



Board of
Behavioral
Sciences

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MEETING NOTICE

Policy and Advocacy Committee April 11, 2008

Phillips Graduate Institute
5445 Balboa Blvd, Room 118
Encino, CA 91316
(818) 386-5651

10:00 a.m. – 4:00 p.m.

- I. Introductions
- II. Review and Approval of the January 18, 2008 Policy and Advocacy Committee Meeting Minutes
- III. Presentation by Bobby Pena of BP Cubed Regarding Additions to the Board's Website
- IV. Presentation by Kathy Sniffen Regarding Gerontological Workforce Issues and Assembly Bill 2543
- V. Review and Possible Action to Recommend Positions on Current Legislation
- VI. Review and Possible Action to Recommend Revisions to the Board's Disciplinary Guidelines
- VII. Review and Possible Action to Recommend Amendments to California Code of Regulations Title 16, Section 1811 Related to Advertising
- VIII. Review and Possible Action to Recommend Clarifications to Existing Unprofessional Conduct Statutes
- IX. Discussion Regarding Draft Study Guides
- X. Review and Discussion Regarding Draft Supervision Course Outline
- XI. Review and Possible Action Regarding Supervisory Plans
- XII. Legislative Update
- XIII. Rulemaking Update
- XIV. Suggestions for Future Agenda Items
- XV. Public Comment for Items Not on the Agenda



Arnold Schwarzenegger
Governor

State of California
State and Consumer
Services Agency
Department of
Consumer Affairs

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 Boulevard, 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.

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To: Policy and Advocacy Committee

Date: April 7, 2008

From: Sean O'Connor
Board of Behavioral Sciences

Telephone: (916) 574-7863

Subject: Additions to the Board's Web Site

Background

Board staff and BPCubed, the Board's contracted public relations firm, have proposed additions to the Board's Web site. The additions will be a part of a new "package" of Web pages titled Career Connect.

Career Connect will target current registrants and students pursuing licenses in marriage and family therapy, clinical social work, and educational psychology, providing a "one-stop shop" for information relating to licensing processes, employment listings, and financial aid programs available to mental health professionals.

The proposed features of Career Connect will require partnerships with various professional organizations and governmental entities. For example, rather than create and maintain its own database of employment listings, the Board can provide links to employment listings made available by professional organizations and governmental entities.

For information relating to the licensing processes, Career Connect will draw on the information currently available on the Board's Web site. The launch of Career Connect will require a reorganization of the current "Applicant/Registrant" section of the Board's Web site.

Requested Action

Please provide comments and suggestions on this proposed project.

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Department of Consumer Affairs Board of Behavioral Sciences

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RELATED TOPICS

- > [Experience Calculators](#)
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Career Connect

Welcome to Career Connect

Career Connect is a useful resource for registrants, students, and any person interested in a career as a licensed mental health professional. Think of Career Connect as a "one-stop shop" that provides you with answers to questions, informs you of opportunities to participate in Board activities, and points you to other helpful resources relating to your profession.

The Board strives to provide you with exceptional service and welcomes your comments on this feature. Please submit comments or suggestions via email (bbswebmaster@bbs.ca.gov).

Topic of the Month:

Check Your Supervisor's License

If you are gaining hours of supervised experience and working towards obtaining your MFT or LCSW license, you should know that the status of your supervisor's license impacts your ability to count hours. In the event that your supervisor's license expires, you will not be able to claim any hours for the period in which your supervisor's license is expired.

So what can you do to prevent this from happening? The Board provides free online license/registration verification (link to online verification page) services on its Web site. You can look up your supervisor's license to ensure its current. If it expires soon, you may want to check with your supervisor to make sure he or she sent their renewal in to the Board.

Email Topic of the Month suggestions to BBSWebmaster@bbs.ca.gov

EVENT DATES

- > [April 18, 2008: CSU, Chico: LCSW School Presentation](#)
- > [April 19, 2008 - Bethany University: MFT School Presentation](#)
- > [April 29, 2008: University of San Francisco, Santa Rosa Campus: MFT School Presentation](#)
- > [May 1, 2008: University of California, Los Angeles: LCSW School Presentation](#)
- > [May 1 - 4, 2008: CAMFT Annual Conference \(Los Angeles\)](#)
- > [BBS Contact List](#)

TIP OF THE MONTH

Attention registered MFT Interns and ASWs, remember to renew your registration number at least 8 weeks in advance of registration. If you do not receive your courtesy renewal reminder in the mail, you can download a Manual Registration Renewal Application (link to PDF of form).

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 164 **VERSION:** AMENDED JANUARY 14, 2008

AUTHOR: SMYTH **SPONSOR:** CAMFT

RECOMMENDED POSITION: SUPPORT

SUBJECT: IMMUNITY FOR MARRIAGE AND FAMILY THERAPY SCHOOLS

Existing Law:

- 1) Provides a qualified immunity (no monetary liability) for persons who communicate with a variety of entities, including medical and psychology schools, when the communication is intended to aid in the evaluation of the qualifications, fitness, character or insurability of the healing arts practitioner. (CvC § 43.8(a))
- 2) Limits that immunity if there is proof that the person asserting the privilege knew the information that he or she provided was false or otherwise lacked good faith intent to assist in the medical practitioner's evaluation. (CvC § 43.8(c), Hassan v. Mercy American River Hospital (2003) 31 Cal.4th 709)

This Bill:

- 1) Provides a qualified immunity for persons who communicate with a marriage and family therapy school, when the communication is intended to aid in the evaluation of the qualifications, fitness, character or insurability of the healing arts practitioner. (CvC § 43.8(a))

Comment:

- 1) **Author's Intent.** According to the sponsor, this bill would encourage more honest and candid evaluations "without fear of legal action and/or other retaliatory measures" and would thereby protect the consumer "by removing unethical, ineffective or inferior mental health professionals from the mental health field." According to the author, "It is important for these schools to obtain full and frank information about prospective students/trainees who are eventually going to provide mental health care (psychotherapy) to the public as a state-licensed practitioner of the healing arts, so we feel the extension of this immunity is warranted."
- 2) **MFT Schools and Student Concerns.** Any concerns about a student in a MFT program typically arises at the field placement site. Schools are required by statute (BPC § 4980.42(b)) to have a written agreement in place which details the responsibilities of each party (school, site, supervisor, and student). Such agreements often include the following responsibilities:
 - The supervisor must provide regular progress reports and evaluations of the MFT trainee's performance at the site to the clinical training director (required by law)

- The supervisor shall notify the clinical training director in a timely manner of any difficulties in the clinical performance of the MFT trainee.
- The student shall be responsible for notifying the clinical training director immediately of any professional or personal difficulties which may affect the performance of his or her professional duties and responsibilities.
- The clinical training director may recommend that a student be either subject to clinical review, or placed on clinical probation if the supervisor's evaluation ratings are considerably low.
- There must be no indications that question the student's suitability for the psychotherapy profession and/or for the MFT license.
- The site shall notify the qualifying degree program in a timely manner of any difficulties in the work performance of the trainee.

When a concern arises about a student, the MFT program director typically meets with the student and then informally determines any corrective action needed such as additional supervision or training. Such corrective actions are more likely to be taken if the student was dismissed from the site. If the concerns are not resolved, the student may be required to appear in front of a MFT faculty panel, who can implement further steps, up to and including dismissing the student from the program.

This bill would provide the same protections to professionals who evaluate students in schools of marriage and family therapy that are granted to their counterparts in medical, dental, podiatry, veterinary and psychology schools. This legislation would help to encourage more frank evaluations from faculty or supervisors who may be reluctant to be more open about a student's performance. This bill would help to protect consumers by encouraging honesty and candor in evaluations of potential MFTs.

