is subject to disciplinary action by the appropriate board. (B&P Code § 809.10(b))

Comment:

- 1) **Author’s Intent.** According to the author, the state has created regulatory agencies to license healthcare professionals in order to protect patients, but those same practitioners can use gag clauses in malpractice settlements to prevent the licensing agency from finding out about their abuses. That makes absolutely no sense. Licensed healthcare professionals should not be able to misuse the civil justice system to conceal evidence of misconduct from their regulators.

Regulatory gag clauses currently are prohibited in legal malpractice, and medical malpractice settlements involving physicians and surgeons, and there have been numerous court decisions that describe a compelling public interest in voiding regulatory gag clauses in other professions so that the regulator can best protect the public from harm. However, in spite of court rulings, the use of regulatory gag clauses persists. Gag clauses are sometimes used to intimidate injured victims so they refuse to testify against a licensee in investigations. Gag clauses cause delay and thwart regulatory agency efforts to investigate possible cases of misconduct, thereby preventing the regulatory agency from performing its most basic function - protecting the public.

Regulatory gag clauses increase costs to taxpayers, delay action by regulators, and tarnish the reputation of competent and reputable licensed professionals. California should not allow repeat offenders who injure patients to hide their illegal acts from the authority that grants them their license to practice as a healthcare professional.

- 2) **Gag Clauses.** This bill is intended to close a loophole in current law that allows a healing arts licensee under the DCA to prohibit a consumer who settles a civil suit from also filing a complaint or otherwise cooperating with a regulatory agency. Such an agreement is known as a regulatory "gag clause." A regulatory gag clause requires a plaintiff to agree, as a condition of a malpractice or misconduct settlement with the licensee, to a provision prohibiting the plaintiff from contacting or cooperating with the defendant's regulator, or requiring the plaintiff to withdraw a pending complaint before that regulator.

As an example, under current law, a physician who settles a malpractice complaint with an injured patient might require, as a condition of receiving the settlement payment, that the consumer not report the malpractice to the Medical Board of California (MBC) or otherwise speak regarding the case, even if the patient is contacted by DCA investigators or private attorneys who are looking into separate complaints against the physician.

Former California Attorney General Bill Lockyer has commented, "We have long maintained that such contracts and settlement provisions are void as against public policy. These kinds of agreements undermine public protection and delay investigation of misconduct.

- 3) **Medical Board.** According to an investigation by the MBC, such gag clauses have stymied a number of investigations, many of which involved allegations of sexual misconduct. The most common result of such clauses seems to be delay. Cases can be slowed by several months or even years due to fear on the part of patients who sometimes require a court order before they will cooperate. The legal burden of overcoming gag clauses can also add thousands of dollars in legal costs for the state. Legislation was passed in 2006 (see item #6 "Prior Legislation") that prohibits a physician and surgeon from including a gag clause within a civil settlement.
- 4) **BBS.** The BBS receives notification of civil settlements from insurance carriers, and then contacts the potential complainant by sending a complaint form and a letter that provides information about pursuing administrative action. The majority does not file a complaint. It is not clear whether the lack of response to BBS contact is due to use of gag clauses or whether consumers typically feel satisfied with the outcome of civil settlements and do not wish to take further action. However, it is safe to assume that gag clauses are used in some civil settlements with BBS licensees, and that their use at times may frustrate the BBS' ability to protect consumers.

This bill establishes that any licensee who includes or permits a gag clause to be included in a settlement agreement is subject to disciplinary action by a board. It is not clear from this

bill that the BBS would be able to deny a registration or a license on this basis. Amendments to the following sections would assist the BBS in pursuing disciplinary action by clearly defining the use of a gag clause as unprofessional conduct, and by allowing the BBS to deny a registration or license for the use of a gag clause:

B&P Code § § 4982, 4989.54, and 4992.3

5) Attorneys. This bill is modeled on an existing statute that prohibits attorneys from including gag clauses in legal malpractice settlements, and is in line with a number of court decisions that describe a compelling public interest in voiding regulatory gag clauses to allow the regulator to best protect the public from harm.

6) Prior Legislation. AB 2260 (Negrete McLeod), Chapter 565, Statutes of 2006, prohibits physicians and surgeons licensed by MBC from including a gag clause in a civil settlement agreement. This bill took effect January 1, 2007. AB 320 (2004) and AB 446 (2005) would have prohibited all DCA professions from using regulatory gag clauses. The Board took a position of “support” on AB 446. These bills were both vetoed by the Governor.

7) Support and Opposition.

Support:

California Nurses Association
Center for Public Interest Law

Opposition:

None on file

8) History

2007

May 9	Referred to Com. on B., P. & E.D.
May 3	In Senate. Read first time. To Com. on RLS. for assignment.
May 3	Read third time, passed, and to Senate.
Apr. 23	Read second time. To third reading.
Apr. 19	From committee: Do pass. (Ayes 16. Noes 0.) (April 18).
Mar. 27	From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 9. Noes 1.) (March 27).
Mar. 6	From committee: Do pass, and re-refer to Com. on JUD. Re-referred. (Ayes 10. Noes 0.) (March 6).
Feb. 20	Referred to Coms. on B. & P. and JUD.
Feb. 2	From printer. May be heard in committee March 4.
Feb. 1	Read first time. To print.

Blank Page

ASSEMBLY BILL

No. 249

Introduced by Assembly Member Eng

February 1, 2007

An act to add Section 809.10 to, and to repeal Section 2220.7 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as introduced, Eng. Licensees: healing arts: settlement agreements.

Existing law prohibits a physician and surgeon from including or permitting to be included specified provisions in a settlement agreement arising from his or her practice regardless of whether the agreement is made before or after filing the civil action. Under existing law, a physician and surgeon who violates this requirement is subject to disciplinary action by the Medical Board of California.

This bill would continue to impose that prohibition on physicians and surgeons and would additionally impose it on other healing arts practitioners and would also make them subject to disciplinary action.

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 809.10 is added to the Business and
- 2 Professions Code, to read:
- 3 809.10. (a) No person who is licensed, certified, or registered
- 4 by a board under this division, nor an entity or person acting as an
- 5 authorized agent of that person, shall include or permit to be

1 included any of the following provisions in an agreement to settle
2 a civil dispute, whether the agreement is made before or after the
3 commencement of a civil action:

4 (1) A provision that prohibits the other party in that dispute
5 from contacting or cooperating with the department or board.

6 (2) A provision that prohibits the other party in that dispute
7 from filing a complaint with the department or board.

8 (3) A provision that requires the other party in that dispute to
9 withdraw a complaint from the department or board. This type of
10 provision is void as against public policy.

11 (b) A licensed, certified, or registered person who violates this
12 section is subject to disciplinary action by the appropriate board.

13 SEC. 2. Section 2220.7 of the Business and Professions Code
14 is repealed.

15 ~~2220.7. (a) A physician and surgeon shall not include or permit
16 to be included any of the following provisions in an agreement to
17 settle a civil dispute arising from his or her practice, whether the
18 agreement is made before or after filing the action:~~

19 ~~(1) A provision that prohibits another party to the dispute from
20 contacting or cooperating with the board.~~

21 ~~(2) A provision that prohibits another party to the dispute from
22 filing a complaint with the board.~~

23 ~~(3) A provision that requires another party to the dispute to
24 withdraw a complaint he or she has filed with the board.~~

25 ~~(b) A provision described in subdivision (a) is void as against
26 public policy.~~

27 ~~(c) A physician and surgeon who violates this section is subject
28 to disciplinary action by the board.~~

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 509

VERSION: AMENDED APRIL 17, 2007

AUTHOR: HAYASHI

SPONSOR: AUTHOR

RECOMMENDED POSITION: SUPPORT

SUBJECT: SUICIDE PREVENTION

Existing Law:

- 1) Permits the Department of Mental Health (DMH), contingent upon funding, to establish and implement a suicide prevention, education, and gatekeeper training program to reduce the severity, duration, and incidence of suicidal behaviors. (WIC § 4098.2(a))
- 2) Requires DMH to build upon the existing network of nonprofit suicide prevention programs in the state in developing and implementing the components of this program, and to use the expertise of existing suicide prevention programs that meet any of the following criteria: (WIC § 4098.2(b))
 - Have been identified by a county as providing suicide prevention services for that county.
 - Are certified by the American Association of Suicidology.
 - Meet criteria for suicide prevention programs that may be established by DMH.
- 3) Requires the suicide prevention program to be consistent with the public health model proposed by the Surgeon General, and the system of care approach. (WIC § 4098.2(c))
- 4) Permits the DMH to contract with an outside agency to establish and implement a targeted public awareness and education campaign on suicide prevention and treatment. Requires target populations to include junior high and high school students, as well as other populations known to be at high risk of suicide. (WIC § 4098.3)
- 5) Permits the DMH to contract with local mental health organizations and professionals with expertise in the assessment and treatment of suicidal behaviors to develop an evidence-based assessment and prevention program for suicide that may be integrated with local mental health departments or replicated by public or private suicide treatment programs, or both. (WIC § 4098.4(a))
- 6) Permits the DMH to establish and implement, or contract with an outside agency for the development of a multicounty, 24-hour, centralized suicide crisis line integrated network. Permits existing crisis lines that meet specifications of the department and the American Association of Suicidology to be included in this network. Requires the crisis line to link persons at risk of committing suicide with local suicide prevention and treatment resources. (WIC § 4098.5)

- 7) Requires the Prevention and Early Intervention component of the Mental Health Services Act (MHSA) to emphasize strategies to reduce suicide, defined as one of seven negative outcomes that may result from untreated mental illness. (WIC § 5840(d))

This Bill:

- 1) Establishes the Office of Suicide Prevention (OSP) under the DMH by January 1, 2009. (WIC § 4098.6(a))
- 2) Requires the OSP to do all of the following: (WIC § 4098.6(b))
 - Coordinate the creation and implementation of a statewide suicide prevention strategy modeled after the National Strategy for Suicide Prevention.
 - Collect and disseminate information on best practices as determined by an advisory committee made up of prominent minds in the field.
 - Collect and disseminate data compiled from the State Registrar of Vital Statistics and other sources regarding suicide deaths including, but not limited to, manner and means of death, age, race, ethnicity, and city of residence.
 - Compile information from research institutes regarding suicide attempts, treatment, and success of treatment, including whether there were any subsequent attempts.
 - Develop prevention training standards with an emphasis on underserved communities and cultural competency.
 - Report to the Legislature and to the public, the extent of the problem and the effectiveness of various prevention measures.
- 3) Requires the DMH to implement this program using existing funds and resources. (WIC § 4098.6(c))
- 4) Requires the OSP to post data relating to suicide in California on DMH's website. (WIC § 4098.6(d))

Comment:

- 1) **Author's Intent.** According to the author, 3,323 people commit suicide annually state wide and the numbers that attempt to commit suicide are growing at alarming rates. In California there are many groups of people who are in need of treatment for suicide prevention but they are not receiving the outreach and treatment they require. California does not have a specific state agency that coordinates suicide prevention, performs outreach, or targets at-risk groups. These at-risk groups include teens and young adults ages 15 to 24, where suicide is the third leading cause of death, and for gay, lesbian, bisexual and transgender youth who are up to five times more likely to die from suicide than heterosexual youth.
- 2) **National Strategy for Suicide Prevention.** This bill calls for the statewide prevention strategy to be modeled after the National Strategy for Suicide Prevention (NSSP), which represents the combined work of advocates, clinicians, researchers and survivors around the nation. It lays out a framework for action to prevent suicide and guides development of an array of services and programs. It is designed to be a catalyst for social change with the power to transform attitudes, policies, and services. The NSSP Goals and Objectives for Action was published by the U.S. Department of Health and Human Services in May of 2001, with leadership from the Surgeon General.

In July 2003, the President's New Freedom Commission on Mental Health released a report with goals and recommendations for improving the mental health system in our country.

Suicide prevention is one of its top goals. The report acknowledged the link between mental illness and suicide and recommended the implementation of the NSSP, including the creation of state plans.

3) State-Level Efforts. Senate Resolution 18 and House Resolution 30 were passed in 2003 recognizing the problem of suicide in California. The resolutions state that in the year 2000, 33,000 people who tried to commit suicide unsuccessfully were treated in emergency rooms or admitted to hospitals for treatment. The hospital charges alone for suicide attempt inpatients, exceeded \$275,000,000. The resolutions call for state and local public and private organizations to cooperate to develop and implement a California Strategy for Suicide Prevention and call this a state priority.

4) Support and Opposition.

Support

American Federation of State, County and Municipal Employees, AFL-CIO
California Association of Marriage and Family Therapists
California Catholic Conference
California Psychiatric Association
California Psychological Association
Congress of California Seniors
Contra Costa Crisis Center
Crisis Support Services of Alameda County
Mental Health Association in California
Youth and Family Enrichment Services
Three individuals

Opposition

Citizens Commission on Human Rights - Los Angeles/Hollywood Chapter

5) History

2007

May 2	In committee: Set, first hearing. Referred to APPR. suspense file.
Apr. 18	Re-referred to Com. on APPR.
Apr. 17	Read second time and amended.
Apr. 16	From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 17. Noes 0.) (April 10).
Apr. 10	Re-referred to Com. on HEALTH.
Apr. 9	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Mar. 27	Re-referred to Com. on HEALTH.
Mar. 26	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Mar. 12	Referred to Com. on HEALTH.
Feb. 21	From printer. May be heard in committee March 23.
Feb. 20	Read first time. To print.

Blank Page

ASSEMBLY BILL

No. 249

Introduced by Assembly Member Eng

February 1, 2007

An act to add Section 809.10 to, and to repeal Section 2220.7 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as introduced, Eng. Licensees: healing arts: settlement agreements.

Existing law prohibits a physician and surgeon from including or permitting to be included specified provisions in a settlement agreement arising from his or her practice regardless of whether the agreement is made before or after filing the civil action. Under existing law, a physician and surgeon who violates this requirement is subject to disciplinary action by the Medical Board of California.

This bill would continue to impose that prohibition on physicians and surgeons and would additionally impose it on other healing arts practitioners and would also make them subject to disciplinary action.

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 809.10 is added to the Business and
- 2 Professions Code, to read:
- 3 809.10. (a) No person who is licensed, certified, or registered
- 4 by a board under this division, nor an entity or person acting as an
- 5 authorized agent of that person, shall include or permit to be

1 included any of the following provisions in an agreement to settle
2 a civil dispute, whether the agreement is made before or after the
3 commencement of a civil action:

4 (1) A provision that prohibits the other party in that dispute
5 from contacting or cooperating with the department or board.

6 (2) A provision that prohibits the other party in that dispute
7 from filing a complaint with the department or board.

8 (3) A provision that requires the other party in that dispute to
9 withdraw a complaint from the department or board. This type of
10 provision is void as against public policy.

11 (b) A licensed, certified, or registered person who violates this
12 section is subject to disciplinary action by the appropriate board.

13 SEC. 2. Section 2220.7 of the Business and Professions Code
14 is repealed.

15 ~~2220.7. (a) A physician and surgeon shall not include or permit
16 to be included any of the following provisions in an agreement to
17 settle a civil dispute arising from his or her practice, whether the
18 agreement is made before or after filing the action:~~

19 ~~(1) A provision that prohibits another party to the dispute from
20 contacting or cooperating with the board.~~

21 ~~(2) A provision that prohibits another party to the dispute from
22 filing a complaint with the board.~~

23 ~~(3) A provision that requires another party to the dispute to
24 withdraw a complaint he or she has filed with the board.~~

25 ~~(b) A provision described in subdivision (a) is void as against
26 public policy.~~

27 ~~(c) A physician and surgeon who violates this section is subject
28 to disciplinary action by the board.~~

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 509

VERSION: AMENDED APRIL 17, 2007

AUTHOR: HAYASHI

SPONSOR: AUTHOR

RECOMMENDED POSITION: SUPPORT

SUBJECT: SUICIDE PREVENTION

Existing Law:

- 1) Permits the Department of Mental Health (DMH), contingent upon funding, to establish and implement a suicide prevention, education, and gatekeeper training program to reduce the severity, duration, and incidence of suicidal behaviors. (WIC § 4098.2(a))
- 2) Requires DMH to build upon the existing network of nonprofit suicide prevention programs in the state in developing and implementing the components of this program, and to use the expertise of existing suicide prevention programs that meet any of the following criteria: (WIC § 4098.2(b))
 - Have been identified by a county as providing suicide prevention services for that county.
 - Are certified by the American Association of Suicidology.
 - Meet criteria for suicide prevention programs that may be established by DMH.
- 3) Requires the suicide prevention program to be consistent with the public health model proposed by the Surgeon General, and the system of care approach. (WIC § 4098.2(c))
- 4) Permits the DMH to contract with an outside agency to establish and implement a targeted public awareness and education campaign on suicide prevention and treatment. Requires target populations to include junior high and high school students, as well as other populations known to be at high risk of suicide. (WIC § 4098.3)
- 5) Permits the DMH to contract with local mental health organizations and professionals with expertise in the assessment and treatment of suicidal behaviors to develop an evidence-based assessment and prevention program for suicide that may be integrated with local mental health departments or replicated by public or private suicide treatment programs, or both. (WIC § 4098.4(a))
- 6) Permits the DMH to establish and implement, or contract with an outside agency for the development of a multicounty, 24-hour, centralized suicide crisis line integrated network. Permits existing crisis lines that meet specifications of the department and the American Association of Suicidology to be included in this network. Requires the crisis line to link persons at risk of committing suicide with local suicide prevention and treatment resources. (WIC § 4098.5)

- 7) Requires the Prevention and Early Intervention component of the Mental Health Services Act (MHSA) to emphasize strategies to reduce suicide, defined as one of seven negative outcomes that may result from untreated mental illness. (WIC § 5840(d))

This Bill:

- 1) Establishes the Office of Suicide Prevention (OSP) under the DMH by January 1, 2009. (WIC § 4098.6(a))
- 2) Requires the OSP to do all of the following: (WIC § 4098.6(b))
 - Coordinate the creation and implementation of a statewide suicide prevention strategy modeled after the National Strategy for Suicide Prevention.
 - Collect and disseminate information on best practices as determined by an advisory committee made up of prominent minds in the field.
 - Collect and disseminate data compiled from the State Registrar of Vital Statistics and other sources regarding suicide deaths including, but not limited to, manner and means of death, age, race, ethnicity, and city of residence.
 - Compile information from research institutes regarding suicide attempts, treatment, and success of treatment, including whether there were any subsequent attempts.
 - Develop prevention training standards with an emphasis on underserved communities and cultural competency.
 - Report to the Legislature and to the public, the extent of the problem and the effectiveness of various prevention measures.
- 3) Requires the DMH to implement this program using existing funds and resources. (WIC § 4098.6(c))
- 4) Requires the OSP to post data relating to suicide in California on DMH's website. (WIC § 4098.6(d))

Comment:

- 1) **Author's Intent.** According to the author, 3,323 people commit suicide annually state wide and the numbers that attempt to commit suicide are growing at alarming rates. In California there are many groups of people who are in need of treatment for suicide prevention but they are not receiving the outreach and treatment they require. California does not have a specific state agency that coordinates suicide prevention, performs outreach, or targets at-risk groups. These at-risk groups include teens and young adults ages 15 to 24, where suicide is the third leading cause of death, and for gay, lesbian, bisexual and transgender youth who are up to five times more likely to die from suicide than heterosexual youth.
- 2) **National Strategy for Suicide Prevention.** This bill calls for the statewide prevention strategy to be modeled after the National Strategy for Suicide Prevention (NSSP), which represents the combined work of advocates, clinicians, researchers and survivors around the nation. It lays out a framework for action to prevent suicide and guides development of an array of services and programs. It is designed to be a catalyst for social change with the power to transform attitudes, policies, and services. The NSSP Goals and Objectives for Action was published by the U.S. Department of Health and Human Services in May of 2001, with leadership from the Surgeon General.