- 3) Consumer Protection.** This legislation would help to support licensure's "three-legged stool," which consists of three screening points (education, experience and examination) that the board relies upon to ensure future licensees are competent to practice as a MFT. This legislation would strengthen the education "leg" by providing further support to schools in screening out students who may not be fit for the MFT profession.
- 4) Related Legislation.** SB 822 (Chapter 36, Statutes of 2007) added schools of psychology to this list, and also clarified that the immunity granted under Section 43.8 is not an absolute. The only communications protected are those "intended to aid in the evaluation" of the practitioner in training. Any other potentially damaging communication that was not intended to aid in the evaluation would not be protected.

5) History

2008

- | | |
|---------|---|
| Jan. 31 | Referred to Com. on JUD. |
| Jan. 22 | In Senate. Read first time. To Com. on RLS. for assignment. |
| Jan. 22 | Read third time, passed, and to Senate. (Ayes 73. Noes 0. Page 3780.) |
| Jan. 17 | From Consent Calendar. To third reading pursuant to Joint Rule 22.2. |
| Jan. 16 | Read second time. To Consent Calendar. |
| Jan. 15 | Re-referred to Com. on JUD. From committee: Do pass. To Consent Calendar. (January 15). |
| Jan. 14 | Read third time. Amended. Re-referred to Com. on JUD. pursuant to Assembly Rule 77.2. Joint Rule 62(a), file notice waived. |
| Jan. 8 | From inactive file. To third reading. |

Jan. 7 Notice of intention to remove from inactive file given by Assembly Member Bass.

2007

May 21 To inactive file on motion of Assembly Member Bass.

May 10 Read second time. To third reading.

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.

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AMENDED IN ASSEMBLY JANUARY 14, 2008

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 amend Section 3025 of the Family Code, relating to child custody.~~ *An act to amend Section 43.8 of the Civil Code, relating to immunity.*

LEGISLATIVE COUNSEL'S DIGEST

AB 164, as amended, Smyth. ~~Child custody: child's records.~~ *Immunity: marriage and family therapy schools.*

Existing law provides immunity from liability to any person whose communications to a hospital, hospital medical staff, veterinary hospital staff, professional society, or any medical, dental, podiatric, psychology, or veterinary school, among others, are intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts.

This bill would extend that immunity to a person whose communications to a marriage and family therapy school are intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts.

~~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 is not the child's custodial parent.

This bill would require the court, in making an order for sole physical and legal custody in one parent, to specify whether the parent who has 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 43.8 of the Civil Code is amended to read:

2 43.8. (a) In addition to the privilege afforded by Section 47,
3 there shall be no monetary liability on the part of, and no cause of
4 action for damages shall arise against, any person on account of
5 the communication of information in the possession of that person
6 to any hospital, hospital medical staff, veterinary hospital staff,
7 professional society, medical, dental, podiatric, psychology,
8 marriage and family therapy, or veterinary school, professional
9 licensing board or division, committee or panel of a licensing
10 board, the Senior Assistant Attorney General of the Health Quality
11 Enforcement Section appointed under Section 12529 of the
12 Government Code, peer review committee, quality assurance
13 committees established in compliance with Sections 4070 and
14 5624 of the Welfare and Institutions Code, or underwriting
15 committee described in Section 43.7 when the communication is
16 intended to aid in the evaluation of the qualifications, fitness,
17 character, or insurability of a practitioner of the healing or
18 veterinary arts.

19 (b) The immunities afforded by this section and by Section 43.7
20 shall not affect the availability of any absolute privilege that may
21 be afforded by Section 47.

22 (c) Nothing in this section is intended in any way to affect the
23 California Supreme Court's decision in Hassan v. Mercy American
24 River Hospital (2003) 31 Cal.4th 709, holding that subdivision (a)
25 provides a qualified privilege.

26 SECTION 1. ~~Section 3025 of the Family Code is amended to~~
27 ~~read:~~

28 ~~3025. (a) Notwithstanding any other provision of law, access~~
29 ~~to records and information pertaining to a minor child, including,~~

1 but not limited to, medical, dental, and school records, shall not
2 be denied to a parent with either physical or legal custody of a
3 child, unless a court orders otherwise.

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

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

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1486 **VERSION:** AMENDED JUNE 26, 2007
AUTHOR: CALDERON **SPONSOR:** CALIFORNIA COALITION FOR
POSITION: SUPPORT **COUNSELOR LICENSURE**
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, for a total of 15 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.
- 7) Defines "Licensed professional counselor" as a person licensed to practice professional counseling. (B&P Code § 4999.12 (f))
- 8) Defines "Intern" as an unlicensed person who is registered with the Board as a counselor intern. (B&P Code § 4999.12 (g))
- 9) Defines "Counselor 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))
- 10) 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
- 11) 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.
 - 12) 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.
 - 13) Defines “Assessment” as selecting, administering, scoring, and interpreting tests, instruments, and other tools and methods designed to measure an individual’s attitudes, abilities, aptitudes, achievements, interests, characteristics, disabilities and mental, emotional and behavioral concerns and development and the use of methods and techniques for understanding human behavior in relation to coping with, adapting to, or ameliorating changing life situations, as part of the counseling process. (B&P Code § 4999.12 (l))
 - 14) 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))
 - 15) 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))
 - 16) 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))
 - 17) 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 counseling or therapy.
 - 18) 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))
 - 19) 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)
 - 20) 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 and 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

21) Restricts LPCs to using specific methods, techniques or modalities, including assessment activities, for which they have the appropriate education and training. (B&P Code § 4999.20(b))

22) Requires LPCs to refer clients to other licensed health care professionals when they identify issues beyond their own scope of education, training, supervision and experience. (B&P Code § 4999.20)

23) 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

24) 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)):

25) 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.

26) 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))

27) 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

28) 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)

29) 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
- 30) Requires the degree to include additional coursework including special treatment issues and special population issues. (B&P Code § 4999.32(c)(2))
- 31) 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))
- 32) Permits 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))
- 33) Requires a minimum of six semester or nine quarter of supervised practicum or field study experience, or the equivalent, in a clinical or counseling setting that provides a range of experience, 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, diagnosis, prognosis and treatment
 - Development, adjustment and maladjustment
 - Health and wellness promotion
 - Other recognized counseling interventions
- 34) 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
- 35) Requires trainees and interns to gain experience only within the position for which he or she volunteers or is employed. (B&P Code § 4999.34(d), 4999.44(a)(3))

- 36) 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 "counselor trainee." (B&P Code § 4999.36(a))
- 37) 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))
- 38) 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))
- 39) 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))
- 40) Prohibits hours earned as a trainee from counting toward the 3,000 hours of post-degree internship hours. (B&P Code § 4999.36(e))
- 41) Requires a trainee to receive at least one hour of individual or triadic supervision and two hours of group supervision for each week the trainee sees clients, for a total of three supervision hours per week. (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.
- 42) Requires applicants to complete all of the following coursework or training prior to registration as an intern: (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.
 - 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.
- 43) 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))
- 44) Requires an applicant trained at an educational institution outside of the United States to demonstrate that the qualifying degree is equivalent to a degree earned from an institution of

higher education that is accredited or approved. Requires the applicant to submit a comprehensive evaluation of the degree performed by a foreign credential evaluation service. (B&P Code § 4999.40(b))

- 45) Requires the following qualifications for registration as an intern: (B&P Code § 4999.42)
 - Has earned a qualifying master's or doctorate degree.
 - Has completed all additional coursework required as described in item #42 above.
 - 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.
- 47) Requires the board to begin accepting applications for intern registration on January 1, 2009. (B&P Code § 4999.42(b))
- 48) 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))
- 49) 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))
- 50) 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))
- 51) Prohibits interns from working in a private practice until registered as an intern. (B&P Code § 4999.45(b))
- 52) 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))
- 53) Requires interns to file for renewal yearly for a maximum of five years after initial registration. (B&P Code § 4999.45(d))
- 54) 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.
- 55) Requires applicants for licensure to have completed 3,000 hours (minimum of 104 weeks) of supervised experience that 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.
- 56) 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))
- 57) Requires applicants and interns to be under supervision at all times. (B&P Code § 4999.46(d))
- 58) Prohibits a supervisor from supervising more than two interns. (B&P Code § 4999.46(d))
- 59) 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.
 - A maximum of five hours of supervision will be credited during any week.
 - 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.
- 60) Prohibits counselor trainees and interns from working as independent contractors. (B&P Code § 4999.47(a))
- 61) 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))
- 62) 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.
- 63) 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))
- 64) Prohibits trainees and interns from having a proprietary interest in the employer's business. (B&P Code § 4999.47(f))
- 65) Requires educational institutions that 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. Encourages educational institutions to assist students and supervisors to assist trainees and interns in locating psychotherapy or counseling at a reasonable cost. (B&P Code § 4999.47(g))
- 66) Requires the Board to adopt regulations regarding the supervision of interns, including but not limited to: (B&P Code § 4999.48)
- Supervisor qualifications, including continuing education requirements
 - Registration or licensing of supervisors.
 - General responsibilities of supervisors.
 - The Board's authority in cases of supervisor noncompliance or negligence.

- 67) 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 doctorate 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 and is not required to register as a sex offender.
 - Has passed a fingerprint check.
- 68) 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.
- 69) 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))
- 70) 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.
- 71) 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))
- 72) 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))
- 73) 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))
- 74) 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))
- 75) 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))
- 76) Permits the Board to destroy all examination materials two years following the date of an

examination. (B&P Code § 4999.52(i))

77) Permits the Board to issue a LPC license to any person who meets one of the following sets of criteria (A, B or C) and 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. This section is referred to as the "grandparenting provisions": (B&P Code § 4999.54)

A. Meets the following requirements:

1. Possesses a qualifying degree in counseling or a closely related degree which meets the same requirements as for "regular" counselor 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.
 - A counselor educator whose degree contains at least seven of the nine required courses shall be given credit for a course not contained in the degree if documentation is provided that he or she taught the equivalent of the required course in a graduate program in counseling or a related area.
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 master's level counselor certified by a national certifying or registering organization, including but not limited to the National Board for Certified Counselors or the Commission on Rehabilitation Counselor Certification.
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

C. Meets the following two requirements:

3. Is licensed as a Licensed Clinical Social Worker (LCSW) in California
4. Meets LPC coursework requirements

78) Limits a license issued under the grandparenting provisions (Section 4999.54) 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)

79) 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)

80) 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)

- 81) Requires LPCs to provide each client with accurate information about the counseling relationship and the counseling process. (B&P Code § 4999.74)
- 82) 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)
- 83) 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))
- 84) 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))
- 85) Requires 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 or mental health professional association
 - Licensed health facility or governmental entity
 - Continuing education unit of an accredited or state-approved four-year educational institution
- 86) Requires the Board to establish by regulation a procedure for approving continuing education providers. (B&P Code § 4999.76(e))
- 87) 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))
- 88) 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.
- 89) Requires continuing education to include courses directly related to the diagnosis, assessment, and treatment of clients. (B&P Code § 4999.76(g))
- 90) Requires the Board to fund the administration of its continuing education program through continuing education provider fees. (B&P Code § 4999.76(h))
- 91) 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))
- 92) Requires the Board to enforce laws designed to protect the public from incompetent, unethical, or unprofessional practitioners and to investigate complaints concerning the conduct of any LPC. (B&P Code § 4999.80(a))
- 93) 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))

94) 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.

95) 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
- License was secured by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.
- A licensee knowingly made a false statement or knowingly omitted to state a fact to the Board regarding another person's application for license.

96) 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.

97) 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)

98) Establishes that any person who violates any of the provisions of LPC law is subject to a civil penalty, not to exceed three thousand five hundred dollars (\$3,500) for each violation, which may be recovered in a civil action brought by a public prosecutor. (B&P Code § 4999.86)

99) 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)

100) 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)

101) 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.

102) Specifies that an intern registration shall expire one year from the last day of the month in which it was issued. (B&P Code § 4999.100(a))

103) Requires an 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 and pay the required fee
- Notify the Board whether he or she has been convicted of a misdemeanor or felony or

104) Specifies that a LPC license shall expire no more than 24 months after the issue date. (B&P Code § 4999.102(a))

105) 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.

106) Allows an expired LPC license to be renewed at any time within three years of expiration. (B&P Code § 4999.104)

107) 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.

108) Prohibits a license that has not been renewed within three years after its expiration from being renewed, restored, reinstated or reissued. Permits a former licensee to 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.

109) 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)

110) 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)

111) Permits a LPC to apply to the Board to request his or her license be placed on inactive status, and 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.

112) Permits reactivation of an inactive license by submitting a request to the Board and: (B&P Code § 4999.112(b))

- 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 (or 36 hours if the license will expire in more than one year).

113) 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)

114) Requires moneys credited to the Behavioral Sciences Fund to be used by the BBS for carrying out and enforcing the provisions of the LPC chapter. (B&P Code § 4999.116(a))

115) 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))

116) 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))

117) 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)

118) 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)

119) Requires the licensing program to be supported from fees assessed to applicants, interns and licensees. (B&P Code § 4999.122)

120) 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)

121) Does not require the Board to implement the program until funds have been appropriated. (B&P Code § 4999.122)

122) Adds LPCs to the list of mandated child abuse reporters. (Penal Code § 11165.7(a)(38))

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 LPC 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) **Educational Requirements.** The educational requirements are generally equivalent to the requirements for MFT licensure. However, SB 1218 (Correa) is currently pending and would make a number of significant changes to MFT education for persons who begin graduate study on or after August 1, 2012. Many of these proposed changes are in response to the Mental Health Services Act (MHSA), which was passed by California voters as proposition 63 in November 2004. These changes should strongly be considered for inclusion in the educational requirements for LPCs to ensure their ability to contribute to the public mental health workforce. The proposed changes to MFT education that should be considered for LPC education include the following:

- Provide more flexibility in the curriculum requirements, such as fewer requirements for specific hours or units for particular coursework, to allow for innovation in curriculum design.
- Practicum changes including:
 - An additional 75 client contact hours (total 225), which may include client centered advocacy
 - Training in the applied use of theory, working with families, documentation skills, and how to find and use resources
 - Require students to be enrolled in a practicum course while seeing clients
- Infuse the culture and norms of public mental health work and principles of the Mental Health Services Act throughout the curriculum, including the following:
 - Recovery oriented care and related methods of service delivery
 - Providing opportunities to meet with consumers and family members
 - Greater emphasis on culture throughout the degree program
 - Greater understanding of the impact of socioeconomic position
- Add instruction in areas needed for practice in a public mental health environment which may be provided in credit level coursework or through extension programs, including the

following:

- o Case management
 - o Working with the severely mentally ill
 - o Collaborative treatment
 - o Disaster and trauma response
- Degree program content to include instruction in:
 - o Evidence based and best practices
 - o End-of-life and grief
 - o Co-occurring mental health and substance use disorders
 - o Behavioral addiction
 - o Psychosexual dysfunction
 - o Differences in legal and ethical standards for different types of work settings
 - o Licensing law and licensing process
 - Require certain coursework, such as California law and ethics and child abuse assessment and reporting, which are currently required prior to licensure (and permitted to be taken outside of the degree program) to instead be completed prior to registration as an intern and within the degree program.
- 4) Supervised Experience.** Supervised experience requirements are comparable to that of LCSWs, and is similar to that required for MFTs, except that all experience must be gained post-degree. A comparison table is attached. Additionally, as mentioned in item #3, SB 1218 (Correa) is currently pending and would make the following changes to the experience requirements for MFT applicants, and should be considered for LPCs:
- Permit applicants to count experience for performing “client centered advocacy” activities toward licensure.
 - Permit MFT interns to gain a portion of the required supervision via teleconferencing.
 - Require applicants for MFT licensure to verify that supervised experience was gained as an employee or volunteer and not as an independent contractor.
- 5) 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 all of 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 intern registration (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):
 - o The National Certified Counselor Examination for Licensure and Certification (NCE) **OR** the Certified Rehabilitation Counselor Examination (CRCE) **AND**
 - o 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 other methods of qualifying require:

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

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 a caveat, as requested, that the Board does not have to implement the program until funds have been appropriated.