In July 2003, the President's New Freedom Commission on Mental Health released a report with goals and recommendations for improving the mental health system in our country.

Suicide prevention is one of its top goals. The report acknowledged the link between mental illness and suicide and recommended the implementation of the NSSP, including the creation of state plans.

3) State-Level Efforts. Senate Resolution 18 and House Resolution 30 were passed in 2003 recognizing the problem of suicide in California. The resolutions state that in the year 2000, 33,000 people who tried to commit suicide unsuccessfully were treated in emergency rooms or admitted to hospitals for treatment. The hospital charges alone for suicide attempt inpatients, exceeded \$275,000,000. The resolutions call for state and local public and private organizations to cooperate to develop and implement a California Strategy for Suicide Prevention and call this a state priority.

4) Support and Opposition.

Support

American Federation of State, County and Municipal Employees, AFL-CIO
California Association of Marriage and Family Therapists
California Catholic Conference
California Psychiatric Association
California Psychological Association
Congress of California Seniors
Contra Costa Crisis Center
Crisis Support Services of Alameda County
Mental Health Association in California
Youth and Family Enrichment Services
Three individuals

Opposition

Citizens Commission on Human Rights - Los Angeles/Hollywood Chapter

5) History

2007

May 2	In committee: Set, first hearing. Referred to APPR. suspense file.
Apr. 18	Re-referred to Com. on APPR.
Apr. 17	Read second time and amended.
Apr. 16	From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 17. Noes 0.) (April 10).
Apr. 10	Re-referred to Com. on HEALTH.
Apr. 9	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Mar. 27	Re-referred to Com. on HEALTH.
Mar. 26	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Mar. 12	Referred to Com. on HEALTH.
Feb. 21	From printer. May be heard in committee March 23.
Feb. 20	Read first time. To print.

Blank Page

AMENDED IN ASSEMBLY APRIL 17, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

AMENDED IN ASSEMBLY MARCH 26, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 509

Introduced by Assembly Member Hayashi
(Principal coauthor: Assembly Member DeSaulnier)
(Principal coauthor: Senator Steinberg)
(Coauthors: Assembly Members Coto and Dymally)

February 20, 2007

An act to add Section 4098.6 to the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 509, as amended, Hayashi. Suicide prevention.

Existing law sets forth the powers and duties of the State Department of Mental Health, including, but not limited to, the administration of the state hospitals for the mentally disordered, the licensing of psychiatric facilities, and oversight responsibilities related to the provision of local mental health services. Existing law, the California Suicide Prevention Act of 2000, authorizes the department to establish and implement a suicide prevention, education, and gatekeeper training program to reduce the severity, duration, and incidence of suicidal behaviors.

This bill would require the department to establish the Office of Suicide Prevention *by January 1, 2009*, and would set forth its duties relating to the establishment and coordination of statewide suicide prevention strategy. The bill would require the department to implement

the bill using existing funds and resources, *and would require the office to post suicide data on the department's Web site.*

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 all of the
- 2 following:
- 3 (a) More people die by suicide in America than by homicide.
- 4 (b) More people die by suicide in America than by AIDS.
- 5 (c) Approximately 30,000 Americans die by suicide every year;
- 6 the equivalent of 9/11 happening almost every month.
- 7 (d) California has the highest number of suicides in the United
- 8 States.
- 9 (e) Every suicide affects at least six people; family members
- 10 and friends who are left to mourn.
- 11 (f) Every year there are at least 180,000 new people grieving
- 12 the death of a loved one by suicide.
- 13 (g) According to the State Department of Health Care Services,
- 14 3,323 people commit suicide annually statewide and the number
- 15 of individuals who attempt suicide is growing at an alarming rate.
- 16 SEC. 2. Section 4098.6 is added to the Welfare and Institutions
- 17 Code, to read:
- 18 4098.6. (a) The department shall establish an Office of Suicide
- 19 Prevention *by January 1, 2009.*
- 20 (b) The Office of Suicide Prevention shall do all of the
- 21 following:
- 22 (1) Coordinate the creation and implementation of a statewide
- 23 suicide prevention strategy modeled after the National Strategy
- 24 for Suicide Prevention.
- 25 (2) Collect and disseminate information on best practices as
- 26 determined by an advisory committee made up of prominent minds
- 27 in the field.
- 28 (3) Collect and disseminate data compiled from the State
- 29 Registrar of Vital Statistics and other sources regarding suicide
- 30 deaths, including, but not limited to, manner and means of death,
- 31 age, race, ethnicity, and city of residence.

1 (4) Compile information from research institutes and other state
2 agencies regarding suicide attempts, treatment, and success of
3 treatment, including whether there were any subsequent attempts.

4 (5) Develop prevention training standards with an emphasis on
5 underserved communities and cultural competency.

6 (6) Report to the Legislature and subsequently to the public, the
7 extent of the problem and the effectiveness of various prevention
8 measures.

9 (c) The department shall implement this section using existing
10 funds and resources.

11 (d) *The office shall post on the department's Internet Web site*
12 *data relating to suicide in California.*

O

Blank Page

AMENDED IN ASSEMBLY APRIL 26, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1525

**Introduced by Assembly Member Cook
(Coauthor: Assembly Member Portantino)**

February 23, 2007

An act relating to private postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1525, as amended, Cook. Private postsecondary education.

(1) The Private Postsecondary and Vocational Education Reform Act of 1989 generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. Existing law requires the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

The act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes. A provision of the act

provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

The bill would express the intent of the Legislature to provide for the protection of the interests of students who, and institutions which, have pending matters, or any other pending business, before the bureau as of June 30, 2007.

The bill would require that each matter, as defined, pending before the bureau as of the close of business on June 30, 2007, be deemed to remain pending before the bureau or a successor agency as of ~~January~~ *February* 1, 2008, irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, the bill would require that no time be deemed to have elapsed between July 1, 2007, and ~~December 31, 2007~~ *January 31, 2008, inclusive*. The bill would require that any institution, program, or course of study that is approved by the bureau as of the close of business on June 30, 2007, be deemed to be approved as of ~~January~~ *February* 1, 2008, irrespective of any applicable conditions, deadlines, or additional requirements. The bill would also require that, with respect to any deadline applicable to the approval or conditional approval of an institution, program, or course of study, no time shall be deemed to have elapsed between July 1, 2007, and ~~December 31, 2007~~ *January 31, 2008, inclusive*. The bill would authorize the Director of Consumer Affairs to enter into voluntary contracts with institutions for compliance with statutes, rules, and regulations applicable to these institutions as of June 30, 2007.

The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, thereby making an appropriation.

These provisions would be repealed on ~~January~~ *February* 1, 2008.

(2) The bill would authorize the approval of private postsecondary institutions for specified purposes until July 1, 2008.

(3) The bill would become operative only if SB 823 is chaptered before July 1, 2007.

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

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

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

1 SECTION 1. (a) It is the intent of the Legislature to provide,
2 through the enactment of subdivision (b), for the protection of the
3 interests of students and institutions having any matter pending
4 before the Bureau for Private Postsecondary and Vocational
5 Education as of June 30, 2007. The Legislature further encourages
6 the Department of Consumer Affairs to provide information to
7 students and institutions during this time period to ensure their
8 understanding of their rights and responsibilities effective ~~January~~
9 *February 1, 2008*, and that student complaints received during this
10 time period continue to be duly recorded and, to the extent
11 practicable, investigated, so that no Californian is harmed by the
12 delay in the provision of full services.

13 (b) Notwithstanding any other provision of law:

14 (1) Each matter pending before the Bureau for Private
15 Postsecondary and Vocational Education as of the close of business
16 on June 30, 2007, shall be deemed to remain pending before the
17 bureau or a successor agency as of ~~January~~ *February 1, 2008*,
18 irrespective of any applicable deadlines. With respect to any
19 deadline applicable to a pending matter, no time shall be deemed
20 to have elapsed between July 1, 2007, and ~~December 31, 2007~~
21 *January 31, 2008, inclusive*. For the purposes of this paragraph,
22 “matter” includes, but is not necessarily limited to, an appeal, a
23 complaint, an evaluation, a hearing, a Student Tuition Recovery
24 Fund claim, or an investigation.

25 (2) Any institution, program, or course of study that is approved
26 by the bureau as of the close of business on June 30, 2007, shall
27 be deemed to be approved as of ~~January~~ *February 1, 2008*,
28 irrespective of any applicable conditions, deadlines, or additional
29 requirements. With respect to any deadline applicable to the
30 approval, renewal of approval, or conditional approval of an
31 institution, program, or course of study, no time shall be deemed
32 to have elapsed between July 1, 2007, and ~~December 31, 2007~~
33 *January 31, 2008, inclusive*.

34 (3) From July 1, 2007, to ~~December 31, 2007~~ *January 31, 2008*,
35 inclusive, the Director of Consumer Affairs may enter into
36 voluntary contracts with institutions to comply with statutes, rules,
37 and regulations pertaining to private postsecondary institutions in
38 effect as of the close of business on June 30, 2007, that had a valid

1 approval to operate as of the close of business on June 30, 2007,
2 for the purpose of ensuring continued student protection after
3 Chapter 7 (commencing with Section 94700) of Part 59 of Division
4 10 of Title 3 of the Education Code, as it exists on June 30, 2007,
5 becomes inoperative.

6 (4) From July 1, 2007, to ~~December 31, 2007~~ *January 31, 2008*,
7 inclusive, the Director of Consumer Affairs shall administer the
8 Student Tuition Recovery Fund.

9 SEC. 2. (a) The Private Postsecondary and Vocational
10 Education Administration Fund is continued in existence under
11 the administration of the Department of Consumer Affairs.

12 (b) (1) The Student Tuition Recovery Fund is continued in
13 existence under the administration of the Department of Consumer
14 Affairs.

15 (2) The moneys in the Student Tuition Recovery Fund are
16 continuously appropriated, without regard to fiscal years, to the
17 Director of Consumer Affairs for the purpose of paying claims
18 that had been filed with, and approved by, the former Bureau for
19 Private Postsecondary and Vocational Education prior to July 1,
20 2007, under the provisions of Chapter 7 (commencing with Section
21 94700) of Part 59 of Division 10 of Title 3 of the Education Code,
22 as it exists on June 30, 2007.

23 (3) *If, for any reason, between July 1, 2007 and January 31,*
24 *2008, inclusive, an institution is not liable for payments to the*
25 *Student Tuition Recovery Fund, that institution shall not collect*
26 *moneys from students for purposes of payments to that fund.*

27 (4) *It is the intent of the Legislature that, to the extent possible,*
28 *the Department of Consumer Affairs shall pay claims found to be*
29 *owed to students from the Student Tuition Recovery Fund between*
30 *July 1, 2007, and January 31, 2008, inclusive.*

31 SEC. 3. (a) It is the intent of the Legislature to provide
32 institutions with ~~a~~ *one* legal method by which they may comply
33 with applicable federal statutes, rules, and regulations from July
34 1, 2007, to ~~December 31, 2007~~ *January 31, 2008*, inclusive, and
35 to affirm for the United States Department of Education that
36 voluntary contracts, as referenced in paragraph (3) of subdivision
37 (b) of Section 1 of this act, demonstrate the legal authorization to
38 operate of schools under California law from July 1, 2007, to
39 ~~December 31, 2007~~ *January 31, 2008*, inclusive.

1 (b) From close of business on June 30, 2007, inclusive, until
2 close of business on ~~December 31, 2007~~ *January 31, 2008*,
3 wherever in law there is a reference to an institution “approved by
4 the Bureau for Private Postsecondary and Vocational Education,”
5 this shall mean any school that has entered into, and is complying
6 with, a voluntary contract under paragraph (3) of subdivision (b)
7 of Section 1 of this act.

8 (c) From ~~the July 1, 2007, to December 31, 2007~~ *July 1, 2007,*
9 *to January 31, 2008*, inclusive, any institution approved by the
10 Bureau of Private Postsecondary and Vocational Education as of
11 the close of business on June 30, 2007, shall disclose to all
12 prospective and current students, to the United States Department
13 of Education, and to any other interested parties whether it is
14 legally authorized by the State of California. ~~Only those schools~~
15 ~~that have entered into a voluntary contract under paragraph (3) of~~
16 ~~subdivision (b) of Section 1 of this act may claim to be authorized~~
17 ~~by the State of California.~~

18 SEC. 4. (a) For purposes of this section, “act” means the
19 Private Postsecondary and Vocational Education Reform Act of
20 1989 (Chapter 7 (commencing with Section 94700) of Part 59 of
21 Division 10 of Title 3 of the Education Code), as it exists on June
22 30, 2007.

23 (b) The rights and obligations established by the act on or before
24 June 30, 2007, shall be determined by the law in effect on or before
25 June 30, 2007, and any claim or cause of action in any manner
26 based on the act that arose on or before June 30, 2007, whether or
27 not reduced to a final judgment, shall be preserved, and shall
28 remain subject to the provisions of the act in effect on or before
29 June 30, 2007, notwithstanding the inoperative status or repeal of
30 the act on or after July 1, 2007.

31 *SEC. 5. Wherever in this act there is a provision related to a*
32 *voluntary contract, that provision shall be applicable only if the*
33 *Department of Consumer Affairs has proposed and tendered that*
34 *voluntary contract as permitted by this act.*

35 ~~SEC. 5.~~

36 SEC. 6. It is the intent of the Legislature that the Department
37 of Consumer Affairs shall continue to provide all applicable rights
38 and protections of civil service to its employees.

1 ~~SEC. 6.~~

2 *SEC. 7.* The provisions of this act are severable. If any
3 provision of this act or its application is held invalid, that invalidity
4 shall not affect other provisions or applications that can be given
5 effect without the invalid provision or application.

6 ~~SEC. 7. Private postsecondary educational institutions that~~

7 *SEC. 8. Private postsecondary institutions, and instructors*
8 *holding valid certificates of authorization, that have approval to*
9 *operate from the Bureau for Private Postsecondary and Vocational*
10 *Education as of June 30, 2007, shall retain those approvals for*
11 *purposes of interpreting other provisions of applicable law that*
12 *refer or relate to the issuance of a license or registration and*
13 *meeting qualifications for licensing examinations. Those approvals*
14 *shall be effective through July 1, 2008, unless a later enacted statute*
15 *modifies, extends, or deletes that date.*

16 ~~SEC. 8.~~

17 *SEC. 9.* This act shall only become operative if Senate Bill No.
18 823 is chaptered on or before July 1, 2007.

19 ~~SEC. 9. Sections 1 to 6~~

20 *SEC. 10. Sections 1 to 7, inclusive, of this act shall be repealed*
21 *on ~~January 1, 2008~~ February 1, 2008, unless a later enacted*
22 *statute, that is enacted before February 1, 2008, deletes or extends*
23 *that date.*

24 ~~SEC. 10.~~

25 *SEC. 11.* This act is an urgency statute necessary for the
26 immediate preservation of the public peace, health, or safety within
27 the meaning of Article IV of the Constitution and shall go into
28 immediate effect. The facts constituting the necessity are:

29 In order to provide for the protection of the interests of students
30 and institutions having matters pending before the Bureau for
31 Private Postsecondary and Vocational Education as of June 30,
32 2007, it is necessary that this act take effect immediately.