8) Timelines for Implementation. Implementation dates for different areas have been staggered to allow the Board time to obtain spending authority, hire staff, perform an occupational analysis, audit a national examination, and should any California examinations be needed, time to develop and implement those examinations. The bill was introduced in early 2007 and at that time contained implementation dates that were far enough in the future to allow these activities to be completed. Since one year has passed, those implementation dates would now be impossible to meet. All of the dates need to be increased by at least one year.

9) Suggested Amendments.

- **B&P Code §§ 4990(i), 4999.32(b), 4999.32(c)(4)(I), 4999.38(a)(3) 4999.42(b), 4999.50(d), 4999.54, 4999.56:** Move all dates forward by at least one year to allow the board adequate time to implement each component of the program.
- **B&P Code § 4999.32:** Make all changes related to MFT education legislation as indicated in item #3 above.
- **B&P Code § 4999.38:** Move all additional coursework to section 4999.32, and require these courses, such as child abuse assessment and reporting, to be taken within the degree program and thus prior registration as an intern.
- **B&P Code § 4999.38(a):** Amend as follows to clarify that the education and training is also required of applicants for licensure via grandparenting: "All applicants shall complete the following coursework or training prior to registration as an intern or prior to licensure under subdivision (a) of section 4999.54."
- **B&P Code § 4999.45:** Require applicants for licensure to provide verification that supervised experience was gained as an employee or volunteer and not as an independent contractor.
- **B&P Code § 4999.46:** Permit interns to gain a portion of the required supervision via teleconferencing, and permit applicants to count some hours of experience for performing "client centered advocacy" activities.
- **Penal Code § 11165.7(a):** Add counselor trainees and interns to the list of mandated child abuse reporters.

10) Support and Opposition.

Support:

California Coalition for Counselor Licensure (CCCL, sponsor)
Board of Behavioral Sciences

American Art Therapy Association
 American Association of State Counseling Boards
 American Counseling Association
 American Counseling Association, Western Region
 American Dance Therapy Association
 American Mental Health Counselors Association
 American Rehabilitation Counseling Association
 Association for Counselor Education and Supervision
 Association for Play Therapy
 California Association of School Counselors
 California Career Development Association
 California Mental Health Counselors Association
 California Psychiatric Association
 California Registry of Professional Counselors and Paraprofessionals
 California Rehabilitation Counseling Association
 Commission on Rehabilitation Counselor Certification
 Mental Health Association in California
 National Board for Certified Counselors
 National University, Department of School Counseling
 Northern California Art Therapy Association
 Western Association for Counselor Education and Supervision
 Numerous individuals

Oppose:

American Association For Marriage and Family Therapy-California Division
 Citizens Commission on Human Rights

Oppose Unless Amended:

California Psychological Association
 Central Coast Psychological Association
 Contra Costa Psychological Association
 Los Angeles County Psychological Association
 Pacific Cascade Psychological Association
 Santa Clara County Psychological Association
 Numerous individuals

11) History

2007

July 9	In committee: Set first hearing. Failed passage. Reconsideration granted.
June 26	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on B., P. & E.D.
June 25	In committee: Hearing postponed by committee.
June 19	In committee: Hearing postponed by committee.
June 18	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on B., P. & E.D.
June 14	Referred to Coms. on B., P. & E.D. and PUB. S.
June 7	In Senate. Read first time. To Com. on RLS. for assignment.
June 6	Read third time, passed, and to Senate. (Ayes 44. Noes 34. Page 2041.)
June 4	Read second time. To third reading.
June 1	From committee: Amend, and do pass as amended. (Ayes 16. Noes 1.) (May 31). Read second time and amended. Ordered returned to second reading.

May 10	In committee: Set, first hearing. Referred to APPR. suspense file.
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.

12) Attachment

Comparison of education and experience requirements across license types (LPC, MFT, LCSW)

AMENDED IN SENATE JUNE 26, 2007

AMENDED IN SENATE JUNE 18, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

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, and to amend Section 11165.7 of the Penal Code, relating to professional counselors.

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 clinical 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 counselor 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 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~~ *is subject to a civil penalty not to exceed \$3,500 for each violation in a civil action brought by a public prosecutor.*

Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure to report an incident is a crime punishable by imprisonment in a county jail for a period of 6 months, a fine of up to \$1,000, or by both that imprisonment and fine.

This bill would add licensed professional counselors to the list of individuals who are mandated reporters. By imposing the reporting requirement on a new class of persons, the violation of which would be a 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: no. 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
18 psychotherapy, a psychologist, a clinical social worker, a marriage
19 and family therapist, a licensed professional counselor, a
20 psychological assistant, a marriage and family therapist registered
21 intern or trainee, an intern or trainee as specified in Chapter 16
22 (commencing with Section 4999.10), or an associate clinical social
23 worker.

24 (2) "Sexual contact" means the touching of an intimate part of
25 another person.

26 (3) "Intimate part" and "touching" have the same meaning as
27 defined in subdivisions (f) and (d), respectively, of Section 243.4
28 of the Penal Code.

29 (4) "The course of a prior treatment" means the period of time
30 during which a patient first commences treatment for services that
31 a psychotherapist is authorized to provide under his or her scope
32 of practice, or that the psychotherapist represents to the patient as
33 being within his or her scope of practice, until the
34 psychotherapist-patient relationship is terminated.

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

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

1 (1) “Peer review body” includes:

2 (A) A medical or professional staff of any health care facility
3 or clinic licensed under Division 2 (commencing with Section
4 1200) of the Health and Safety Code or of a facility certified to
5 participate in the federal Medicare Program as an ambulatory
6 surgical center.

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

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

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

23 (2) “Licentiate” means a physician and surgeon, podiatrist,
24 clinical psychologist, marriage and family therapist, clinical social
25 worker, licensed professional counselor, or dentist. “Licentiate”
26 also includes a person authorized to practice medicine pursuant to
27 Section 2113.

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

30 (4) “Staff privileges” means any arrangement under which a
31 licentiate is allowed to practice in or provide care for patients in
32 a health facility. Those arrangements shall include, but are not
33 limited to, full staff privileges, active staff privileges, limited staff
34 privileges, auxiliary staff privileges, provisional staff privileges,
35 temporary staff privileges, courtesy staff privileges, locum tenens
36 arrangements, and contractual arrangements to provide professional
37 services, including, but not limited to, arrangements to provide
38 outpatient services.

39 (5) “Denial or termination of staff privileges, membership, or
40 employment” includes failure or refusal to renew a contract or to

1 renew, extend, or reestablish any staff privileges, if the action is
2 based on medical disciplinary cause or reason.

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

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

9 (b) The chief of staff of a medical or professional staff or other
10 chief executive officer, medical director, or administrator of any
11 peer review body and the chief executive officer or administrator
12 of any licensed health care facility or clinic shall file an 805 report
13 with the relevant agency within 15 days after the effective date of
14 any of the following that occur as a result of an action of a peer
15 review body:

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

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

20 (3) Restrictions are imposed, or voluntarily accepted, on staff
21 privileges, membership, or employment for a cumulative total of
22 30 days or more for any 12-month period, for a medical disciplinary
23 cause or reason.

24 (c) The chief of staff of a medical or professional staff or other
25 chief executive officer, medical director, or administrator of any
26 peer review body and the chief executive officer or administrator
27 of any licensed health care facility or clinic shall file an 805 report
28 with the relevant agency within 15 days after any of the following
29 occur after notice of either an impending investigation or the denial
30 or rejection of the application for a medical disciplinary cause or
31 reason:

32 (1) Resignation or leave of absence from membership, staff, or
33 employment.

34 (2) The withdrawal or abandonment of a licentiate’s application
35 for staff privileges or membership.

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

38 (d) For purposes of filing an 805 report, the signature of at least
39 one of the individuals indicated in subdivision (b) or (c) on the

1 completed form shall constitute compliance with the requirement
2 to file the report.

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

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

11 The information to be reported in an 805 report shall include the
12 name and license number of the licentiate involved, a description
13 of the facts and circumstances of the medical disciplinary cause
14 or reason, and any other relevant information deemed appropriate
15 by the reporter.

16 A supplemental report shall also be made within 30 days
17 following the date the licentiate is deemed to have satisfied any
18 terms, conditions, or sanctions imposed as disciplinary action by
19 the reporting peer review body. In performing its dissemination
20 functions required by Section 805.5, the agency shall include a
21 copy of a supplemental report, if any, whenever it furnishes a copy
22 of the original 805 report.

23 If another peer review body is required to file an 805 report, a
24 health care service plan is not required to file a separate report
25 with respect to action attributable to the same medical disciplinary
26 cause or reason. If the Medical Board of California or a licensing
27 agency of another state revokes or suspends, without a stay, the
28 license of a physician and surgeon, a peer review body is not
29 required to file an 805 report when it takes an action as a result of
30 the revocation or suspension.

31 (g) The reporting required by this section shall not act as a
32 waiver of confidentiality of medical records and committee reports.
33 The information reported or disclosed shall be kept confidential
34 except as provided in subdivision (c) of Section 800 and Sections
35 803.1 and 2027, provided that a copy of the report containing the
36 information required by this section may be disclosed as required
37 by Section 805.5 with respect to reports received on or after
38 January 1, 1976.

1 (h) The Medical Board of California, the Osteopathic Medical
2 Board of California, and the Dental Board of California shall
3 disclose reports as required by Section 805.5.

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

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

8 (k) A willful failure to file an 805 report by any person who is
9 designated or otherwise required by law to file an 805 report is
10 punishable by a fine not to exceed one hundred thousand dollars
11 (\$100,000) per violation. The fine may be imposed in any civil or
12 administrative action or proceeding brought by or on behalf of any
13 agency having regulatory jurisdiction over the person regarding
14 whom the report was or should have been filed. If the person who
15 is designated or otherwise required to file an 805 report is a
16 licensed physician and surgeon, the action or proceeding shall be
17 brought by the Medical Board of California. The fine shall be paid
18 to that agency but not expended until appropriated by the
19 Legislature. A violation of this subdivision may constitute
20 unprofessional conduct by the licentiate. A person who is alleged
21 to have violated this subdivision may assert any defense available
22 at law. As used in this subdivision, “willful” means a voluntary
23 and intentional violation of a known legal duty.

24 (l) Except as otherwise provided in subdivision (k), any failure
25 by the administrator of any peer review body, the chief executive
26 officer or administrator of any health care facility, or any person
27 who is designated or otherwise required by law to file an 805
28 report, shall be punishable by a fine that under no circumstances
29 shall exceed fifty thousand dollars (\$50,000) per violation. The
30 fine may be imposed in any civil or administrative action or
31 proceeding brought by or on behalf of any agency having
32 regulatory jurisdiction over the person regarding whom the report
33 was or should have been filed. If the person who is designated or
34 otherwise required to file an 805 report is a licensed physician and
35 surgeon, the action or proceeding shall be brought by the Medical
36 Board of California. The fine shall be paid to that agency but not
37 expended until appropriated by the Legislature. The amount of the
38 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
39 violation, shall be proportional to the severity of the failure to
40 report and shall differ based upon written findings, including

1 whether the failure to file caused harm to a patient or created a
2 risk to patient safety; whether the administrator of any peer review
3 body, the chief executive officer or administrator of any health
4 care facility, or any person who is designated or otherwise required
5 by law to file an 805 report exercised due diligence despite the
6 failure to file or whether they knew or should have known that an
7 805 report would not be filed; and whether there has been a prior
8 failure to file an 805 report. The amount of the fine imposed may
9 also differ based on whether a health care facility is a small or
10 rural hospital as defined in Section 124840 of the Health and Safety
11 Code.

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

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

22 4990. (a) There is in the Department of Consumer Affairs, a
23 Board of Behavioral Sciences that consists of 15 members
24 composed as follows:

- 25 (1) Two state licensed clinical social workers.
- 26 (2) One state licensed educational psychologist.
- 27 (3) Two state licensed marriage and family therapists.
- 28 (4) Two licensed professional counselors.
- 29 (5) Eight public members.

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

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

33 (d) The Governor shall appoint six of the public members and
34 the seven licensed members with the advice and consent of the
35 Senate. The Senate Committee on Rules and the Speaker of the
36 Assembly shall each appoint a public member.

37 (e) Each member of the board shall be appointed for a term of
38 four years. A member appointed by the Speaker of the Assembly
39 or the Senate Committee on Rules shall hold office until the
40 appointment and qualification of his or her successor or until one

1 year from the expiration date of the term for which he or she was
 2 appointed, whichever first occurs. Pursuant to Section 1774 of the
 3 Government Code, a member appointed by the Governor shall
 4 hold office until the appointment and qualification of his or her
 5 successor or until 60 days from the expiration date of the term for
 6 which he or she was appointed, whichever first occurs.

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

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

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

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

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

21
 22 CHAPTER 16. LICENSED PROFESSIONAL COUNSELORS

23
 24 Article 1. Administration

25
 26 4999.10. This chapter constitutes, and may be cited as, the
 27 Licensed Professional Counselor Act.

28 4999.12. For purposes of this chapter, the following terms have
 29 the following meanings:

- 30 (a) "Board" means the Board of Behavioral Sciences.
- 31 (b) "Accredited" means a school, college, or university
 32 accredited by the Western Association of Schools and Colleges,
 33 or its equivalent regional accrediting association.
- 34 (c) "Approved" means a school, college, or university that
 35 possessed unconditional approval by the Bureau for Private
 36 Postsecondary and Vocational Education at the time of the
 37 applicant's graduation from the school, college, or university.
- 38 (d) "Applicant" means an unlicensed person who has completed
 39 a master's or doctoral degree program, as specified in Section
 40 4999.32, and whose application for registration as an intern is

1 pending or who is in the examination process, or an unlicensed
2 person who has completed the requirements for licensure specified
3 in this chapter, is no longer registered with the board as an intern,
4 and is currently in the examination process.

5 (e) “Licensed professional counselor” or “LPC” means a person
6 licensed under this chapter to practice professional counseling, as
7 defined in Section 4999.20.

8 (f) “Intern” means an unlicensed person who meets the
9 requirements of Section 4999.42 and is registered with the board.

10 (g) “Counselor trainee” means an unlicensed person who is
11 currently enrolled in a master’s or doctoral degree program, as
12 specified in Section 4999.32, that is designed to qualify him or her
13 for licensure under this chapter, and who has completed no less
14 than 12 semester units or 18 quarter units of coursework in any
15 qualifying degree program.

16 (h) “Approved supervisor” means an individual who meets the
17 following requirements:

18 (1) Has documented two years of clinical experience as a
19 licensed professional counselor, licensed marriage and family
20 therapist, licensed clinical psychologist, licensed clinical social
21 worker, or licensed physician and surgeon who is certified in
22 psychiatry by the American Board of Psychiatry and Neurology.

23 (2) Has received professional training in supervision.