- Adults or older adults who require or are at risk of requiring acute psychiatric inpatient care, residential treatment, or outpatient crisis intervention because of a mental disorder with symptoms of psychosis, suicidality, or violence.
- 4) Requires California veterans in need of mental health services and who meet the existing eligibility requirements of this section, to be provided services to the extent resources are available. (PC § 5600.3(b)(5))
 - Encourages counties to advise veterans who may be eligible for mental health services through the United States Department of Veterans Affairs (VA) that such services are available.
 - Prohibits an eligible veteran from being denied county mental health services based solely on his or her status as a veteran.
 - Requires counties to refer a veteran to the county veterans service officer, if any, to determine the veteran's eligibility for, and the availability of, mental health services provided by the VA or other federal health care provider.
 - Requires counties to consider contracting with community-based veterans' services agencies, where possible, to provide high-quality, veteran specific mental health services.
 - 5) Prohibits the use in the prisons, any cruel, corporal or unusual punishment or to inflict any treatment or allow any lack of care whatever which would injure or impair the health of the prisoner, inmate or person confined. (PC § 2652).
 - 6) Permits any mentally ill, mentally deficient, or insane person confined in a state prison to be treated at any one of the state hospitals with the approval of the Board of Prison Terms (BPT). (PC § 2684(a))
 - Requires the director of the appropriate department to evaluate the prisoner to determine if he or she would benefit from care and treatment in a state hospital
 - Permits the superintendent of the hospital to receive the prisoner and keep him or her until in the opinion of the superintendent the person has been treated to the extent that he or she will not benefit from further care and treatment in the state hospital.
 - 7) Requires the superintendent to immediately notify the Director of Corrections the mentally ill, mentally deficient or insane prisoner has been treated to such an extent that he or she will not benefit by further care and treatment in the state hospital. Requires the Director of Corrections to immediately send for, take and receive the prisoner back into prison. (PC § 2685)
 - 8) Declares legislative findings that: (PC § 2960)
 - There are prisoners who have a treatable, severe mental disorder that was one of the causes of, or was an aggravating factor in the commission of the crime for which they were incarcerated.
 - If the severe mental disorders of those prisoners are not in remission or cannot be kept in remission at the time of their parole or upon termination of parole, there is a danger to society, and the state has a compelling interest in protecting the public.
 - In order to protect the public from those persons it is necessary to provide mental health treatment until the severe mental disorder which was one of the causes of or was an aggravating factor in the person's prior criminal behavior is and can be kept in remission.
 - The California Department of Corrections (CDC) should evaluate each prisoner for severe mental disorders during the first year of the prisoner's sentence, and severely mentally disordered prisoners should be provided with an appropriate level of mental health treatment while in prison and when returned to the community.

- 9) Requires, as a condition of parole, a prisoner who meets the following criteria to be treated by the Department of Mental Health (DMH): (PC § 2962)
 - Has a severe mental disorder that is not in remission or cannot be kept in remission without treatment.
 - The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.
 - Has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner's parole or release.
- 10) Defines "severe mental disorder" as a condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. (PC § 2962(a))
- 11) Defines "remission" as a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. (PC § 2962(a))
- 12) Establishes that a person "cannot be kept in remission without treatment" if during the year prior he or she has been in remission and has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm to another who reasonably fears for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. (PC § 2962(a))
 - In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.
- 13) Requires, prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the DMH to evaluate the prisoner and a chief psychiatrist of the CDC has certified to the BPT that the prisoner: (PC § 2962(d)(1))
 - Has a severe mental disorder which is not in remission, or cannot be kept in remission without treatment
 - That the severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior
 - That the prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her parole release day
 - By reason of his or her severe mental disorder the prisoner represents a substantial danger of physical harm to others.
- 14) If the professionals doing the evaluation do not concur to the following, then the BPT shall order a further examination by two independent professionals: (PC § 2962(d)(2))
 - The prisoner has a severe mental disorder
 - That the disorder is not in remission or cannot be kept in remission without treatment, or
 - That the severe mental disorder was a cause of, or aggravated, the prisoner's criminal behavior
- 15) Requires the professionals to inform the prisoner that the purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated as a mentally disordered offender. It is not required that the prisoner appreciate or understand that information. (PC § 2962(d)(3))

- 16) Requires treatment to be inpatient unless the DMH certifies to the BPT that there is reasonable cause to believe the parolee can be safely and effectively treated on an outpatient basis, in which case the BPT shall permit the DMH to place the parolee in an outpatient treatment program specified by the DMH. (PC § 2964(a))
- 17) Requires any prisoner who is to be required to accept treatment to be informed in writing of his or her right to request a hearing. Requires the DMH, prior to placing a parolee in a local outpatient program, to consult with the program as to the appropriate treatment plan. (PC § 2964(a))
- 18) Permits a parolee ordered to have outpatient treatment to be placed in an outpatient community treatment program, and: (PC § 2964(a))
 - Permits the community program director to place the parolee in a secure mental health facility if needed until the parolee can be safely and effectively treated in the program.
 - Generally requires the DMH to conduct a hearing within 15 days on whether the parolee can be safely and effectively treated in the program.
 - Before deciding to seek revocation of the parole of a parolee receiving mental health treatment, the parole officer shall consult with the director of the parolee's outpatient program.
- 19) Permits the parolee to request a hearing before the BPT if the DMH has not placed a parolee on outpatient treatment within 60 days after receiving custody of the parolee or after parole is continued. (PC § 2964(b))
 - Requires the board to conduct a hearing to determine whether the prisoner shall be treated as an inpatient or an outpatient.
 - At the hearing, the burden shall be on the DMH to establish that the prisoner requires inpatient treatment as described in this subdivision.
 - If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals.
- 20) Requires the medical director of the state hospital which is treating the parolee, or the community program director in charge of the parolee's outpatient program, or the Director of Corrections, not later than 180 days prior to the termination of parole, or release from prison, to submit to the district attorney his or her written evaluation on remission if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment. (PC § 2970)
 - Permits the district attorney to file a petition with the superior court for continued involuntary treatment for one year.
 - Requires the petition to be accompanied by affidavits specifying the following:
 - treatment has been continuously provided while the prisoner was released from prison on parole
 - The prisoner has a severe mental disorder not in remission or that cannot be kept in remission if the person's treatment is not continued.
 - By reason of his or her severe mental disorder, the prisoner represents a substantial danger of physical harm to others.
- 21) Requires the court to conduct a hearing on the petition for continued treatment within 30 days of when the prisoner would have been released. (PC § 2972(a))
- 22) Permits a petition for recommitment to be filed prior to the termination of a commitment to determine whether the patient's severe mental disorder is not in remission or cannot be kept in remission without treatment, and whether by reason of his or her severe mental disorder, the patient represents a substantial danger of physical harm to others. (PC § 2972(e))

- 23) Clarifies that any commitment places an obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder. (PC § 2972(f))
- 24) Requires outpatient status for persons committed to a treatment facility to be for a period not to exceed one year. The person on outpatient status may either be discharged, confined or treated on outpatient status. (PC § 2972.1(a))
- 25) Permits the Director of Corrections to, upon probable cause, place the inmate in a state hospital before releasing or terminating supervision of any parolee who is a danger to self or others, or gravely disabled as a result of mental disorder. (PC § 2972.1(f))
- 26) Requires the DMH, in each year in which additional funding is provided by the annual Budget Act, to establish programs that offer counties sufficient funds to comprehensively serve severely mentally ill adults who are homeless, recently released from a county jail or the state prison, or others who are untreated, unstable, and at significant risk of incarceration or homelessness unless treatment is provided to them. (WIC 5814(b))

This Bill:

- 1) Titles the proposed statutes as the “Corrections Mental Health Act of 2007.”
- 2) Permits superior courts to develop and implement Mental Health Courts (MHC) consistent with the proposal. (PC § 1001.130(a))
- 3) Requires a MHC to have the following objectives: (PC § 1001.130(b))
 - Increase cooperation between the courts, criminal justice, mental health, and substance abuse systems.
 - Creation of a dedicated calendar that will lead to placement of as many mentally ill offenders, including those with co-occurring disorders, in community treatment, consistent with public safety.
 - Improve access to necessary services and support.
 - Reduce recidivism.
- 4) Requires a MHC to provide a single point of contact where a defendant with a serious mental illness or co-occurring disorder may receive court-ordered treatment and support services in connection with a diversion from prosecution, a sentencing alternative, or a term of probation. (PC § 1001.130(c))
- 5) Requires a MHC to meet the following criteria: (PC § 1001.130(d))
 - Defendants shall be referred by judges within the superior court and any other sources approved by the court.
 - The court shall develop standards for continuing participation in, and successful completion of the MHC program through a collaborative process with stakeholders.
 - In using a dedicated calendar, requires each MHC to have designated staff that includes, but is not limited to, a designated judge to preside over the court, prosecutor, public defender, county mental health liaison, substance abuse liaison, and probation officer.
 - The county mental health department and drug and alcohol department shall provide initial and ongoing training for designated staff, as needed, on the nature of serious mental illness and on the treatment and supportive services available in the community.
 - The MHC shall use community mental health providers and other agencies to offer defendants access to appropriate treatment services.

- The MHC shall establish a treatment plan for each defendant, based on a formal assessment of the defendant's mental health and substance abuse treatment needs, require the defendant to complete the recommended treatment plan, and any other terms and conditions that will optimize the likelihood that the defendant will complete the program.
 - The MHC shall hold frequent reviews of the offender's progress in community treatment and hold the offender accountable to adhere to the treatment plan, remain in treatment, and complete treatment.
- 6) Requires a MHC to contact the county mental health department to ensure that there is coordination and availability of the necessary mental health services, including management and evaluation of the success of those services. (PC § 1001.130(e))
 - 7) Permits defendants suffering from serious mental illness to be eligible to participate in a MHC if a complaint or citation for an offense is pending in superior court. (PC § 1001.131)
 - 8) Requires each court, with the input of local stakeholders, to establish a method for assessing every defendant for serious mental illness and co-occurring disorders, at the time a complaint or citation is filed for a misdemeanor or felony offense, or at another specified time determined most appropriate by local stakeholders to consider transferring the defendant to a MHC. (PC § 1001.132(a))
 - 9) Requires each court to, with the input of stakeholders, establish case eligibility criteria specifying what factors will make the defendant eligible to participate in a MHC, relating to the following: (PC § 1001.132(b))
 - The amenability of the defendant to treatment
 - The facts of the case
 - Prior criminal history
 - Mental health and substance abuse treatment history.
 - 10) Requires the local mental health director or his or her designee to determine whether a defendant is an appropriate candidate for treatment. (PC § 1001.132(c))
 - 11) Requires the district attorney or designee to assess the case of a defendant found to be suffering from serious mental illness to determine whether it meets the county eligibility criteria. (PC § 1001.132(d))
 - 12) Permits a defendant who is determined to be suffering from serious mental illness to participate in a MHC designated as treatment appropriate when his or her case meets the county eligibility criteria. (PC § 1001.132(e))
 - 13) Requires the California Department of Corrections and Rehabilitation (CDCR) to identify parolees suffering from a serious mental illness including parolees who have a pending case before a superior court, as well as prisoners within 90 days of their parole date. (PC § 1001.133(a))
 - 14) Requires the CDCR to contract with a superior court and county to use MHCs as a referral court for parolees with serious mental illness who either violate the terms of parole or receive new terms as an alternative to custody. (PC § 1001.133(b))
 - 15) Requires a parolee's parole or probation to end when he or she successfully completes the MHC program. (PC § 1001.133(c))

- 16) Requires a parolee who fails to successfully complete the MHC program to be sentenced by the judge according to existing law as to any case pending in the superior court and the CDCR to take any action provided by law. (PC § 1001.133(d))
- 17) Requires the highest priority for referrals of offenders to be given to those who are on active parole and have a pending case in superior court. (PC § 1001.133(e))
- 18) Requires each MHC to report to the CDCR, at a minimum, the following: (PC § 1001.134)
 - The savings in prison days
 - Reduced homelessness
 - Involvement with local law enforcement
 - Costs of dual supervision by parole and probation
 - Other measures identified by the CDCR resulting from implementation of the MHC in a manner consistent with the present reporting system for the Comprehensive Drug Court Implementation Act of 1999.
- 19) Requires the CDCR to provide training for all persons who will be responsible for the management and care of persons with serious mental illness in the custody of the department to ensure that they are trained in recovery oriented rehabilitative services and that those services are provided in prison. (PC § 2686(a))
- 20) Requires the department to ensure that all its correctional officers are trained in dealing with inmates with serious mental illness. (PC § 2686(b))
- 21) Declares that a system of care for parolees with serious mental illness results in the highest benefit to the client, family, and society while ensuring that the public sector meets its legal responsibility and fiscal liability at the lowest possible cost. (PC § 2687(a))
- 22) States that the underlying philosophy for these systems of care includes the following: (PC § 2687(b))
 - Mental health care is a basic human service.
 - Seriously mentally ill parolees usually have multiple disorders and disabling conditions.
 - Seriously mentally ill parolees should be assigned a single person or team to be responsible for all treatment, case management, and support services.
 - The client should be fully informed and volunteer for all treatment provided, unless danger to self or others or grave disability requires temporary involuntary treatment.
 - Clients and families should directly participate in making decisions about services and resource allocations that affect their lives.
 - Mental health services should be responsive to the unique characteristics of people with mental disorders including age, gender, minority, and ethnic background, and the effect of multiple disorders.
 - Treatment, case management, and support services should be designed to prevent inappropriate removal to more restrictive and costly placements.
 - Mental health systems of care shall have measurable goals and be fully accountable by providing measures of client outcomes and cost of services.
 - State and county government agencies each have responsibilities and fiscal liabilities for seriously mentally ill parolees.
- 23) Requires all parolees with a serious mental illness to receive comprehensive mental health and supportive services comparable to the case management and services available under existing adult systems of care. (PC § 2687.1)

- 24) Requires the CDCR to ensure the mental health needs of all parolees are met in accordance with community standards of mental health care. (PC § 2687.2)
- 25) Declares legislative findings that a mental health system of care for parolees with serious mental illness is vital for successful management of mental health care in California and should encompass all of the following: (PC § 2687.3(a))
- A comprehensive and coordinated system of care including treatment, early intervention, case management, and system components required for serious mental illness.
 - The recovery of persons with serious mental illness and their financial means are important for all levels of government, business, and the community.
 - System of care services that ensure culturally competent care for persons with serious mental illness in the most appropriate, least restrictive level of care are necessary to achieve performance outcomes.
 - Mental health service providers need to increase accountability and further develop methods to measure progress toward client outcome goals and cost effectiveness as required by a system of care.
- 26) Declares legislative intent to accomplish the following using the guidelines and principles developed under the demonstration projects implemented under the elder system of care: (PC § 2687.3(d))
- Encourage the CDCR's Division of Adult Parole Operations to implement a system of care as described in this legislation for the delivery of mental health services to seriously mentally ill parolees.
 - To promote system of care accountability for performance outcomes that enable parolees with serious mental illness to reduce symptoms that impair their ability to live independently, work, maintain community supports, care for their children, stay in good health, not abuse drugs or alcohol, and not commit crimes.
 - Provide funds for mental health services and related medications, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and other non-medical programs necessary to stabilize mentally ill prisoners and parolees, reduce the risk of being homeless, get them off the street and into treatment and recovery, or to provide access to veterans' services that will also provide for treatment and recovery.
- 27) Requires the CDCR, in consultation with the DMH, to establish service standards that ensure prisoners with a serious mental disorder are identified, and services are provided to assist them to be able, upon release, to live independently, work, and reach their potential as productive citizens. Requires the department to provide annual oversight of services for compliance with the following standards: (PC § 2687.4)
- A service planning and delivery process that is target population-based and includes the following:
 - Determination of the number of clients to be served and the services that will be provided to meet their needs.
 - Plans for services, including design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance for parolees, vocational rehabilitation, and veterans' services.
 - Plans shall also contain evaluation strategies that consider cultural, linguistic, gender, age, and special needs of minorities in the target populations.
 - Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services.
 - Services to meet the needs of target population clients who are physically disabled.

- Services to meet the special needs of elder adults.
- Family support and consultation services, parenting support and consultation services, and peer support or self-help group support.
- Services to be client-directed and that employ psychosocial rehabilitation and recovery principles.
- Psychiatric and psychological services integrated with other services and for psychiatric and psychological collaboration in overall service planning.
- Services specifically directed to seriously mentally ill young adults 25 years of age or younger who are at significant risk of becoming homeless.
- Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator, therapeutic treatment, and substance abuse treatment programs that address gender specific trauma and abuse in the lives of persons with serious mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.
- Housing for parolees that is immediate, transitional, or permanent.
- Requires each client to have a mental health personal services coordinator who may be part of a multidisciplinary treatment team responsible for providing or assuring needed services.
 - Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and follow through of services, and necessary advocacy to ensure each client receives those services that are agreed to in the personal services plan.
- Requires each client to participate in the development of his or her personal services plan, and responsible staff shall consult with any designated conservator and, with the consent of the client, consult with the family and other significant persons.
- Requires the individual personal services plan to ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services, to the extent feasible, that are designed to enable recipients upon release to:
 - Live in the most independent, least restrictive housing feasible in the local community, and for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.
 - Engage in the highest level of work or productive activity appropriate to their abilities and experience.
 - Create and maintain a support system consisting of friends, family, and participation in community activities.
 - Access an appropriate level of academic education or vocational training.
 - Obtain an adequate income.
 - Self-manage their serious mental illness and exert as much control as possible over both the day-to-day and long-term decisions that affect their lives.
 - Access necessary physical health care and maintain the best possible physical health.
 - Reduce or eliminate serious antisocial or criminal behavior and thereby reduce or eliminate their contact with the criminal justice system.
 - Reduce or eliminate the distress caused by the symptoms of mental illness.
 - Have freedom from dangerous addictive substances.