24 (3) Has not provided therapeutic services to the counselor trainee
25 or intern.

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

28 (i) “Professional enrichment activities” includes the following:

29 (1) Workshops, seminars, training sessions, or conferences
30 directly related to professional counseling attended by the applicant
31 and approved by the applicant’s supervisor.

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

35 (j) “Advertising” or “advertise” includes, but is not limited to,
36 the issuance of any card, sign, or device to any person, or the
37 causing, permitting, or allowing of any sign or marking on, or in,
38 any building or structure, or in any newspaper or magazine or in
39 any directory, or any printed matter whatsoever, with or without
40 any limiting qualification. It also includes business solicitations

1 communicated by radio or television broadcasting. Signs within
2 church buildings or notices in church bulletins mailed to a
3 congregation shall not be construed as advertising within the
4 meaning of this chapter.

5 (k) "Assessment" means selecting, administering, scoring, and
6 interpreting tests, instruments, and other tools and methods
7 designed to measure an individual's attitudes, abilities, aptitudes,
8 achievements, interests, personal characteristics, disabilities, and
9 mental, emotional, and behavioral concerns and development and
10 the use of methods and techniques for understanding human
11 behavior in relation to coping with, adapting to, or ameliorating
12 changing life situations, as part of the counseling process.

13 (l) "Counseling interventions" means the application of
14 cognitive, affective, behavioral, or holistic counseling strategies
15 that include principles of development, wellness, and pathology
16 that reflect a pluralistic society. Such interventions are specifically
17 implemented in the context of a professional counseling
18 relationship and use a variety of counseling theories and
19 approaches.

20 (m) "Referral" means evaluating and identifying the needs of
21 a client to determine whether it is advisable to refer the client to
22 other specialists, informing the client of that judgment, and
23 communicating that determination as requested or deemed
24 appropriate to referral sources.

25 (n) "Research" means a systematic effort to collect, analyze,
26 and interpret quantitative and qualitative data that describes how
27 social characteristics, behavior, emotion, cognitions, disabilities,
28 mental disorders, and interpersonal transactions among individuals
29 and organizations interact.

30 (o) "Supervision" includes the following:

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

34 (2) Reviewing client or patient records, monitoring and
35 evaluating assessment, diagnosis, and treatment decisions of the
36 counselor trainee.

37 (3) Monitoring and evaluating the ability of the intern or
38 counselor trainee to provide services to the particular clientele at
39 the site or sites where he or she will be practicing.

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

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

6 4999.14. The board shall do all of the following:

7 (a) Communicate information about its activities, the
8 requirements and qualifications for licensure, and the practice of
9 professional counseling to the relevant educational institutions,
10 supervisors, professional associations, applicants, counselor
11 trainees, interns, and the public.

12 (b) Develop policies and procedures to assist educational
13 institutions in meeting the educational qualifications of Section
14 4999.32.

15
16 Article 2. Scope of Practice

17
18 4999.20. (a) Professional counseling means the application of
19 psychotherapeutic techniques and mental health or human
20 developmental principles through assessment, cognitive, affective,
21 behavioral, verbal or nonverbal, or systemic intervention strategies,
22 consistent with scope and coursework and training required in
23 subdivision (c) of Section 4999.32, and Sections 4999.38 and
24 4999.46 that address wellness, personal growth, adjustment to
25 disability, crisis intervention, as well as pathology, and empower
26 individuals to deal adequately with life situations, reduce stress,
27 experience growth, and make well-informed, rational decisions.

28 (b) Professional counselors are restricted to the use of specific
29 methods, techniques, or modalities for which they have the
30 appropriate education and training and may only engage in
31 assessment activities for which they are qualified by education
32 and training. Professional counselors shall refer clients to other
33 licensed health care professionals when they identify issues beyond
34 their own scope of education, training, and experience.

35 4999.22. (a) Nothing in this chapter shall prevent qualified
36 persons from doing work of a psychosocial nature consistent with
37 the standards and ethics of their respective professions. However,
38 these qualified persons shall not hold themselves out to the public
39 by any title or description of services incorporating the words
40 “licensed professional counselor” and shall not state that they are

1 licensed to practice professional counseling, unless they are
2 otherwise licensed to provide counseling services.

3 (b) Nothing in this chapter shall be construed to constrict, limit,
4 or withdraw provisions of the Medical Practice Act, the Clinical
5 Social Worker Practice Act, the Nursing Practice Act, the
6 Psychology Licensing Law, or the Marriage and Family Therapy
7 licensing laws.

8 (c) This chapter shall not apply to any priest, rabbi, or minister
9 of the gospel of any religious denomination who performs
10 counseling services as part of his or her pastoral or professional
11 duties, or to any person who is admitted to practice law in this
12 state, or who is licensed to practice medicine, who provides
13 counseling services as part of his or her professional practice.

14 (d) This chapter shall not apply to an employee of a
15 governmental entity or of a school, college, or university, or of an
16 institution both nonprofit and charitable, if his or her practice is
17 performed solely under the supervision of the entity, school, or
18 organization by which he or she is employed, and if he or she
19 performs those functions as part of the position for which he or
20 she is employed.

21 (e) All persons registered as interns or licensed under this
22 chapter shall not be exempt from this chapter or the jurisdiction
23 of the board.

24 4999.24. Nothing in this chapter shall restrict or prevent
25 activities of a psychotherapeutic or counseling nature on the part
26 of persons employed by accredited or state-approved academic
27 institutions, public schools, government agencies, or nonprofit
28 institutions engaged in the training of graduate students or
29 counselor trainees pursuing a course of study leading to a degree
30 that qualifies for professional counselor licensure at an accredited
31 or state-approved college or university, or working in a recognized
32 training program, provided that these activities and services
33 constitute a part of a supervised course of study and that those
34 persons are designated by a title such as “counselor trainee” or
35 other title clearly indicating the training status appropriate to the
36 level of training.

Article 3. Licensure

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

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

(a) A master's or doctoral degree in counseling, or a closely related degree that meets the requirements specified in paragraph (3) of subdivision (c), obtained from an accredited or approved institution.

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

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

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

(A) Counseling and psychotherapeutic theories and techniques.

(B) Human growth and development across the lifespan, including normal and abnormal behavior.

(C) Career development theories and techniques.

(D) Group counseling theories and techniques.

(E) Assessment, appraisal, and testing of individuals.

(F) Multicultural counseling theories and techniques.

(G) Principles of diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior, including the use of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders."

(H) Research and evaluation.

(I) Professional orientation, ethics, and law in counseling.

(2) Additional coursework including special treatment issues and special population issues, as well as supervised clinical practicum or field study experience, as defined in paragraph (4).

(3) The master's or doctoral degree shall contain at least seven of the nine courses listed in subparagraphs (A) through (I) of paragraph (1).

1 (A) An applicant whose degree is deficient in the required areas
2 of study or in the required units pursuant to this section may satisfy
3 the requirements by successfully completing postmaster's or
4 postdoctoral degree coursework at an accredited or approved
5 institution.

6 (B) Coursework taken to meet deficiencies in the required areas
7 of study listed in subparagraphs (A) to (I), inclusive, of paragraph
8 (1) shall be the equivalent of three semester units or four and
9 one-half quarter units of study. Coursework taken beyond the
10 required areas of study shall include counseling modalities or
11 treatment with special populations.

12 (C) The board shall make the final determination as to whether
13 a degree meets all requirements, including, but not limited to,
14 course requirements, regardless of accreditation.

15 (4) Not less than six semester units or nine quarter units of
16 supervised practicum or field study experience, or the equivalent,
17 in a clinical or counseling setting that provides a range of
18 professional counseling experience, including the following:

19 (A) Applied psychotherapeutic techniques.

20 (B) Assessment.

21 (C) Diagnosis.

22 (D) Prognosis.

23 (E) Treatment.

24 (F) Issues of development, adjustment, and maladjustment.

25 (G) Health and wellness promotion.

26 (H) Other recognized counseling interventions.

27 (I) A minimum of 150 hours of face-to-face supervised
28 experience counseling individuals, families, or groups. On January
29 1, 2013, the minimum number of hours of face-to-face supervised
30 experience shall increase to 280 hours.

31 4999.34. A counselor trainee may be credited with predegree
32 supervised practicum and field study experience completed in a
33 setting that meets all of the following requirements:

34 (a) Lawfully and regularly provides counseling and
35 psychotherapy.

36 (b) Provides oversight to ensure that the counselor trainee's
37 work at the setting meets the practicum and field study experience
38 and requirements set forth in this chapter and is within the scope
39 of practice for licensed professional counselors.

40 (c) Is not a private practice.

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

4 4999.36. (a) A counselor trainee may perform activities and
5 services provided that the activities and services constitute part of
6 the counselor trainee's supervised course of study and that the
7 person is designated by the title "counselor trainee."

8 (b) All practicum and field study hours gained as a counselor
9 trainee shall be coordinated between the school and the site where
10 hours are being accrued. The school shall approve each site and
11 shall have a written agreement with each site that details each
12 party's responsibilities, including the methods by which supervision
13 shall be provided. The agreement shall provide for regular progress
14 reports and evaluations of the student's performance at the site.

15 (c) If an applicant has gained practicum and field study hours
16 while enrolled in an institution other than the one that confers the
17 qualifying degree, it shall be the applicant's responsibility to
18 provide to the board satisfactory evidence that those practicum
19 and field study hours were gained in compliance with this section.

20 (d) A counselor trainee shall inform each client or patient, prior
21 to performing any professional services, that he or she is unlicensed
22 and under supervision.

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

25 (f) A counselor trainee shall receive at least one hour of
26 individual or triadic supervision and two hours of group supervision
27 for each week the counselor trainee sees clients, for a total of three
28 hours of supervision per week. For purposes of this subdivision,
29 "individual supervision" means face-to-face contact with the
30 supervisor alone, "triadic supervision" means face-to-face contact
31 with the supervisor and one other counselor trainee, and "group
32 supervision" means face-to-face contact with the supervisor in a
33 group of not more than 10 persons.

34 4999.38. (a) All applicants shall complete the following
35 coursework or training prior to registration as an intern:

36 (1) Instruction in alcoholism and other chemical substance
37 dependency as specified by regulation. When coursework in a
38 master's or doctoral degree program is acquired to satisfy this
39 requirement, it shall be considered as part of the 48 semester unit
40 or 72 quarter unit requirement in subdivision (b) of Section

1 4999.32. This paragraph applies to those individuals who began
2 graduate study on or after January 1, 1986.

3 (2) A minimum of 10 contact hours of training or coursework
4 in human sexuality as specified in Section 25, and any regulations
5 promulgated thereunder. When coursework in a master's or
6 doctoral degree program is acquired to satisfy this requirement, it
7 shall be considered as part of the 48 semester unit or 72 quarter
8 unit requirement in subdivision (b) of Section 4999.32.

9 (3) A two semester unit or three quarter unit survey course in
10 psychopharmacology. This paragraph applies to individuals who
11 began graduate study on or after January 1, 2001. After January
12 1, 2013, this requirement shall expand to a three semester unit or
13 four and one-half quarter unit course and include the biological
14 bases for behavior. This requirement is intended to improve the
15 educational qualifications for licensure in order to better prepare
16 future licentiates for practice, and is not intended in any way to
17 expand or restrict the scope of licensure for professional counselors.

18 (4) Coursework in spousal or partner abuse assessment,
19 detection, and intervention strategies, including knowledge of
20 community resources, cultural factors, and same gender abuse
21 dynamics. This paragraph shall apply to individuals who began
22 graduate study on or after January 1, 1995. Applicants who began
23 graduate study on or after January 1, 2004, shall complete a
24 minimum of 15 contact hours of coursework to satisfy this
25 requirement.

26 (5) A minimum of seven contact hours of training or coursework
27 in child abuse assessment and reporting as specified in Section 28
28 and any regulations adopted thereunder.

29 (6) A minimum of two semester unit or three quarter units in
30 California law and professional ethics for professional counselors,
31 which shall include, but not be limited to, the following areas of
32 study:

33 (A) Contemporary professional ethics and statutory, regulatory,
34 and decisional law that delineates the profession's scope of
35 practice.

36 (B) The therapeutic, clinical, and practical considerations
37 involved in the legal and ethical practice of professional counseling.

38 (C) The current legal patterns and trends in the mental health
39 professions.

1 (D) The psychotherapist-patient privilege, confidentiality, the
2 patient dangerous to self or others, and the treatment of minors
3 with and without parental consent.

4 (E) A recognition and exploration of the relationship between
5 a practitioner’s sense of self and human values and his or her
6 professional behavior and ethics.

7 (7) A minimum of 10 contact hours of coursework in aging and
8 long-term care, which may include, but is not limited to, the
9 biological, social, and psychological aspects of aging. This
10 paragraph shall apply to individuals who began graduate study on
11 or after January 1, 2004.

12 (b) Coursework taken in fulfillment of other educational
13 requirements for licensure as a professional counselor, or in a
14 separate course of study, may, at the discretion of the board, fulfill
15 the requirements of subdivision (a).

16 4999.40. (a) Each educational institution preparing applicants
17 to qualify for licensure shall notify each of its students by means
18 of its public documents or otherwise in writing that its degree
19 program is designed to meet the requirements of Section 4999.32
20 and shall certify to the board that it has so notified its students.

21 (b) An applicant trained at an educational institution outside the
22 United States shall demonstrate to the satisfaction of the board
23 that he or she possesses a qualifying degree that is equivalent to a
24 degree earned from an institution of higher education that is
25 accredited or approved. These applicants shall provide the board
26 with a comprehensive evaluation of the degree performed by a
27 foreign credential evaluation service that is a member of the
28 National Association of Credential Evaluation Services and shall
29 provide any other documentation the board deems necessary.

30 4999.42. (a) To qualify for registration as an intern, an
31 applicant shall have all of the following qualifications:

32 (1) The applicant shall have earned a master’s or doctoral degree
33 as specified in Section 4999.32 and shall have completed the
34 coursework or training specified in Section 4999.38.

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

37 (3) The board shall not issue a registration to any person who
38 has been convicted of a crime in this or another state or in a
39 territory of the United States that involves sexual abuse of children

1 or who is required to register pursuant to Section 290 of the Penal
2 Code or the equivalent in another state or territory.

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

5 4999.44. (a) An intern may be credited with supervised
6 experience completed in any setting that meets all of the following
7 requirements:

8 (1) Lawfully and regularly provides counseling or
9 psychotherapy.

10 (2) Provides oversight to ensure that the intern's work at the
11 setting meets the experience and supervision requirements set forth
12 in this chapter and is within the scope of practice for the profession
13 as specified in Article 2 (commencing with Section 4999.20).

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

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

18 4999.45. An intern employed under this chapter shall:

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

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

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

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

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

29 (f) When no further renewals are possible, an applicant may
30 apply for and obtain a new intern registration if the applicant meets
31 the educational requirements for registration in effect at the time
32 of the application for a new intern registration. An applicant issued
33 a subsequent intern registration pursuant to this subdivision may
34 be employed or volunteer in any allowable work setting except
35 private practice.

36 4999.46. (a) Each applicant for licensure shall complete
37 experience under the general supervision of an approved supervisor
38 as defined in Section 4999.12.