28) Requires the DMH to continue to work with the CDCR and other interested parties to refine and establish client and cost outcome and interagency collaboration goals including the expected level of attainment with participating counties. (PC § 2687.5)

- 29) Requires the DMH to provide training, consultation, and technical assistance to the CDCR. This shall include: (PC § 2687.6)
- Efforts to ensure that all of the different programs are operating as well as they can.
 - Information on which programs are having particular success in particular areas so that they can be replicated in other counties.
 - Technical assistance to facilities in their first two years of participation to ensure quality and cost-effective service.
- 30) Requires services to be available to parolees who have a serious mental illness, as defined. (PC § 2687.7)
- 31) Requires funding to be provided at sufficient levels to ensure that each facility and parolee center can provide each parolee served pursuant to this part with the medically necessary mental health services, medications, and supportive services set forth in the applicable treatment plan. (PC § 2687.7(a))
- 32) Requires the funding to only cover the portions of those costs of services that cannot be paid for with other funds including other mental health funds, public and private insurance, and other local, state, and federal funds. (PC § 2687.7(b))
- 33) Requires the CDCR's Division of Adult Parole Operations to provide for services in accordance with the system of care for parolees with a serious mental disorder. (PC § 2687.7(c))
- 34) Requires planning for services to be consistent with the following philosophies, principles, and practices: (PC § 2687.7(d))
- To promote concepts key to the recovery for individuals who have serious mental illness: hope, personal empowerment, respect, social connections, self-responsibility, and self-determination.
 - To promote consumer-operated services as a way to support recovery.
 - To reflect the cultural, ethnic, and racial diversity of mental health consumers.
 - To plan for each consumer's individual needs.
- 35) Requires the CDCR to establish an advisory committee for the purpose of providing advice regarding the development of performance measures for evaluating the effectiveness of programs. (PC § 2687.8(a))
- Requires the committee to review evaluation reports and make findings on evidence-based best practices and recommendations.
 - Requires the advisory committee to provide the department with written comments on program performance.
- 36) Requires the committee to include, but not be limited to: (PC § 2687.8(b))
- Representatives from state, county, and community veterans' services and disabled veterans outreach programs
 - Supportive housing and other housing assistance programs
 - Law enforcement
 - County mental health and private providers of local mental health services and mental health outreach services
 - The Board of Corrections
 - The Department of Alcohol and Drug Programs
 - Local substance abuse services providers

- The Department of Rehabilitation
- Providers of local employment services
- The Department of Social Services
- The Department of Housing and Community Development
- A service provider to transition youth
- The United Advocates for Children of California
- The California Mental Health Advocates for Children and Youth
- The Mental Health Association of California
- The California Alliance for the Mentally Ill
- The California Network of Mental Health Clients
- The Mental Health Planning Council
- Other appropriate entities.

37) Requires the criteria for the funding for each program to include, but not be limited to, all of the following: (PC § 2687.9(a))

- A description of a comprehensive strategic plan for providing prevention, intervention, and evaluation in a cost-appropriate manner.
- A description of the population to be served, ability to administer an effective service program, and the degree to which local agencies and advocates will support and collaborate with program efforts for parolees.
- A description of efforts to maximize the use of other state, federal, and local funds or services that can support and enhance the effectiveness of these programs.

38) Requires parolee outpatient clinics to enter into contracts with sponsors of supportive housing projects to the greatest extent possible in order to reduce the cost of providing supportive housing for clients. Encourages centers to commit a portion of their funds to rental assistance. (PC § 2687.10)

39) Requires the department to report to the Legislature on or before May 1 of each year in which additional funding is provided, and to evaluate, at a minimum, the effectiveness of the strategies for parolees in reducing homelessness, recidivism involvement with local law enforcement, and other measures identified by the department. Requires the evaluation to include for each program funded in the current fiscal year as much of the following as available information permits: (PC § 2687.10(a))

- The number of persons served, and of those, the number who receive extensive community mental health services.
- The number of persons who are able to maintain housing, including the type of housing
- Amount of funding spent on each type of housing.
- Other local, state, or federal funds or programs used to house clients.
- The number of persons with contacts with local law enforcement and the extent to which local and state incarceration has been reduced or avoided.
- The number of persons participating in employment service programs.
- The amount of hospitalization that has been reduced or avoided.
- The extent to which veterans identified through these programs' outreach are receiving federally funded veterans' services.
- The extent to which programs funded for three or more years are making a measurable and significant difference on the street, in hospitals, and in jails, as compared to other programs and in previous years.

40) Subjects each facility to specific terms and conditions of oversight and training that to be developed by the department. (PC § 2687.10(b))

- 41) Defines "receiving extensive mental health services" as having a personal services coordinator and having an individual personal service plan. (PC § 2687.10(c)(1))
- 42) Requires funding to be sufficient to provide the following: (PC § 2687.10(c)(2))
 - Mental health services
 - Medically necessary medications to treat serious mental illnesses
 - Alcohol and drug services
 - Transportation, supportive housing and other housing assistance
 - Vocational rehabilitation and supported employment services
 - Money management assistance for accessing other health care and obtaining federal income and housing support
 - Accessing veterans' services
 - Stipends, and other incentives to attract and retain sufficient numbers of qualified professionals to provide the necessary levels of services.
- 43) Requires the program to pay for only that portion of the costs of services not otherwise provided by federal funds or other state funds. (PC § 2687.10(c)(2))
- 44) Requires methods to contract for services to promote prompt and flexible use of funds, consistent with the scope of services for which the department has contracted with each provider. (PC § 2687.10(c)(3))
- 45) Permits the department to contract with counties or private providers for the provision of services. (PC § 2687.11)
- 46) At least six months before discharge of a prisoner with a serious mental illness, requires the CDCR to apply for social security, Medi-Cal benefits for those considered disabled, and veteran's benefits for those eligible, as well as beginning vocational training, independent living assistance, and development of other skills necessary for success during parole and afterward. (PC § 2982(a))
- 47) In the last 90 days before release of a prisoner with a serious mental illness, requires the department to coordinate with a program that will continue the medications and support services provided to the prisoner by the department during parole, after the period of incarceration. (PC § 2982(b))
- 48) Adds individuals successfully completing parole and MHCs to DMH service standards that ensure that members of the target population are identified, and services are provided to assist them to live independently, work, and reach their potential as productive citizens. (WIC § 5806)
- 49) As part of DMH's service standards, adds police, sheriffs and judges to the recipients of outreach services for those who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. (WIC § 5806(a))
- 50) To the extent that funds are made available, requires the following as a third priority for funding: (WIC § 5814(a)(1))
 - The establishment of capacity for all counties to be able to serve everyone who meets the criteria who are subject to arrest or hospitalization, discharged from a hospital or jail, or successfully completing parole.

Comment:

- 1) **Author's Intent.** According to the author, people with mental illness are overrepresented in prisons and jails. Without appropriate care for their mental health these individuals continue to reenter the criminal justice system. Presently, when an officer encounters someone with severe mental health needs who has committed a minor crime, there is seldom capacity available in mental health programs and the only safe housing option is jail. However once a more serious crime has been committed and a person becomes part of the state corrections system, Prop. 63 explicitly reads, "Funds shall not be used to pay for persons incarcerated in state prison or parolees from state prisons." The author argues, "If the governor can find \$10.9 billion for his prison reform plan, the state should be able to shift funds or find additional revenue to pay for a mental health overhaul that could deliver long-term savings."ⁱ

Now that community mental health needs are beginning to be addressed, it is time to revisit what was left undone. Now that population levels behind bars have become a court-intervention crisis, it is time to address offenders' mental health needs. The opportunity is in routing mentally ill offenders into services as early as possible, thereby treating their needs, stabilizing their illness, increasing their ability to fully incorporate the living situation around them, and reducing the likelihood that they will re-offend. This proposal looks at the continuum of an offender's experience in the criminal justice system by employing proven methods of care.

MENTAL HEALTH COURTS

- 2) **Mental Health Courts.** A mental health court typically has the following characteristics:
- Anyone can request a transfer to the mental health court after arrest, including prosecutors
 - Defendants must plead guilty and pass intensive psychiatric evaluations before being admitted.
 - Findings must show persistent mental illness and that the illness contributed to the crime charged.
 - The judge determines whether the psychiatric evidence is sufficient.
 - Most only treat defendants accused of misdemeanors.
 - At any time before the plea agreement is final, prosecutors can decide to switch the case to a regular criminal court.ⁱⁱ

The following are typically provided by the court for defendants with mental illness:

- Court-supervised treatment and stabilization, including medication monitoring for up to two years
- A court team composed of a judge, court personnel and treatment providers, who define terms of participation
- Continued status assessments with individualized sanctions and incentives
- Resolution of the case upon successful completion of the mandated treatment plan, or dropping the charges to a misdemeanor (may include probation, however).

Mental health courts are emerging around the country. At least 15 currently exist in California, which vary in their source of funding and organization. In 2000, Congress passed America's Law Enforcement and Mental Health Project in order to begin assisting states to enact innovative approaches to diverting offenders into treatment programs and easing the growing burden on criminal justice and corrections systems.

For more information about mental health courts, see the attached article from *The Wall Street Journal* entitled, "In Brooklyn Court, a Route Out of Jail for the Mentally Ill."

PRISONER / PAROLEE MENTAL HEALTH CARE

- 3) Prisoners and Parolees.** This bill proposes to treat California's mentally ill prisoners and parolees using the model set forth by the Mental Health Services Act (MHSA). California's Little Hoover Commission reports.ⁱⁱⁱ

"The influx of persons with a mental illness into the criminal justice systems is the result of a web of interrelated causes:

- downsizing of state psychiatric institutions;
- inadequate community-based mental health services;
- economic pressures imposed upon treatment systems by managed care;
- punitive laws that tend to penalize people with serious mental illness;
- a lack of pre-arrest intervention services; and
- a lack of appropriate services designed to reintegrate a person with serious mental illness into the community following release from jail or prison.

These policy failures result in what some refer to as "the criminalization of mental illness."

Additionally, California's prisons have been described by U.S. District Judge Lawrence Karlton as "...in effect, mental hospitals."^{iv}

According to a recent study by the U.S. Department of Justice, "More than half of the nation's jail and prison inmates suffer from mental health problems." The study shows "a direct relationship between gaps in community mental health care and the large numbers of mentally ill people winding up in the criminal justice system." Additionally, there is a shortage of beds for inmates who are considered "so disturbed" that they must be kept segregated from the general population. Suicide is also a problem. In California, the suicide rate in prison is "nearly double the national average."^v

California's Little Hoover Commissionⁱⁱⁱ reports the following regarding parolees with serious mental illness:

- People with serious mental illness are at greater risk for recidivism.
- Parole officers are burdened with huge caseloads, making it impossible for them to handle mental health needs.
- Upon release, inmates with serious mental illness face a real risk of homelessness.
- Unstable housing increases the likelihood that persons with a mental illness will become involved in the criminal justice system.

- 4) Prisons.** A federal court took over the California prison system's 33-facility mental health program 11 years ago as a result of a class-action lawsuit. The system's chronic overcrowding led another federal judge to take control of the prison system's other medical programs in 2004. The Governor was expected to propose more than \$600 million in new mental health facilities for the state's 31,000 inmates with mental illness after a federal judge approved the administration's plan to add 695 beds for mentally ill inmates.^{vi}

Another federal judge has ordered the state to hire more than 550 new mental health care staff to improve inadequate treatment for inmates. The Governor agreed to hire more than 200 mental health care workers earlier this year and to build new facilities at a cost of more than \$600 million. An additional mandate was handed down to increase the pay of prison mental health care workers.^{vii}

5) Support and Opposition.

Support

California Catholic Conference
California Council of Community Mental Health Agencies (sponsor)
California Medical Association
California Opioid Maintenance Providers
California Psychiatric Association
Mental Health Association in California
Sylmar Health and Rehabilitation Center

Opposition

None received

6) History

2007

May 3 Set for hearing May 14.
May 2 Read second time. Amended. Re-referred to Com. on APPR.
May 1 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 4. Noes 1. Page 718.)
Apr. 18 Read second time. Amended. Re-referred to Com. on PUB. S.
Apr. 17 From committee: Do pass as amended, but first amend, and re-refer to Com. on PUB. S. (Ayes 7. Noes 3. Page 543.)
Apr. 16 Set for hearing April 24 in PUB. S. pending receipt.
Mar. 27 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on HEALTH.
Mar. 26 Set for hearing April 11.
Mar. 20 Set, first hearing. Hearing canceled at the request of author.
Mar. 13 Set for hearing March 28.
Mar. 8 To Coms. on HEALTH and PUB. S.
Feb. 26 Read first time.
Feb. 24 From print. May be acted upon on or after March 26.
Feb. 23 Introduced. To Com. on RLS. for assignment. To print.

ATTACHMENT: "In Brooklyn Court, a Route Out of Jail for the Mentally Ill," *The Wall Street Journal*.

ⁱ "An Rx to Thin California Prison Population," *Los Angeles Times*, Steve Lopez, February 22, 2007.

ⁱⁱ "In Brooklyn Court, a Route Out of Jail for the Mentally Ill," *The Wall Street Journal*, Gary Fields, August 21, 2006

ⁱⁱⁱ "Criminal Justice Primer for State Mental Health Agencies," Little Hoover Commission, September 2002.

^{iv} "Mental Ills Common in Prison, Jail," *Los Angeles Times*, Jennifer Warren, September 7, 2006.

^v "Trapped by Rules, the Mentally Ill Languish in Prison," *The Wall Street Journal*, Gary Fields, May 3, 2006.

^{vi} "Calif. Ordered to Upgrade, Expand Prison Mental Health Services," *Psychiatric News*, Volume 41, Number 11, page 2, American Psychiatric Association, Rich Daly, June 2, 2006.

^{vii} "U.S. Judge Tells State to Hire Prison Mental Health Staff," *San Francisco Chronicle*, James Sterngold, August 1, 2006.

Blank Page

AMENDED IN SENATE MAY 2, 2007
AMENDED IN SENATE APRIL 18, 2007
AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 851

**Introduced by Senators Steinberg and Romero
(Coauthors: Senators Alquist and Kuehl)**

February 23, 2007

An act to add Sections ~~851.95, 2686, 2686~~ and 2982 to, to add Article 3.5 (commencing with Section 2687) to Chapter 4 of Title 1 of Part 3 of, and to add Chapter 2.73 (commencing with Section 1001.130) to Title 6 of Part 2 of, the Penal Code, and to amend Sections 5806 and 5814 of the Welfare and Institutions Code, relating to mentally ill offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 851, as amended, Steinberg. Mentally ill offenders.

Existing law provides for the diversion of specified criminal offenders in alternate sentencing and treatment programs.

~~This bill would provide that if, based upon Police Officer Standards and Training protocols, a peace officer suspects that a crime has been committed by an individual with serious mental illness, which may include a substance abuse condition, he or she shall contact the county mental health director to ascertain if there is available treatment capacity to provide that person with services, as specified. This bill would provide that if the individual fails to remain in treatment, any pending criminal charges and arrest that had been deferred pending treatment can proceed at that time.~~

This bill would authorize superior courts to develop and implement mental health courts, as specified, for offenders suffering from serious mental illness against whom a complaint or citation for a misdemeanor or felony offense is pending. This bill would require each court, with the input of local stakeholders, to establish a method for assessing every defendant for serious mental illness and cooccurring disorders at the time a complaint or citation is filed for a misdemeanor or felony offense and establish case eligibility criteria specifying what factors relating to the amenability of the defendant to treatment and to the facts of the case will make the defendant eligible to participate in a mental health court. ~~This bill would provide that if a defendant is determined to be eligible to participate in a mental health court and consents to participate, the defendant will be placed on probation and will be required to participate in the program for a minimum of one year.~~ This bill would also allow parolees to participate in mental health courts, as specified.

This bill would also require each mental health court to report to the Department of Corrections and Rehabilitation. Because this bill would change the punishment for commission of various crimes and would require local officials to provide a higher level of service, this bill would impose a state-mandated local program.

Existing law provides for the allocation of state funds to counties for mental health programs.

This bill would make various statements of legislative findings and intent regarding the need to provide mental health and related services to parolees. This bill would require all parolees with serious mental illness to receive comprehensive mental health and supportive services, as specified. This bill would provide that the department may contract with counties or private providers for these services.

This bill would state the intent of the Legislature to encourage each correctional facility to implement a system of care, as described, for the delivery of mental health services to parolees who have serious mental illness.

This bill would require the Department of Corrections and Rehabilitation in consultation with the State Department of Mental Health to establish service standards that ensure that parolees who have serious mental illness are identified, and services provided to assist them to be able, upon release, to live independently, work, and reach their potential as productive citizens, as specified. This bill would require the State Department of Mental Health to provide training, consultation, and technical assistance for facilities and programs, as specified.

This bill would provide that funding, based on specified criteria, at sufficient levels to ensure that each facility and parolee center can provide each parolee served pursuant to these provisions with the medically necessary mental health services shall be provided, but that the portion of those costs of services that can be paid for with other funds, including other mental health funds, public and private insurance, and other local, state, and federal funds shall not be covered.

This bill would require the Department of Corrections and Rehabilitation to establish an advisory committee for the purpose of providing advice regarding the development of the identification of specific performance measures for evaluating the effectiveness of programs. This bill would require the department, in consultation with the advisory committee, to provide in a report to the Legislature, submitted on or before May 1 of each year in which additional funding is provided, an evaluation of the effectiveness of the strategies for parolees in reducing homelessness, recidivism, involvement with local law enforcement, and other measures identified by the department.

This bill would provide that in order to reduce the cost of providing supportive housing for clients, parolee outpatient clinics shall enter into contracts with sponsors of supportive housing projects to the greatest extent possible.

Existing law provides that there is within the Department of Corrections and Rehabilitation the Council on Mentally Ill Offenders, the goal of which is to investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who are likely to become offenders, or who have a history of offending, by considering strategies that improve service coordination among state and local mental health, criminal justice, and juvenile justice programs, as specified. Existing law also provides a procedure whereby, if, in the opinion of the Secretary of the Department of Corrections and Rehabilitation, the rehabilitation of any mentally ill, mentally deficient, or insane person confined in a state prison may be expedited by treatment at any one of the state hospitals, he or she may have that person evaluated to determine if he or she would benefit from care and treatment in a state hospital.

This bill would require the department to provide training for all persons who will be responsible for the management and care of persons with serious mental illness in its custody to ensure that they are trained in recovery oriented rehabilitative services and that those services are provided in prison. This bill would also require the department to ensure

that all its correctional officers are trained in dealing with inmates with serious mental illness.

Existing law requires, as a condition of parole, that a prisoner who has a treatable, severe mental disorder that was one of the causes of, or was an aggravating factor in, the commission of the crime for which he or she was incarcerated, be treated by the State Department of Mental Health, as specified.

This bill would require the Department of Corrections and Rehabilitation to apply for social security and Medi-Cal benefits for a prisoner with a severe mental illness who is considered disabled, and to begin vocational training, independent living assistance, and development of other skills necessary for success at least 6 months before his or her discharge. This bill would also require the department to coordinate with a program that will continue the medications and support services provided to the prisoner by the department after the period of incarceration, in the last 90 days before release of a prisoner with serious mental illness.

This bill would make other conforming changes.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Corrections Mental Health Act of 2007.
- 3 SEC. 2. ~~Section 851.95 is added to the Penal Code, to read:~~
- 4 ~~851.95. (a) Based on Peace Officer Standards and Training~~
- 5 ~~protocols, if a peace officer suspects that a crime has been~~
- 6 ~~committed by an individual with a serious mental illness, which~~
- 7 ~~may include a substance abuse condition, and the person is willing~~
- 8 ~~to participate in a treatment program, the peace officer shall contact~~

1 the county mental health director to ascertain if there is available
2 treatment capacity.

3 ~~(b) If there is treatment capacity available, the individual shall~~
4 ~~receive services in accordance with the Mental Health Adult~~
5 ~~System of Care set forth in Section 5806 of the Welfare and~~
6 ~~Institutions Code. If the individual fails to remain in treatment,~~
7 ~~any pending criminal charges and arrest that had been deferred~~
8 ~~pending treatment can proceed at that time.~~

9 ~~SEC. 3.~~

10 *SEC. 2.* Chapter 2.73 (commencing with Section 1001.130) is
11 added to Title 6 of Part 2 of the Penal Code, to read:

12

13 CHAPTER 2.73. DIVERSION OF MENTALLY ILL OFFENDERS

14

15 1001.130. (a) Superior courts are hereby authorized to develop
16 and implement mental health courts consistent with this section.

17 (b) For purposes of this section, a mental health court shall have
18 the following objectives:

19 (1) Increase cooperation between the courts, criminal justice,
20 mental health, and substance abuse systems.

21 (2) Creation of a dedicated calendar that will lead to placement
22 of as many mentally ill offenders, including those with cooccurring
23 disorders, in community treatment, consistent with public safety.

24 (3) Improve access to necessary services and support.

25 (4) Reduce recidivism.

26 (c) A mental health court shall provide a single point of contact
27 where a defendant with a serious mental illness or cooccurring
28 disorder may receive court-ordered treatment and support services
29 in connection with a diversion from prosecution, a sentencing
30 alternative, or a term of probation.

31 (d) A mental health court shall meet the following criteria:

32 (1) Defendants shall be referred to the mental health court by
33 judges within the superior court, and any other sources approved
34 by the court.

35 (2) The court shall develop standards for continuing participation
36 in, and successful completion of, the mental health court program
37 through a collaborative process with stakeholders.

38 (3) In utilizing a dedicated calendar, each mental health court
39 shall have designated staff that includes, but is not limited to, a
40 designated judge to preside over the court, prosecutor, public

1 defender, county mental health liaison, substance abuse liaison,
2 and probation officer.

3 (4) The county mental health department and drug and alcohol
4 department shall provide initial and ongoing training for designated
5 staff, as needed, on the nature of serious mental illness and on the
6 treatment and supportive services available in the community.

7 (5) The mental health court shall use community mental health
8 providers and other agencies to offer defendants access to
9 appropriate treatment services.

10 (6) The mental health court shall establish a treatment plan for
11 each defendant, based on a formal assessment of the defendant's
12 mental health and substance abuse treatment needs, require the
13 defendant to complete the recommended treatment plan, and any
14 other terms and conditions that will optimize the likelihood that
15 the defendant will complete the program.

16 (7) The mental health court shall hold frequent reviews of the
17 offender's progress in community treatment and hold the offender
18 accountable to adhere to the treatment plan, remain in treatment,
19 and complete treatment.

20 (e) A mental health court shall contact the county mental health
21 department to ensure that there is coordination and availability of
22 the necessary mental health services, including management and
23 evaluation of the success of those services.

24 1001.131. Defendants suffering from serious mental illness
25 shall be eligible to participate in a mental health court pursuant to
26 this chapter if a complaint or citation for an offense is pending in
27 superior court.

28 1001.132. (a) Each court, with the input of local stakeholders,
29 shall establish a method for assessing every defendant for serious
30 mental illness and cooccurring disorders, at the time a complaint
31 or citation is filed for a misdemeanor or felony offense, or at
32 another specified time determined most appropriate by local
33 stakeholders to consider transferring the defendant to a mental
34 health court.

35 (b) Each court shall, with the input of stakeholders, establish
36 case eligibility criteria specifying what factors relating to the
37 amenability of the defendant to treatment and to the facts of the
38 case as well as prior criminal history and mental health and
39 substance abuse treatment history will make the defendant eligible
40 to participate in a mental health court.

1 (c) If the defendant is found to be suffering from serious mental
2 illness, subsequent evaluation by the local mental health director
3 or his or her designee shall determine whether the defendant is an
4 appropriate candidate for treatment under the county eligibility
5 criteria established pursuant to subdivision (b).

6 (d) If the defendant is found to be suffering from serious mental
7 illness, the district attorney or other designee shall assess his or
8 her case to determine whether it meets the county eligibility criteria
9 established pursuant to subdivision (b).

10 (e) If a defendant is determined to be suffering from serious
11 mental illness, designated as treatment appropriate, and his or her
12 case meets the county eligibility criteria, he or she may participate
13 in a mental health court.

14 ~~1001.133. (a) If a defendant is determined to be eligible to~~
15 ~~participate in a mental health court and consents to participate, the~~
16 ~~defendant will be placed on probation and will be required to~~
17 ~~participate in the program for a minimum of one year.~~

18 ~~(b) The terms and conditions of probation shall include~~
19 ~~participation in a Mental Health Treatment Program and, if he or~~
20 ~~she is on parole, the terms and conditions of his or her parole.~~

21 ~~(c) If the defendant fails to successfully complete the Mental~~
22 ~~Health Treatment Program, the court shall sentence the defendant~~
23 ~~for the current misdemeanor or felony offense.~~

24 ~~1001.134.~~

25 *1001.133.* (a) The Department of Corrections and
26 Rehabilitation shall identify parolees suffering from a serious
27 mental illness, meaning a type of disorder as defined in paragraphs
28 (2) and (3) of subdivision (b) of Section 5600.3 of the Welfare and
29 Institutions Code, including parolees who have a pending case
30 before a superior court, as well as prisoners within 90 days of their
31 parole date.

32 (b) The Department of Corrections and Rehabilitation may
33 contract with a superior court and county to utilize mental health
34 courts as a referral court for parolees with serious mental illness
35 who either violate the terms of parole or receive new terms, as an
36 alternative to custody.

37 (c) If the parolee successfully completes the mental health court
38 program, parole or probation will end.

39 (d) If the parolee fails to successfully complete the mental health
40 court program, he or she will be sentenced by the judge according

1 to existing law as to any case pending in the superior court and
2 the Department of Corrections and Rehabilitation will take any
3 action provided by law.

4 (e) The highest priority for referrals of offenders shall be given
5 to those offenders who are on active parole and have a pending
6 case in superior court.

7 ~~1001.135.~~

8 *1001.134.* Each mental health court shall report to the
9 Department of Corrections and Rehabilitation, at a minimum, the
10 savings in prison days, reduced homelessness, involvement with
11 local law enforcement, costs of dual supervision by parole and
12 probation, and other measures identified by the department
13 resulting from implementation of the mental health court in a
14 manner consistent with the present reporting system for the
15 Comprehensive Drug Court Implementation Act of 1999 as
16 codified by Article 2 (commencing with Section 11970.1) of
17 Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code.

18 ~~SEC. 4.~~

19 *SEC. 3.* Section 2686 is added to the Penal Code, to read:

20 2686. (a) The Department of Corrections and Rehabilitation
21 shall provide training for all persons who will be responsible for
22 the management and care of persons with serious mental illness
23 in the custody of the department to ensure that they are trained in
24 recovery oriented rehabilitative services and that those services
25 are provided in prison.

26 (b) The department shall ensure that all its correctional officers
27 are trained in dealing with inmates with serious mental illness.

28 ~~SEC. 5.~~

29 *SEC. 4.* Article 3.5 (commencing with Section 2687) is added
30 to Chapter 4 of Title 1 of Part 3 of the Penal Code, to read:

31

32 Article 3.5. Parolee Mental Health

33

34 2687. (a) A system of care for parolees with serious mental
35 illness results in the highest benefit to the client, family, and society
36 while ensuring that the public sector meets its legal responsibility
37 and fiscal liability at the lowest possible cost.

38 (b) The underlying philosophy for these systems of care includes
39 the following:

40 (1) Mental health care is a basic human service.

1 (2) Seriously mentally ill parolees usually have multiple
2 disorders and disabling conditions.

3 (3) Seriously mentally ill parolees should be assigned a single
4 person or team to be responsible for all treatment, case
5 management, and support services.

6 (4) The client should be fully informed and volunteer for all
7 treatment provided, unless danger to self or others or grave
8 disability requires temporary involuntary treatment.

9 (5) Clients and families should directly participate in making
10 decisions about services and resource allocations that affect their
11 lives.

12 (6) Mental health services should be responsive to the unique
13 characteristics of people with serious mental illness including age,
14 gender, minority, and ethnic background, and the effect of multiple
15 disorders.

16 (7) Treatment, case management, and support services should
17 be designed to prevent inappropriate removal to more restrictive
18 and costly placements.

19 (8) Mental health systems of care shall have measurable goals
20 and be fully accountable by providing measures of client outcomes
21 and cost of services.

22 (9) State and county government agencies each have
23 responsibilities and fiscal liabilities for seriously mentally ill
24 parolees.

25 2687.1. All parolees with a serious mental illness shall receive
26 comprehensive mental health and supportive services comparable
27 to the case management and services available under Section 5806
28 of the Welfare and Institutions Code as set forth in this article.

29 2687.2. The Department of Corrections and Rehabilitation
30 shall ensure the mental health needs of all parolees are met in
31 accordance with community standards of mental health care. For
32 those with serious mental illness, meaning a type of disorder, as
33 defined in paragraphs (2) and (3) of subdivision (b) of Section
34 5600.3 of the Welfare and Institutions Code, all services shall be
35 in accordance with this article.

36 2687.3. (a) The Legislature finds that a mental health system
37 of care for parolees with serious mental illness is vital for
38 successful management of mental health care in California and
39 should encompass all of the following:

1 (1) A comprehensive and coordinated system of care including
2 treatment, early intervention strategies, case management, and
3 system components required by parolees with serious mental
4 illness.

5 (2) The recovery of persons with severe mental illness and their
6 financial means are important for all levels of government,
7 business, and the community.

8 (3) System of care services that ensure culturally competent
9 care for persons with serious mental illness in the most appropriate,
10 least restrictive level of care are necessary to achieve the desired
11 performance outcomes.

12 (4) Mental health service providers need to increase
13 accountability and further develop methods to measure progress
14 toward client outcome goals and cost effectiveness as required by
15 a system of care.

16 (b) The Legislature further finds that the adult system of care
17 model, begun in the 1989–90 fiscal year through the
18 implementation of Chapter 982 of the Statutes of 1988, provides
19 models for parolees with serious mental illness that can meet the
20 performance outcomes required by the Legislature.

21 (c) The Legislature also finds that the system components
22 established in adult systems of care are of value in providing
23 greater benefit to parolees with serious mental illness at a lower
24 cost in California.

25 (d) Therefore, using the guidelines and principles developed
26 under the demonstration projects implemented under the elder
27 system of care legislation in 1989, it is the intent of the Legislature
28 to accomplish the following:

29 (1) Encourage the Department of Corrections and Rehabilitation
30 Division of Adult Parole Operations to implement a system of care
31 as described in this legislation for the delivery of mental health
32 services to seriously mentally ill parolees.

33 (2) To promote system of care accountability for performance
34 outcomes that enable parolees with serious mental illness to reduce
35 symptoms that impair their ability to live independently, work,
36 maintain community supports, care for their children, stay in good
37 health, not abuse drugs or alcohol, and not commit crimes.

38 (3) Provide funds for mental health services and related
39 medications, substance abuse services, supportive housing or other
40 housing assistance, vocational rehabilitation, and other nonmedical

1 programs necessary to stabilize mentally ill prisoners and parolees,
2 reduce the risk of being homeless, get them off the street and into
3 treatment and recovery, or to provide access to veterans' services
4 that will also provide for treatment and recovery.

5 2687.4. The Department of Corrections and Rehabilitation in
6 consultation with the State Department of Mental Health shall
7 establish service standards that ensure that prisoners with a serious
8 mental disorder, as defined in paragraph (2) of subdivision (b) of
9 Section 5600.3 of the Welfare and Institutions Code, are identified,
10 and services are provided to assist them to be able, upon release,
11 to live independently, work, and reach their potential as productive
12 citizens. The department shall provide annual oversight of services
13 pursuant to this part for compliance with these standards.

14 These standards shall include, but are not limited to, all of the
15 following:

16 (a) A service planning and delivery process that is target
17 population based and includes the following:

18 (1) Determination of the number of clients to be served and the
19 programs and services that will be provided to meet their needs.

20 (2) Plans for services, including design of mental health services,
21 coordination and access to medications, psychiatric and
22 psychological services, substance abuse services, supportive
23 housing or other housing assistance for parolees, vocational
24 rehabilitation, and veterans' services. Plans shall also contain
25 evaluation strategies that shall consider cultural, linguistic, gender,
26 age, and special needs of minorities in the target populations.
27 Provision shall be made for staff with the cultural background and
28 linguistic skills necessary to remove barriers to mental health
29 services due to limited-English-speaking ability and cultural
30 differences.

31 (3) Provisions for services to meet the needs of target population
32 clients who are physically disabled.

33 (4) Provision for services to meet the special needs of elder
34 adults.

35 (5) Provision for family support and consultation services,
36 parenting support and consultation services, and peer support or
37 self-help group support, if appropriate for the individual.

38 (6) Provision for services to be client-directed and that employ
39 psychosocial rehabilitation and recovery principles.

1 (7) Provision for psychiatric and psychological services that are
2 integrated with other services and for psychiatric and psychological
3 collaboration in overall service planning.

4 (8) Provision for services specifically directed to seriously
5 mentally ill young adults 25 years of age or younger who are at
6 significant risk of becoming homeless.

7 (9) Services reflecting special needs of women from diverse
8 cultural backgrounds, including supportive housing that accepts
9 children, personal services coordinator, therapeutic treatment, and
10 substance abuse treatment programs that address gender specific
11 trauma and abuse in the lives of persons with serious mental illness,
12 and vocational rehabilitation programs that offer job training
13 programs free of gender bias and sensitive to the needs of women.

14 (10) Provision for housing for parolees that is immediate,
15 transitional, or permanent.

16 (b) Each client shall have a clearly designated mental health
17 personal services coordinator who may be part of a
18 multidisciplinary treatment team who is responsible for providing
19 or assuring needed services. Responsibilities include complete
20 assessment of the client's needs, development of the client's
21 personal services plan, linkage with all appropriate community
22 services, monitoring of the quality and followthrough of services,
23 and necessary advocacy to ensure each client receives those
24 services that are agreed to in the personal services plan. Each client
25 shall participate in the development of his or her personal services
26 plan, and responsible staff shall consult with the designated
27 conservator, if one has been appointed, and, with the consent of
28 the client, consult with the family and other significant persons as
29 appropriate.

30 (c) The individual personal services plan shall ensure that
31 members of the target population involved in the system of care
32 receive age, gender, and culturally appropriate services, to the
33 extent feasible, that are designed to enable recipients upon release
34 to:

35 (1) Live in the most independent, least restrictive housing
36 feasible in the local community, and, for clients with children, to
37 live in a supportive housing environment that strives for
38 reunification with their children or assists clients in maintaining
39 custody of their children as is appropriate.

1 (2) Engage in the highest level of work or productive activity
2 appropriate to their abilities and experience.

3 (3) Create and maintain a support system consisting of friends,
4 family, and participation in community activities.

5 (4) Access an appropriate level of academic education or
6 vocational training.

7 (5) Obtain an adequate income.

8 (6) Self-manage their serious mental illness and exert as much
9 control as possible over both the day-to-day and long-term
10 decisions that affect their lives.

11 (7) Access necessary physical health care and maintain the best
12 possible physical health.

13 (8) Reduce or eliminate serious antisocial or criminal behavior
14 and thereby reduce or eliminate their contact with the criminal
15 justice system.

16 (9) Reduce or eliminate the distress caused by the symptoms of
17 mental illness.

18 (10) Have freedom from dangerous addictive substances.

19 (d) The individual personal services plan shall describe the
20 service array that meets the requirements of subdivision (c), and
21 to the extent applicable to the individual, the requirements of
22 subdivision (a).

23 2687.5. The State Department of Mental Health shall continue
24 to work with the Department of Corrections and Rehabilitation
25 and other interested parties to refine and establish client and cost
26 outcome and interagency collaboration goals including the expected
27 level of attainment with participating counties. These outcome
28 measures should include specific objectives addressing the
29 following goals:

30 (a) Client benefit outcomes.

31 (b) Client and family member satisfaction.

32 (c) System of care access.

33 (d) Cost savings, cost avoidance, and cost-effectiveness
34 outcomes that measure short-term or long-term cost savings and
35 cost avoidance achieved in public sector expenditures to the target
36 population.

37 2687.6. The State Department of Mental Health shall provide
38 training consultation, and technical assistance to the Department
39 of Corrections and Rehabilitation. This training, consultation, and
40 technical assistance shall include:

1 (a) Efforts to ensure that all of the different programs are
2 operating as well as they can.

3 (b) Information on which programs are having particular success
4 in particular areas so that they can be replicated in other counties.

5 (c) Technical assistance to facilities in their first two years of
6 participation to ensure quality and cost-effective service.

7 2687.7. Services shall be available to parolees who have serious
8 mental illness who meet the eligibility criteria in subdivisions (b)
9 and (c) of Section 5600.3 of the Welfare and Institutions Code.

10 (a) Funding shall be provided at sufficient levels to ensure that
11 each facility and parolee center can provide each parolee served
12 pursuant to this part with the medically necessary mental health
13 services, medications, and supportive services set forth in the
14 applicable treatment plan.

15 (b) The funding shall only cover the portions of those costs of
16 services that cannot be paid for with other funds including other
17 mental health funds, public and private insurance, and other local,
18 state, and federal funds.

19 (c) The Department of Corrections and Rehabilitation Division
20 of Adult Parole Operations shall provide for services in accordance
21 with the system of care for parolees who meet the eligibility criteria
22 in subdivisions (b) and (c) of Section 5600.3 of the Welfare and
23 Institutions Code.

24 (d) Planning for services shall be consistent with the following
25 philosophies, principles, and practices:

26 (1) To promote concepts key to the recovery for individuals
27 who have serious mental illness: hope, personal empowerment,
28 respect, social connections, self-responsibility, and
29 self-determination.

30 (2) To promote consumer operated services as a way to support
31 recovery.

32 (3) To reflect the cultural, ethnic, and racial diversity of mental
33 health consumers.

34 (4) To plan for each consumer's individual needs.

35 2687.8. (a) The Department of Corrections and Rehabilitation
36 shall establish an advisory committee for the purpose of providing
37 advice regarding the development of the identification of specific
38 performance measures for evaluating the effectiveness of programs.
39 The committee shall review evaluation reports and make findings
40 on evidence-based best practices and recommendations. At not

1 less than one meeting annually, the advisory committee shall
2 provide to the department written comments on the performance
3 of each of the programs.

4 (b) The committee shall include, but not be limited to,
5 representatives from state, county, and community veterans'
6 services and disabled veterans outreach programs, supportive
7 housing and other housing assistance programs, law enforcement,
8 county mental health and private providers of local mental health
9 services and mental health outreach services, the Board of
10 Corrections, the State Department of Alcohol and Drug Programs,
11 local substance abuse services providers, the Department of
12 Rehabilitation, providers of local employment services, the State
13 Department of Social Services, the Department of Housing and
14 Community Development, a service provider to transition youth,
15 the United Advocates for Children of California, the California
16 Mental Health Advocates for Children and Youth, the Mental
17 Health Association of California, the California Alliance for the
18 Mentally Ill, the California Network of Mental Health Clients, the
19 Mental Health Planning Council, and other appropriate entities.

20 2687.9. The criteria for the funding for each program shall
21 include, but not be limited to, all of the following:

22 (a) A description of a comprehensive strategic plan for providing
23 prevention, intervention, and evaluation in a cost appropriate
24 manner.

25 (b) A description of the population to be served, ability to
26 administer an effective service program, and the degree to which
27 local agencies and advocates will support and collaborate with
28 program efforts for parolees.

29 (c) A description of efforts to maximize the use of other state,
30 federal, and local funds or services that can support and enhance
31 the effectiveness of these programs.

32 2687.10. In order to reduce the cost of providing supportive
33 housing for clients, parolee outpatient clinics shall enter into
34 contracts with sponsors of supportive housing projects to the
35 greatest extent possible. Centers are encouraged to commit a
36 portion of their funds to rental assistance.

37 (a) In consultation with the advisory committee established
38 pursuant to subdivision (a) of Section 2687.8, the department shall
39 report to the Legislature on or before May 1 of each year in which
40 additional funding is provided, and shall evaluate, at a minimum,

1 the effectiveness of the strategies for parolees in reducing
2 homelessness, recidivism, involvement with local law enforcement,
3 and other measures identified by the department. The evaluation
4 shall include for each program funded in the current fiscal year as
5 much of the following as available information permits:

6 (1) The number of persons served, and of those, the number
7 who receive extensive community mental health services.

8 (2) The number of persons who are able to maintain housing,
9 including the type of housing and whether it is emergency,
10 transitional, or permanent housing, as defined by the department.

11 (3) (A) The amount of funding spent on each type of housing.

12 (B) Other local, state, or federal funds or programs used to house
13 clients.

14 (4) The number of persons with contacts with local law
15 enforcement and the extent to which local and state incarceration
16 has been reduced or avoided.

17 (5) The number of persons participating in employment service
18 programs including competitive employment.

19 (6) The amount of hospitalization that has been reduced or
20 avoided.

21 (7) The extent to which veterans identified through these
22 programs' outreach are receiving federally funded veterans'
23 services for which they are eligible.

24 (8) The extent to which programs funded for three or more years
25 are making a measurable and significant difference on the street,
26 in hospitals, and in jails, as compared to other programs and in
27 previous years.

28 (b) Each facility shall be subject to specific terms and conditions
29 of oversight and training that shall be developed by the department,
30 in consultation with the advisory committee.

31 (c) (1) As used in this part, "receiving extensive mental health
32 services" means having a personal services coordinator, as
33 described in subdivision (b) of Section 5806, and having an
34 individual personal service plan, as described in subdivision (c)
35 of Section 5806.

36 (2) The funding provided pursuant to this article shall be
37 sufficient to provide mental health services, medically necessary
38 medications to treat serious mental illnesses, alcohol and drug
39 services, transportation, supportive housing and other housing
40 assistance, vocational rehabilitation and supported employment

1 services, money management assistance for accessing other health
2 care and obtaining federal income and housing support, accessing
3 veterans' services, stipends, and other incentives to attract and
4 retain sufficient numbers of qualified professionals as necessary
5 to provide the necessary levels of these services. This program
6 shall, however, pay for only that portion of the costs of those
7 services not otherwise provided by federal funds or other state
8 funds.

9 (3) Methods to contract for services pursuant to paragraph (2)
10 shall promote prompt and flexible use of funds, consistent with
11 the scope of services for which the department has contracted with
12 each provider.

13 2687.11. The department may contract with counties or private
14 providers for the provision of any of the services described in this
15 article.

16 ~~SEC. 6.~~

17 *SEC. 5.* Section 2982 is added to the Penal Code, to read:

18 2982. (a) At least six months before discharge of a prisoner
19 with a serious mental illness, the Department of Corrections and
20 Rehabilitation shall apply for social security, Medi-Cal benefits
21 for those considered disabled, and veteran's benefits for those
22 eligible, as well as beginning vocational training, independent
23 living assistance, and development of other skills necessary for
24 success during parole and afterward.

25 (b) In the last 90 days before release of a prisoner with a serious
26 mental illness, the department shall coordinate with a program that
27 will continue the medications and support services provided to the
28 prisoner by the department during parole, after the period of
29 incarceration.

30 (c) This section shall also apply to a prisoner under the
31 jurisdiction of a State Department of Mental Health facility
32 pursuant to Section 2684.

33 ~~SEC. 7.~~

34 *SEC. 6.* Section 5806 of the Welfare and Institutions Code is
35 amended to read:

36 5806. The State Department of Mental Health shall establish
37 service standards that ensure that members of the target population
38 are identified, and services provided to assist them to live
39 independently, work, and reach their potential as productive
40 citizens. The department shall provide annual oversight of grants

1 issued pursuant to this part for compliance with these standards.
2 These standards shall include, but are not limited to, all of the
3 following:

4 (a) A service planning and delivery process that is target
5 population based and includes the following:

6 (1) Determination of the numbers of clients to be served and
7 the programs and services that will be provided to meet their needs.
8 The local director of mental health shall consult with the sheriff,
9 the police chief, the probation officer, the mental health board,
10 contract agencies, and family, client, ethnic and citizen
11 constituency groups as determined by the director.

12 (2) Plans for services, including outreach to individuals
13 successfully completing parole, mental health courts, and families
14 whose severely mentally ill adult is living with them, design of
15 mental health services, coordination and access to medications,
16 psychiatric and psychological services, substance abuse services,
17 supportive housing or other housing assistance, vocational
18 rehabilitation, and veterans' services. Plans shall also contain
19 evaluation strategies, that shall consider cultural, linguistic, gender,
20 age, and special needs of minorities in the target populations.
21 Provision shall be made for staff with the cultural background and
22 linguistic skills necessary to remove barriers to mental health
23 services due to limited-English-speaking ability and cultural
24 differences. Recipients of outreach services may include families,
25 the public, primary care physicians, police, sheriffs, judges, and
26 others who are likely to come into contact with individuals who
27 may be suffering from an untreated severe mental illness who
28 would be likely to become homeless if the illness continued to be
29 untreated for a substantial period of time. Outreach to adults may
30 include adults voluntarily or involuntarily hospitalized as a result
31 of a severe mental illness.

32 (3) Provisions for services to meet the needs of target population
33 clients who are physically disabled.

34 (4) Provision for services to meet the special needs of older
35 adults.

36 (5) Provision for family support and consultation services,
37 parenting support and consultation services, and peer support or
38 self-help group support, where appropriate for the individual.

39 (6) Provision for services to be client-directed and that employ
40 psychosocial rehabilitation and recovery principles.

1 (7) Provision for psychiatric and psychological services that are
2 integrated with other services and for psychiatric and psychological
3 collaboration in overall service planning.

4 (8) Provision for services specifically directed to seriously
5 mentally ill young adults 25 years of age or younger who are
6 homeless or at significant risk of becoming homeless. These
7 provisions may include continuation of services that would still
8 be received through other funds had eligibility not been terminated
9 due to age.

10 (9) Services reflecting special needs of women from diverse
11 cultural backgrounds, including supportive housing that accepts
12 children, personal services coordinator therapeutic treatment, and
13 substance treatment programs that address gender specific trauma
14 and abuse in the lives of persons with mental illness, and vocational
15 rehabilitation programs that offer job training programs free of
16 gender bias and sensitive to the needs of women.

17 (10) Provision for housing for clients that is immediate,
18 transitional, permanent, or all of these.

19 (11) Provision for clients who have been suffering from an
20 untreated severe mental illness for less than one year, and who do
21 not require the full range of services but are at risk of becoming
22 homeless unless a comprehensive individual and family support
23 services plan is implemented. These clients shall be served in a
24 manner that is designed to meet their needs.

25 (b) Each client shall have a clearly designated mental health
26 personal services coordinator who may be part of a
27 multidisciplinary treatment team who is responsible for providing
28 or assuring needed services. Responsibilities include complete
29 assessment of the client's needs, development of the client's
30 personal services plan, linkage with all appropriate community
31 services, monitoring of the quality and followthrough of services,
32 and necessary advocacy to ensure each client receives those
33 services which are agreed to in the personal services plan. Each
34 client shall participate in the development of his or her personal
35 services plan, and responsible staff shall consult with the designated
36 conservator, if one has been appointed, and, with the consent of
37 the client, consult with the family and other significant persons as
38 appropriate.

39 (c) The individual personal services plan shall ensure that
40 members of the target population involved in the system of care

1 receive age, gender, and culturally appropriate services, to the
2 extent feasible, that are designed to enable recipients to:

3 (1) Live in the most independent, least restrictive housing
4 feasible in the local community, and, for clients with children, to
5 live in a supportive housing environment that strives for
6 reunification with their children or assists clients in maintaining
7 custody of their children as is appropriate.

8 (2) Engage in the highest level of work or productive activity
9 appropriate to their abilities and experience.

10 (3) Create and maintain a support system consisting of friends,
11 family, and participation in community activities.

12 (4) Access an appropriate level of academic education or
13 vocational training.

14 (5) Obtain an adequate income.

15 (6) Self-manage their illness and exert as much control as
16 possible over both the day-to-day and long-term decisions which
17 affect their lives.

18 (7) Access necessary physical health care and maintain the best
19 possible physical health.

20 (8) Reduce or eliminate serious antisocial or criminal behavior
21 and thereby reduce or eliminate their contact with the criminal
22 justice system.

23 (9) Reduce or eliminate the distress caused by the symptoms of
24 mental illness.

25 (10) Have freedom from dangerous addictive substances.

26 (d) The individual personal services plan shall describe the
27 service array that meets the requirements of subdivision (c), and
28 to the extent applicable to the individual, the requirements of
29 subdivision (a).

30 ~~SEC. 8.~~

31 *SEC. 7.* Section 5814 of the Welfare and Institutions Code is
32 amended to read:

33 5814. (a) (1) This part shall be implemented only to the extent
34 that funds are appropriated for purposes of this part. To the extent
35 that funds are made available, the first priority shall go to maintain
36 funding for the existing programs that meet adult system of care
37 contract goals. The next priority for funding shall be given to
38 counties with a high incidence of persons who are severely
39 mentally ill and homeless or at risk of homelessness, and meet the
40 criteria developed pursuant to paragraphs (3) and (4). The next

1 priority for funding, including the funding pursuant to Section
2 5892, shall be for the establishment of capacity for all counties to
3 be able to serve everyone who meets the criteria for this part who
4 are subject to arrest or hospitalization, discharged from a hospital
5 or jail, or successfully completing parole.

6 (2) The director shall establish a methodology for awarding
7 grants under this part consistent with the legislative intent
8 expressed in Section 5802, and in consultation with the advisory
9 committee established in this subdivision.

10 (3) (A) The director shall establish an advisory committee for
11 the purpose of providing advice regarding the development of
12 criteria for the award of grants, and the identification of specific
13 performance measures for evaluating the effectiveness of grants.
14 The committee shall review evaluation reports and make findings
15 on evidence-based best practices and recommendations for grant
16 conditions. At not less than one meeting annually, the advisory
17 committee shall provide to the director written comments on the
18 performance of each of the county programs. Upon request by the
19 department, each participating county that is the subject of a
20 comment shall provide a written response to the comment. The
21 department shall comment on each of these responses at a
22 subsequent meeting.

23 (B) The committee shall include, but not be limited to,
24 representatives from state, county, and community veterans'
25 services and disabled veterans outreach programs, supportive
26 housing and other housing assistance programs, law enforcement,
27 county mental health and private providers of local mental health
28 services and mental health outreach services, the Board of
29 Corrections, the State Department of Alcohol and Drug Programs,
30 local substance abuse services providers, the Department of
31 Rehabilitation, providers of local employment services, the State
32 Department of Social Services, the Department of Housing and
33 Community Development, a service provider to transition youth,
34 the United Advocates for Children of California, the California
35 Mental Health Advocates for Children and Youth, the Mental
36 Health Association of California, the California Alliance for the
37 Mentally Ill, the California Network of Mental Health Clients, the
38 Mental Health Planning Council, and other appropriate entities.

39 (4) The criteria for the award of grants shall include, but not be
40 limited to, all of the following:

1 (A) A description of a comprehensive strategic plan for
2 providing outreach, prevention, intervention, and evaluation in a
3 cost appropriate manner corresponding to the criteria specified in
4 subdivision (c).

5 (B) A description of the local population to be served, ability
6 to administer an effective service program, and the degree to which
7 local agencies and advocates will support and collaborate with
8 program efforts.

9 (C) A description of efforts to maximize the use of other state,
10 federal, and local funds or services that can support and enhance
11 the effectiveness of these programs.

12 (5) In order to reduce the cost of providing supportive housing
13 for clients, counties that receive a grant pursuant to this part after
14 January 1, 2004, shall enter into contracts with sponsors of
15 supportive housing projects to the greatest extent possible.
16 Participating counties are encouraged to commit a portion of their
17 grants to rental assistance for a specified number of housing units
18 in exchange for the counties' clients having the right of first refusal
19 to rent the assisted units.

20 (b) In each year in which additional funding is provided by the
21 annual Budget Act, the department shall establish programs that
22 offer individual counties sufficient funds to comprehensively serve
23 severely mentally ill adults who are homeless, recently released
24 from a county jail or the state prison, or others who are untreated,
25 unstable, and at significant risk of incarceration or homelessness
26 unless treatment is provided to them, and who are severely mentally
27 ill adults. For purposes of this subdivision, "severely mentally ill
28 adults" are those individuals described in subdivision (b) of Section
29 5600.3. In consultation with the advisory committee established
30 pursuant to paragraph (3) of subdivision (a), the department shall
31 report to the Legislature on or before May 1 of each year in which
32 additional funding is provided, and shall evaluate, at a minimum,
33 the effectiveness of the strategies in providing successful outreach
34 and reducing homelessness, involvement with local law
35 enforcement, and other measures identified by the department.
36 The evaluation shall include for each program funded in the current
37 fiscal year as much of the following as available information
38 permits:

39 (1) The number of persons served, and of those, the number
40 who receive extensive community mental health services.

1 (2) The number of persons who are able to maintain housing,
2 including the type of housing and whether it is emergency,
3 transitional, or permanent housing, as defined by the department.

4 (3) (A) The amount of grant funding spent on each type of
5 housing.

6 (B) Other local, state, or federal funds or programs used to house
7 clients.

8 (4) The number of persons with contacts with local law
9 enforcement and the extent to which local and state incarceration
10 has been reduced or avoided.

11 (5) The number of persons participating in employment service
12 programs including competitive employment.

13 (6) The number of persons contacted in outreach efforts who
14 appear to be severely mentally ill, as described in Section 5600.3,
15 who have refused treatment after completion of all applicable
16 outreach measures.

17 (7) The amount of hospitalization that has been reduced or
18 avoided.

19 (8) The extent to which veterans identified through these
20 programs' outreach are receiving federally funded veterans'
21 services for which they are eligible.

22 (9) The extent to which programs funded for three or more years
23 are making a measurable and significant difference on the street,
24 in hospitals, and in jails, as compared to other counties or as
25 compared to those counties in previous years.

26 (10) For those who have been enrolled in this program for at
27 least two years and who were enrolled in Medi-Cal prior to, and
28 at the time they were enrolled in, this program, a comparison of
29 their Medi-Cal hospitalizations and other Medi-Cal costs for the
30 two years prior to enrollment and the two years after enrollment
31 in this program.

32 (11) The number of persons served who were and were not
33 receiving Medi-Cal benefits in the 12-month period prior to
34 enrollment and, to the extent possible, the number of emergency
35 room visits and other medical costs for those not enrolled in
36 Medi-Cal in the prior 12-month period.

37 (c) To the extent that state savings associated with providing
38 integrated services for the mentally ill are quantified, it is the intent
39 of the Legislature to capture those savings in order to provide
40 integrated services to additional adults.

1 (d) Each project shall include outreach and service grants in
2 accordance with a contract between the state and approved counties
3 that reflects the number of anticipated contacts with people who
4 are homeless or at risk of homelessness, and the number of those
5 who are severely mentally ill and who are likely to be successfully
6 referred for treatment and will remain in treatment as necessary.

7 (e) All counties that receive funding shall be subject to specific
8 terms and conditions of oversight and training which shall be
9 developed by the department, in consultation with the advisory
10 committee.

11 (f) (1) As used in this part, “receiving extensive mental health
12 services” means having a personal services coordinator, as
13 described in subdivision (b) of Section 5806, and having an
14 individual personal service plan, as described in subdivision (c)
15 of Section 5806.

16 (2) The funding provided pursuant to this part shall be sufficient
17 to provide mental health services, medically necessary medications
18 to treat severe mental illnesses, alcohol and drug services,
19 transportation, supportive housing and other housing assistance,
20 vocational rehabilitation and supported employment services,
21 money management assistance for accessing other health care and
22 obtaining federal income and housing support, accessing veterans’
23 services, stipends, and other incentives to attract and retain
24 sufficient numbers of qualified professionals as necessary to
25 provide the necessary levels of these services. These grants shall,
26 however, pay for only that portion of the costs of those services
27 not otherwise provided by federal funds or other state funds.

28 (3) Methods used by counties to contract for services pursuant
29 to paragraph (2) shall promote prompt and flexible use of funds,
30 consistent with the scope of services for which the county has
31 contracted with each provider.

32 (g) Contracts awarded pursuant to this part shall be exempt from
33 the Public Contract Code and the state administrative manual and
34 shall not be subject to the approval of the Department of General
35 Services.

36 (h) Notwithstanding any other provision of law, funds awarded
37 to counties pursuant to this part and Part 4 (commencing with
38 Section 5850) shall not require a local match in funds.

1 ~~SEC. 9.~~

2 *SEC. 8.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution for certain
4 costs that may be incurred by a local agency or school district
5 because, in that regard, this act creates a new crime or infraction,
6 eliminates a crime or infraction, or changes the penalty for a crime
7 or infraction, within the meaning of Section 17556 of the
8 Government Code, or changes the definition of a crime within the
9 meaning of Section 6 of Article XIII B of the California
10 Constitution.

11 However, if the Commission on State Mandates determines that
12 this act contains other costs mandated by the state, reimbursement
13 to local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.

O

Blank Page

August 21, 2006

PAGE ONE

Trial Run
**In Brooklyn Court,
 A Route Out of Jail
 For the Mentally Ill**

**Judge D'Emic, With Humor,
 Guides Felons' Treatment;
 Model for Others in U.S.**

'Never Heard of Jimi Hendrix?'

By GARY FIELDS
 August 21, 2006; Page A1

BROOKLYN, N.Y. -- Judge Matthew Jude D'Emic of the Brooklyn Mental Health Court summoned Calvin Berry to the bench to find out why he had been arguing with his court-appointed therapists.

In a series of staccato gripes, Mr. Berry said he'd been mistreated. Before he could finish, Judge D'Emic, a towering man with ruddy cheeks, cut him off: "Your bull -- arguing will get you thrown out of the program and into prison. Do you understand?"



Matthew D'Emic

Mr. Berry, 23 years old, was shocked into silence. The court's mental-health program, an increasingly popular way of dealing with mentally ill criminals, is the only thing standing between him and two years in jail. Mr. Berry suffers from severe depression caused by a childhood brain injury. Last April, he pleaded guilty to threatening to blow up a bus, among other charges. Instead of being locked up, however, he was put under the supervision of Judge D'Emic's court.

Brooklyn's mental-health program has become a model for localities trying to deal with a seemingly intractable problem: the increasing number of mentally ill people filling the nation's prisons. The problem stems largely from the shuttering of state-run mental-health facilities a generation ago. Once behind bars, the mentally ill are rarely paroled. If released, they usually end up back in prison because of a lack of outside treatment options. The Justice Department estimates that about 330,000 of the nation's 2.2 million inmates are mentally ill.

Mental-health courts, which work in tandem with prosecutors' offices, are slowly emerging as a promising alternative. They came on the scene in the late 1990s and are designed to allow the mentally ill to avoid prison time, provided they adhere to extensive treatment plans set up and monitored by the new courts. Defendants must plead guilty and pass intensive psychiatric evaluations before being admitted. Once under the court's authority, they undergo regular therapy sessions and often their medication is monitored. Prosecutors and judges typically have complete discretion as to whether a defendant can seek this alternative path.

DOW JONES REPRINTS

 This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers, use the Order Reprints tool at the bottom of any article or visit: www.djreprints.com.

- [See a sample reprint in PDF format.](#)
- [Order a reprint of this article now.](#)

What makes the idea appealing to many is that it represents a middle ground between locking up the mentally ill and letting them roam free.

"The easiest thing we do is put people in jail, [but] you cannot prison-build your way into reducing crime," says Charles Hynes, the longtime Brooklyn district attorney, who helped create the Brooklyn Mental Health Court.

The Brooklyn court routinely hosts visiting judges and court officers interested in the concept. In the past four years, eight mental-health courts have been created in New York state, and three other local jurisdictions are preparing to open such courts of their own. When all are up and running, New York will account for about 10% of the 120 mental-health courts in the U.S.

Most mental-health courts treat only defendants accused of misdemeanors. That's because many lawmakers and prosecutors worry that criminals will game the system and that the mentally ill will relapse and commit new crimes. Brooklyn is one of the few that accept serious felons. Judge D'Emic is keenly aware of the risk that involves.



Judge Matthew D'Emic in his Brooklyn, N.Y., court earlier this month.

"If something went really wrong that could be not only the end of your mental-health court, but of mental-health courts in general," he says in an interview.

Close Calls

There have been some close calls. One participant -- a pharmacist who had been self-medicating and who had pleaded guilty to driving under the influence -- crashed into a line of parked cars while driving drunk. The judge kicked him out of the program and sent him to prison, where he may be held up to four years.

Another defendant, diverted into the program after stealing a car in Brooklyn, went to Florida last October, stole a Mercedes and led police on a high-speed chase. He has also been imprisoned.

This danger is one reason mental-health courts have been slow to take off. Legislators in Oklahoma, where more than a third of the state's 24,000 inmates have identifiable mental illnesses, have struggled to set up such a court. And mental-health experts question the court's reliance on medication.

The Brooklyn Mental Health Court was started in 2002 in the aftermath of two notorious New York crimes. Andrew Goldstein, then a 30-year-old schizophrenic with a history of violence, had requested treatment from a number of hospitals but had received only short-term care before he pushed Kendra Webdale in front of a New York subway train, killing her. A few months later, Edgar Rivera lost both legs when another former mental patient shoved him under a train.

"I got tired of reading about the poor soul who pushes another poor soul off the subway platform onto the tracks," says Mr. Hynes, who was first elected in 1989.

Anyone can request a transfer to the mental-health court at any point after an arrest, and sometimes prosecutors themselves suggest it. Potential participants undergo extensive assessments by the court's psychologists. The findings must show persistent mental illness and that the illness contributed to the crime charged. A judge then decides whether the psychiatric evidence is sufficient.

If prosecutors agree, they'll craft a plea offer while the court's clinical team develops a treatment plan. Defendants plead guilty on being accepted into the program and undergo treatment for up to two years, longer in rare circumstances. At any time before the plea agreement is made final, prosecutors can decide to push the case through regular criminal courts based on factors such as the clinical evidence or the severity of the crime.

Of the 244 felons who have appeared before Judge D'Emic in this court in the past four years, only 19 have violated the terms of the program to such a degree that the judge sent them to jail. There are no data showing what happens to felons after they've completed the court's program.

Most of the participants have setbacks, like failed drug tests as well as missed therapy sessions and court appearances, says Judge D'Emic. But unlike some probation and parole officers who send defendants back to prison for minor infractions, Judge D'Emic doesn't do so quickly or easily. Instead, he urges them, with a mix of humor and schoolmaster sternness, to stick with the program. He has jailed people briefly to get their attention.

After snapping at Mr. Berry, for instance, the judge softened. The court, he told the defendant, is an opportunity to build a strong foundation for combating mental-health problems, but only if Mr. Berry stuck to his treatment plan. Even Jimi Hendrix understood the importance of a foundation, he said to Mr. Berry, before quoting from the late singer: "Castles made of sand fall in the sea, eventually."

Mr. Berry looked blank. "Who is Jimi Hendrix?" he asked.

"You've never heard of Jimi Hendrix? What are they teaching you in school?" Judge D'Emic replied. "Have you heard of the Beatles?"

At the end of conversation, Mr. Berry apologized and promised to be more cooperative.

Appointed to the bench in 1996 by Gov. George Pataki, Judge D'Emic, 53, has deep Brooklyn roots. He lives in the borough's Bay Ridge section, one street over from where he grew up as one of 10 children. Eight of his nine siblings live within a mile of him, including three who are firefighters.

Judge D'Emic had no special medical training before he joined the court. For about a year, he and his law clerk invited their consulting psychiatrist to tutor them every Tuesday. The weekly 90-minute sessions included lectures on depression, schizophrenia and therapy strategies, as well as medications and their side effects. The two still attend conferences and lectures on mental health.

One early success was a college student who had a breakdown. He was suffering from paranoia and schizophrenia, and voices told him to rob students. The prosecutor was initially reluctant to turn him over to the mental-health court because "it was such an easy case to win," the judge recalls. The student eventually pleaded guilty to robbery, underwent treatment for 18 months, finished the program and is now completing college.

"It's not an impossible task to keep this population compliant and out of jail," he says. "If they don't comply, I have the big hammer, the jail sentence."

Judge D'Emic's courtroom, on the 15th floor of the courthouse on Jay Street, is informal. "The very first day he took the bench, his court clerk did the 'all rise routine' and Judge D'Emic asked him not to bother with that again," says Karen Kleinberg, his clerk.

Moments after he entered the courtroom on a recent day, ushering people back to their seats, those

in attendance gasped when a cellphone rang loudly. The owner scrambled to silence it, apologizing profusely and looking fearfully at the bench. "It's OK; don't worry about it," said Judge D'Emic. "Is it for me?"

One man, a Russian immigrant, was there because he tried to rob a bank while brandishing a television remote control as a weapon. He spoke little English and was accompanied by an interpreter. Subdued at first, he became animated when Judge D'Emic talked to him -- in Russian.

Another defendant, Lynval Samuel, his salt-and-pepper beard in two braids, came to the bench dressed in a white robe and wearing white gloves. He carried two red roses and asked to address the court. "First I'd like to bring greetings to you from the orders of the Eastern Star," he said, his voice deep and majestic. He read briefly from the Bible and then asked the judge if he had the Bibles Mr. Samuel had presented to him. The judge said he did.

Mr. Samuel -- 53, and bipolar -- was in court for threatening and stalking a U.S. congressman, Major Owens, a New York Democrat. He was doing well enough in therapy and counseling to move from Phase II to Phase III, which meant he was one level from graduating. He was given a certificate from the Mental Health Court to mark the promotion.

"From my left hand to your left hand," said Judge D'Emic as he passed the certificate to Mr. Samuel, taking care to make the hand-off exactly as he described. The judge's computer summary noted that one of Mr. Samuel's idiosyncrasies is that he accepts and passes items only with his left hand.

The defendants came steadily, an average of one every three minutes, all suffering from some form of mental illness. There was the burglar who walked into a neighbor's home and started eating a chicken dinner that had been left on the dining-room table. Another robbed ATM patrons by putting a knife to his own throat and threatened to slash himself unless they gave him money. One woman, of Irish descent, tried to snatch babies out of their mothers' arms, convinced that she was rescuing Irish children kidnapped by Jewish women.



Mary Brown

Mary Brown, 43 and a mother of three, was a newcomer to the program. She quit school in the 11th grade after becoming pregnant and is only now learning to read. For the past seven years, she has been married to Eddie McQueen. The pair -- who both hail from South Carolina -- met at the Tar-Heel Lounge, a Brooklyn nightspot, where Ms. Brown had come to hear rhythm and blues. Mr. McQueen was performing on the piano.

Mr. McQueen, when asked for his age, would say only that he was in his late 50s. He says he often woke at night to find his wife wandering around their apartment building, knocking on neighbors' doors asking, "Where's Eddie?" On occasion, Ms. Brown would vanish outright. "I stayed up half the night hoping she'd call," he says. Sometimes she'd wander into oncoming traffic.

Last October, Ms. Brown stopped taking medication for schizophrenia. Early one morning, she walked into a neighbor's unlocked apartment and entered the bedroom where her neighbor was asleep. As Ms. Brown passed back through the living room, she took a cup filled with \$23 in change, according to court records. By the time she walked out of the apartment, the neighbor was awake. Ms. Brown was arrested and pleaded guilty to second-degree burglary.

Despite the relatively benign nature of the crime, the charge of second-degree burglary lumped Ms. Brown into the category of defendants who were armed and injured their victims. Mr.

McQueen learned of the mental-health court and asked if his wife might be eligible. The prosecutor ultimately agreed.

Out of Prison

Mr. McQueen says he was looking for anything to keep her out of prison. These days, he gets up before 6 a.m. to fix her breakfast. "I like his cooking," Ms. Brown explains. "I don't want anybody else's cooking."

Joyce Kendrick, Ms. Brown's attorney, who works for Brooklyn Defender Services, a legal-aid organization, says that without the mental-health court, her client was facing mandatory prison time. "I don't know if she understands how serious the charges are against her."

At Judge D'Emic's courtroom, Ms. Brown approached the bench reluctantly and stood there with her head down, like a child waiting to be chastised.

"You're doing great," Judge D'Emic told her. "You're making all your meetings and all your counseling sessions. You're doing perfect. Keep it up." The judge then called her husband to the bench. Shaking Mr. McQueen's hand, the judge thanked him for attending every one of his wife's court appearances and therapy sessions.

As Ms. Brown left, she walked past Harry Rivera, who was wiping a tear from his cheek. He had just learned that his appearance in court would be his last. "What? Nobody told you? Well, you're graduating," said Judge D'Emic, smiling as Mr. Rivera was presented with a gift bag of chocolate.

On graduating, the charge is dropped to a misdemeanor, although the probation part of the sentence remains active.

Mr. Rivera, 27, was a longstanding member of the program. In 2002, he was arrested for armed robbery after he and a co-defendant robbed a victim at gunpoint. Instead of five years behind bars, Mr. Rivera, who suffers from anxiety, depression and a stress-related disorder, pleaded guilty and joined the newly formed mental-health court.

When Mr. Rivera was 5 years old, he scampered into the street and was hit by a car as his pregnant mother, arms laden with groceries, watched helplessly. He stayed in a coma for five days. Learning disabilities and hyperactiveness followed, along with depression and anxiety attacks.

His court-mandated treatment plan included a year at Aurora Concept Inc., a mental-health facility in the New York City borough of Queens, a year in the psychiatric and chemical dependency program of St. Vincent's Services, in the Canarsie section of Brooklyn, as well as weekly meetings with a therapist and monthly meetings with a psychiatrist. He also had to appear almost weekly before Judge D'Emic. While participating in the program, Mr. Rivera received his GED and is training at Interborough College to become a medical technician.

His voice filled with emotion, he thanked the court for giving him a second chance. Judge D'Emic called him to the bench and whispered: "I saw your progress little by little. Now look at you. You're making something of your life."

Six weeks later, Mr. Rivera was back at Rikers Island on a probation violation. His return to jail saddens court officials who don't know whether he will be funneled back to the mental-health court, where he will start at the beginning, or into prison.

"It happens," says Lucille Jackson, clinical director of the Mental Health Court. "It shows the difficulty of this program. If someone has cognitive disorders and their judgment and thinking is impaired, the court doesn't make all that go away."

Write to Gary Fields at gary.fields@wsj.com¹

URL for this article:

<http://online.wsj.com/article/SB115612289675340691.html>

Hyperlinks in this Article:

(1) <mailto:gary.fields@wsj.com>

Copyright 2006 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our **Subscriber Agreement** and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1025

VERSION: AMENDED APRIL 16, 2007

AUTHOR: BASS

**SPONSOR: NATIONAL EMPLOYMENT LAW
PROJECT**

RECOMMENDED POSITION: OPPOSE

SUBJECT: DENIAL OF LICENSURE

Existing Law:

- 1) Permits a board to deny a license on the grounds that the applicant has been convicted of a crime or has committed an act substantially related to the qualifications, functions, or duties of the business or profession for which application is made. (B&P Code § 480 (a))
- 2) Requires applicants for licensure to furnish evidence to the Board of Behavioral Sciences (BBS) that he or she has not committed any crimes or acts constituting grounds for denial of licensure, defined as conviction of a crime substantially related to the qualifications, functions, or duties of the business or profession for which application is made. (B&P Code § 4996.2(d), 4989.20(a), 4980.40(h))
- 3) Defines a crime or act as substantially related if, to a substantial degree, it shows present or potential unfitness to perform the functions authorized by the license consistent with the public health, safety or welfare. (Title 16, CCR § 1812)
- 4) Requires the BBS to evaluate the following information when considering the rehabilitation of the applicant and his or her present eligibility for a license: (Title 16, CCR § 1812)
 - The nature and severity of the act(s) or crime(s)
 - The time that has elapsed since commission of the act(s) or crime(s)
 - The extent to which the applicant has complied with any terms of probation, parole, restitution, or any other sanctions
 - Evidence of rehabilitation submitted by the applicant
- 5) Requires the BBS to deny a license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register as a sex offender. (B&P Code § 4996.2(d), 4989.24, 4980.40(h))
- 6) Permits the BBS to refuse to issue a license if the applicant has been guilty of unprofessional conduct. (B&P Code § 4982, 4989.54, 4992.3)
- 7) Defines unprofessional conduct for Licensed Clinical Social Worker (LCSW) and Marriage and Family Therapist (MFT) applicants to include, but not be limited to: (B&P Code § 4982, 4989.54, 4992.3)
 - A crime substantially related to the qualifications functions, or duties of a licensee

- The conviction of more than one misdemeanor or any felony involving the use of any substances considered unsafe
 - Commission of an act punishable as a sexually related crime
- 8) Allows the BBS to inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related, for LCSW and MFT applicants. (B&P Code § 4982(a), 4989.54(a), 4992.3(a))
 - 9) Permits a defendant (with exceptions for certain types of crimes) to petition the court to set aside the verdict of guilty and provide a certificate of rehabilitation and pardon when they have fulfilled all conditions of probation, have been discharged prior to the termination period of probation, or in any other case in which a court makes such a determination. (PC § 1203.4.(a), (b))
 - 10) Permits, in any subsequent prosecution of the defendant for any other offense, the prior conviction to have the same effect as if probation had not been granted or the accusation or information dismissed. (PC § 1203.4.(a))
 - 11) Requires such an order to state, and the probationer to be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency. (PC § 1203.4.(a))
 - 12) Permits a defendant convicted of a misdemeanor (with certain crimes excepted) and not granted probation to, at any time after the lapse of one year from the date of the judgment, if he or she has fully complied with the sentence, lived an honest and upright life and has obeyed the laws of the land, be permitted by the court to set aside the verdict of guilty and released the defendant from all penalties and disabilities resulting from the offense of which he or she has been convicted. (PC § 1203.4a.(a))

This Bill:

- 1) Prohibits a person from being denied licensure or from having his or her license suspended or revoked based on a criminal conviction that has been dismissed under Penal Code Section 1203.4 or 1203.4a. (BPC § § 480(a)(1), (b); 490)
- 2) Requires the board to provide an applicant or ex-licensee whose application has been denied or whose license has been suspended or revoked based upon the applicant's criminal history record with a copy of the criminal history record. (BPC § § 485(b); 491)
- 3) Prohibits the criminal history record from being modified from its form or content as provided by the DOJ. (BPC § § 485(b)(1); 491)
- 4) Requires the board to provide the criminal history in a manner that protects the confidentiality and privacy of the individual's record and prohibits the information from being made available to any employer. (BPC § § 485(b)(1); 491)
- 5) Requires the board to record and maintain the applicant's name, address and the date the criminal history record was provided by the board to the applicant. Also requires the board to make that information available upon request by the DOJ or the FBI. (BPC § § 485(b)(3); 491)

Comment:

- 1) **Author's Intent.** According to the author, "With private employers, applicants are not required to disclose an expunged record as part of the hiring process. DCA boards should similarly reward rehabilitation and reduce recidivism by precluding consideration of expunged records. Expungement is only available to those who have successfully completed probation and paid all restitution and fines, or after a judge has made a special determination that the individual has been rehabilitated. It is not available to those who have been sentenced to prison or to those who have committed certain crimes, including most sex offenses."
- 2) **Dismissed Convictions.** This proposal is in conflict with BPC Sections 4982(a), 4989.54(a) and 4992.3(a), which state, in part:

"The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when...an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment."

The Board's processes and laws pertaining to criminal convictions are currently working well. Applicants with a criminal conviction are not categorically excluded. Licenses are being denied with just cause, and applicants are provided with ample due process. The board needs to be able to consider all past criminal history, including dismissed convictions, rather than a formulaic standard in making a decision regarding a denial or disciplinary action.

Through the 1203.4 process, felony convictions are reduced to misdemeanors and subsequently dismissed. The board needs to retain the right to be able to deny based on those convictions if they are substantially related. Such standards would result in prohibiting denial of a license based on multiple misdemeanors, or any felony which is not considered serious or violent by law, but may be substantially related to the license.

When a conviction is dismissed under Penal Code Section 1203.4, this basically means the individual was convicted, complied with probation terms, stayed out of trouble, and petitioned for dismissal. However, a dismissed conviction under 1203.4 is still a conviction. It is very rare for the board to take disciplinary action or deny an application based on one dismissed conviction. The Board has taken action when there have been a number of dismissed convictions, but the conviction history reveals a pattern of criminal activity (such as petty theft, drug abuse) or where the history demonstrates that the individual has a problem.

- 3) **Criminal Record.** This bill would require the Board to provide certain applicants with a copy of his or her criminal history record. This appears to be in conflict with Penal Code Section 11105 which states, in part:

"Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired."

While the Board is investigating a conviction, the licensee or applicant is aware of the conviction history being investigated. The denial or accusation contains the complete

history as given by criminal offender record information (CORI) which includes court, docket number, sentence, etc. Additionally, any licensee or applicant can obtain their criminal history by having their prints taken and having the results sent to them. A denial or disciplinary action is never based on CORI. CORI is just the means by which the Board finds out about it. A denial or action is taken based on arrest report, court documents, explanation, proof of rehabilitation, etc.

- 4) Substantial Relationship Criteria.** Reviewing criminal histories to determine whether a crime is substantially related to the qualifications, functions, or duties of the profession is one of the Board’s most critical tasks. Title 16, California Code of Regulations Section 1812 provides the criteria for determining when a crime or act is substantially related. It states:

“For purposes of denial, suspension, or revocation of a license or registration...a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license...if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare.”

In order to help make the determination, an applicant may provide evidence of rehabilitation, and the Board is authorized to inquire into the circumstances surrounding the charges. Current law requires the Board to deny a license to persons convicted of a crime involving sexual abuse of children or resulting in registration as a sex offender. The Board is also permitted to deny a license to applicants guilty of unprofessional conduct, which includes but is not limited to, the conviction or more than one misdemeanor, any felony involving the use of any substances considered unsafe, or an act punishable as a sexually related crime.

5) BBS Statistics.

	03/04	04/05	05/06
Applications Received	6,279	6,587	6,974
Criminal Convictions Reported	383	384	455
Conviction-Related Denials	5	1	5

- 6) BBS Process for Denial of Licensure.** When an applicant has a conviction, Board’s lead enforcement analyst:

- Reviews the conviction information
- Reviews any rehabilitation information
- May request additional information
- Makes a recommendation to the Executive Officer

The Executive Officer makes the decision whether to deny licensure or continue processing the application. The applicant has 60 days to appeal the decision. If an appeal is received:

- The file is transmitted to the Attorney General's office
- A Statement of Issues is prepared
- A hearing date is set
- The case is heard by an administrative law judge who proposes a decision
- The board members vote on the proposed decision

7) Support and Opposition.

Support

National Employment Law Project (sponsor)

All of Us or None

American Civil Liberties Union

California Labor Federation, AFL-CIO
California Teamsters Public Affairs Council
East Bay Community Law Center
Engineers and Scientists of California
United Food & Commercial Workers

Opposition

California District Attorneys Association
California Board of Accountancy
Department of Consumer Affairs

8) History

2007

May 10	From committee: Do pass. (Ayes 11. Noes 4.) (May 9).
Apr. 25	From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 7. Noes 2.) (April 24).
Apr. 17	Re-referred to Com. on B. & P.
Apr. 16	From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
Mar. 12	Referred to Com. on B. & P.
Feb. 23	From printer. May be heard in committee March 25.
Feb. 22	Read first time. To print.

Blank Page

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1025

Introduced by Assembly Member Bass

February 22, 2007

An act to amend Sections 480, 485, 490, and 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, as amended, Bass. Professions and vocations: ~~denial of~~ licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny licensure on certain bases, including an applicant's conviction of a crime regardless of whether the conviction has been dismissed on specified grounds, an applicant's performance of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another or to substantially injure another, or an applicant's performance of any act that would be grounds for suspension or revocation of the license. Existing law requires a board that denies an application for licensure to provide the applicant with notice of the denial, as specified. Existing law authorizes a board to suspend or revoke a license on the basis that a licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, regardless of whether the conviction has been dismissed on specified grounds, and requires the board to provide the ex-licensee with certain information upon doing so.

This bill would provide that a person may not be denied licensure or have his or her license suspended or revoked based on a criminal conviction that has been dismissed on specified grounds. ~~The bill would also provide that an arrest more than one year old does not constitute grounds for denial of a license pursuant to the above provisions if no disposition is reported.~~ This bill would require the board to provide an applicant or ex-licensee whose application has been denied or whose license has been suspended or revoked based upon a crime with a copy of ~~the his or her~~ criminal history record ~~information relied upon in making the determination~~, as specified. *The bill would require the board to maintain specified information pertaining to the provision of criminal history records and to make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.*

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 480 of the Business and Professions Code
- 2 is amended to read:
- 3 480. (a) A board may deny a license regulated by this code
- 4 on the grounds that the applicant has done one of the following:
- 5 (1) Been convicted of a crime. A conviction within the meaning
- 6 of this section means a plea or verdict of guilty or a conviction
- 7 following a plea of nolo contendere. Any action which a board is
- 8 permitted to take following the establishment of a conviction may
- 9 be taken when the time for appeal has elapsed, or the judgment of
- 10 conviction has been affirmed on appeal, or when an order granting
- 11 probation is made suspending the imposition of sentence.
- 12 (2) Done any act involving dishonesty, fraud or deceit with the
- 13 intent to substantially benefit himself or another, or substantially
- 14 injure another; or
- 15 (3) Done any act which if done by a licentiate of the business
- 16 or profession in question, would be grounds for suspension or
- 17 revocation of license.
- 18 The board may deny a license pursuant to this subdivision only
- 19 if the crime or act is substantially related to the qualifications,
- 20 functions or duties of the business or profession for which
- 21 application is made.

1 (b) Notwithstanding any other provision of this code, no person
2 shall be denied a license solely on the basis that he or she has been
3 convicted of a felony if he or she has obtained a certificate of
4 rehabilitation under Section 4852.01 and following of the Penal
5 Code or that he or she has been convicted of a misdemeanor if he
6 or she has met all applicable requirements of the criteria of
7 rehabilitation developed by the board to evaluate the rehabilitation
8 of a person when considering the denial of a license under
9 subdivision (a) of Section 482. In addition, no person shall be
10 denied a license based on any criminal conviction that has been
11 dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

12 (c) A board may deny a license regulated by this code on the
13 ground that the applicant knowingly made a false statement of fact
14 required to be revealed in the application for such license.

15 ~~(d) For purposes of this section, the term “act” does not include~~
16 ~~arrests more than one year old if no disposition is reported.~~

17 SEC. 2. Section 485 of the Business and Professions Code is
18 amended to read:

19 485. (a) Upon denial of an application for a license under this
20 chapter or Section 496, the board shall do either of the following:

21 (a)

22 (1) File and serve a statement of issues in accordance with
23 Chapter 5 (commencing with Section 11500) of Part 1 of Division
24 3 of Title 2 of the Government Code.

25 (b)

26 (2) Notify the applicant that the application is denied, stating
27 ~~(1) (A)~~ the reason for the denial, and ~~(2) (B)~~ that the applicant
28 has the right to a hearing under Chapter 5 (commencing with
29 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
30 Code if written request for hearing is made within 60 days after
31 service of the notice of denial. Unless written request for hearing
32 is made within the 60-day period, the applicant’s right to a hearing
33 is deemed waived.

34 Service of the notice of denial may be made in the manner
35 authorized for service of summons in civil actions, or by registered
36 mail addressed to the applicant at the latest address filed by the
37 applicant in writing with the board in his or her application or
38 otherwise. Service by mail is complete on the date of mailing.

39 ~~If the denial of a license is due at least in part to the individual’s~~
40 ~~state or federal criminal history record, the board shall include~~

1 with the notice of denial a copy of the criminal history record relied
2 upon in making the denial determination. The state or federal
3 criminal history record shall not be modified or altered from its
4 form or content as provided by the Department of Justice, and shall
5 be sent to the address specified by the individual in his or her
6 application. The criminal history record shall be provided in such
7 a manner as to protect the confidentiality and privacy of the
8 individual's record, and the criminal history information shall not
9 be made available by the board to any employer.

10 *(b) If the denial of a license is due at least in part to the*
11 *applicant's state or federal criminal history record, the board*
12 *shall include with the information provided pursuant to paragraph*
13 *(1) or (2) of subdivision (a) a copy of the applicant's criminal*
14 *history record.*

15 *(1) The state or federal criminal history record shall not be*
16 *modified or altered from its form or content as provided by the*
17 *Department of Justice.*

18 *(2) The criminal history record shall be provided in such a*
19 *manner as to protect the confidentiality and privacy of the*
20 *applicant's criminal history record, and the criminal history record*
21 *shall not be made available by the board to any employer.*

22 *(3) The board shall record and maintain the name of the*
23 *applicant, the applicant's address, and the date the criminal history*
24 *record was provided by the board to the applicant pursuant to this*
25 *section. The board shall make that information available upon*
26 *request by the Department of Justice or the Federal Bureau of*
27 *Investigation.*

28 SEC. 3. Section 490 of the Business and Professions Code is
29 amended to read:

30 490. A board may suspend or revoke a license on the ground
31 that the licensee has been convicted of a crime, if the crime is
32 substantially related to the qualifications, functions, or duties of
33 the business or profession for which the license was issued. A
34 conviction within the meaning of this section means a plea or
35 verdict of guilty or a conviction following a plea of nolo
36 contendere. Any action which a board is permitted to take
37 following the establishment of a conviction may be taken when
38 the time for appeal has elapsed, or the judgment of conviction has
39 been affirmed on appeal, or when an order granting probation is
40 made suspending the imposition of sentence No license shall be

1 suspended or revoked based on any criminal conviction that has
2 been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal
3 Code.

4 SEC. 4. Section 491 of the Business and Professions Code is
5 amended to read:

6 491. (a) Upon suspension or revocation of a license by a board
7 on one or more of the grounds specified in Section 490, the board
8 shall do ~~all~~ both of the following:

9 (a)

10 (1) Send a copy of the provisions of Section 11522 of the
11 Government Code to the ex-licensee.

12 (b)

13 (2) Send a copy of the criteria relating to rehabilitation
14 formulated under Section 482 to the ex-licensee.

15 ~~(c) Send a copy of the criminal history record relied upon in~~
16 ~~making the determination to suspend or revoke the license to the~~
17 ~~ex-licensee. The state or federal criminal history record information~~
18 ~~shall not be modified or altered from its form or content as provided~~
19 ~~by the Department of Justice, and shall be provided to the board's~~
20 ~~address of record of the ex-licensee. The criminal history record~~
21 ~~shall be provided in such a manner as to protect the confidentiality~~
22 ~~and privacy of the individual's record, and the criminal history~~
23 ~~information shall not be made available by the board to any~~
24 ~~employer.~~

25 *(b) If the suspension or revocation of a license is due at least*
26 *in part to the ex-licensee's state or federal criminal history record,*
27 *the board shall include with the information provided pursuant to*
28 *subdivision (a) a copy of the ex-licensee's criminal history record.*

29 *(1) The state or federal criminal history record shall not be*
30 *modified or altered from its form or content as provided by the*
31 *Department of Justice.*

32 *(2) The criminal history record shall be provided in such a*
33 *manner as to protect the confidentiality and privacy of the*
34 *ex-licensee's criminal history record, and the criminal history*
35 *record shall not be made available by the board to any employer.*

36 *(3) The board shall record and maintain the name of the*
37 *ex-licensee, the ex-licensee's address, and the date the criminal*
38 *history record was provided by the board to an ex-licensee*
39 *pursuant to this section. The board shall make that information*

- 1 *available upon request by the Department of Justice or the Federal*
- 2 *Bureau of Investigation.*

O