39 (b) The experience shall include the following:

- 1 (1) A minimum of 3,000 postdegree hours of supervised
2 experience related to the practice of professional counseling,
3 performed over a period of not less than two years (104 weeks)
4 which shall include:
- 5 (A) Not more than 40 hours in any seven consecutive days.
6 (B) Not less than 1,750 hours of direct counseling with
7 individuals or groups in a clinical or counseling setting using a
8 variety of psychotherapeutic techniques and recognized counseling
9 interventions within the scope of practice of licensed professional
10 counselors.
- 11 (C) Not less than 150 hours of experience in a hospital or
12 community mental health setting.
- 13 (D) Not more than 1,000 hours of direct supervisor contact and
14 professional enrichment activities.
- 15 (E) Not more than 500 hours of experience providing group
16 therapy or group counseling.
- 17 (F) Not more than 250 hours of experience administering and
18 evaluating psychological tests of counselees, writing clinical
19 reports, writing progress notes, or writing process notes.
- 20 (G) Not more than 250 hours of experience providing counseling
21 or crisis counseling on the telephone.
- 22 (H) No hours of experience may be gained more than six years
23 prior to the date the application for licensure was filed.
- 24 (c) An applicant shall register with the board as an intern in
25 order to be credited for postdegree hours of experience toward
26 licensure. Postdegree hours of experience shall be credited toward
27 licensure, provided that the applicant applies for intern registration
28 within 90 days of the granting of the qualifying degree and is
29 registered as an intern by the board.
- 30 (d) All applicants and interns shall be at all times under the
31 supervision of a supervisor who shall be responsible for ensuring
32 that the extent, kind, and quality of counseling performed is
33 consistent with the training and experience of the person being
34 supervised, and who shall be responsible to the board for
35 compliance with all laws, rules, and regulations governing the
36 practice of professional counseling. At no time shall a supervisor
37 supervise more than two interns.
- 38 (e) Supervision shall include at least one hour of direct
39 supervisor contact in each week for which experience is credited
40 in each work setting.

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

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

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

10 4999.47. (a) Counselor trainees, interns, and applicants shall
11 perform services as an employee or as a volunteer, not as an
12 independent contractor.

13 The requirements of this chapter regarding gaining hours of
14 experience and supervision are applicable equally to employees
15 and volunteers.

16 (b) Counselor trainees, interns, and applicants shall not receive
17 any remuneration from patients or clients, and shall only be paid
18 by their employers.

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

21 (d) Counselor trainees, interns, and applicants who provide
22 voluntary services or other services, and who receive no more than
23 a total, from all work settings, of five hundred dollars (\$500) per
24 month as reimbursement for expenses actually incurred by those
25 counselor trainees, interns, and applicants for services rendered in
26 any lawful work setting other than a private practice shall be
27 considered an employee and not an independent contractor.

28 (e) The board may audit an intern or applicant who receives
29 reimbursement for expenses and the intern or applicant shall have
30 the burden of demonstrating that the payments received were for
31 reimbursement of expenses actually incurred.

32 (f) Counselor trainees, interns, and applicants shall only perform
33 services at the place where their employer regularly conducts
34 business and services, which may include other locations, as long
35 as the services are performed under the direction and control of
36 the employer and supervisor in compliance with the laws and
37 regulations pertaining to supervision. Counselor trainees, interns,
38 and applicants shall have no proprietary interest in the employer’s
39 business.

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

12 4999.48. The board shall adopt regulations regarding the
 13 supervision of interns which may include, but not be limited to,
 14 the following:

- 15 (a) Supervisor qualifications.
- 16 (b) Continuing education requirements of supervisors.
- 17 (c) Registration or licensing of supervisors, or both.
- 18 (d) General responsibilities of supervisors.
- 19 (e) The board’s authority in cases of noncompliance or gross
 20 or repeated negligence by supervisors.

21 4999.50. (a) The board may issue a professional counselor
 22 license to any person who meets all of the following requirements:

- 23 (1) He or she has received a master’s or doctoral degree in
 24 counseling, or a closely related degree, as provided in Section
 25 4999.32, from an institution that is accredited or approved.
- 26 (2) He or she has completed 3,000 hours of supervised
 27 experience in the practice of professional counseling as provided
 28 in Section 4999.46.
- 29 (3) He or she provides evidence of a passing score, as
 30 determined by the board, on examinations approved by the board.
- 31 (4) He or she meets the board’s regulatory requirements for
 32 professional counselor licensure, including the following:
 - 33 (A) The applicant has not committed acts or crimes constituting
 34 grounds for denial of licensure under Section 480.
 - 35 (B) The board shall not issue a license to any person who has
 36 been convicted of a crime in this or another state or in a territory
 37 of the United States that involves sexual abuse of children or who
 38 is required to register pursuant to Section 290 of the Penal Code
 39 or the equivalent in another state or territory.

1 (C) He or she has passed a fingerprint check by submitting Live
2 Scan fingerprint images to the Department of Justice.

3 (b) The board may issue a license to any person who, at the time
4 of application, has held for at least two years, a valid license as a
5 professional counselor, or an equivalent title, in another jurisdiction
6 of the United States, if the education and supervised experience
7 requirements are substantially equivalent to this chapter, and the
8 person has successfully completed the examinations as specified
9 in paragraph (3) of subdivision (a) and has paid the required fees.

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

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

15 4999.52. (a) Every applicant for a license as a professional
16 counselor shall be examined by the board pursuant to paragraph
17 (3) of subdivision (a) of Section 4999.50. The board shall examine
18 the candidate with regard to his or her knowledge and professional
19 skills and his or her judgment in the utilization of appropriate
20 techniques and methods.

21 (b) The examinations shall be given at least twice a year at a
22 time and place and under supervision as the board may determine.

23 (c) (1) It is the intent of the Legislature that national licensing
24 examinations, such as the National Counselor Examination for
25 Licensure and Certification (NCE) and the National Clinical Mental
26 Health Counselor Examination (NCMHCE), be evaluated by the
27 board as requirements for licensure as a professional counselor.

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

33 (3) Examinations shall measure knowledge and abilities
34 demonstrably important to the safe, effective practice of the
35 profession.

36 (4) If national examinations do not meet the standards specified
37 in paragraph (2), then the board may develop and require a
38 supplemental examination in addition to national examinations.
39 Under these circumstances, national examinations, as well as a
40 supplemental examination developed by the board, are required

1 for licensure as a professional counselor pursuant to paragraph (3)
 2 of subdivision (a) of Section 4999.50 and this section.

3 (d) The board shall not deny any applicant who has submitted
 4 a complete application for examination admission to the licensure
 5 examinations required by this section if the applicant meets the
 6 educational and experience requirements of this chapter, and has
 7 not committed any acts or engaged in any conduct that would
 8 constitute grounds to deny licensure.

9 (e) The board shall not deny any applicant whose application
 10 for licensure is complete, admission to the examinations, nor shall
 11 the board postpone or delay any applicant’s examinations or delay
 12 informing the candidate of the results of the examinations, solely
 13 upon the receipt by the board of a complaint alleging acts or
 14 conduct that would constitute grounds to deny licensure.

15 (f) If an applicant for examination is the subject of a complaint
 16 or is under board investigation for acts or conduct that, if proven
 17 to be true, would constitute grounds for the board to deny licensure,
 18 the board shall permit the applicant to take the examinations, but
 19 may notify the applicant that licensure will not be granted pending
 20 completion of the investigation.

21 (g) Notwithstanding Section 135, the board may deny any
 22 applicant who has previously failed an examination permission to
 23 retake that examination pending completion of the investigation
 24 of any complaints against the applicant.

25 (h) Nothing in this section shall prohibit the board from denying
 26 an applicant admission to any examination, withholding the results,
 27 or refusing to issue a license to any applicant when an accusation
 28 or statement of issues has been filed against the applicant pursuant
 29 to Section 11503 or 11504 of the Government Code, respectively,
 30 or the applicant has been denied in accordance with subdivision
 31 (b) of Section 485.

32 (i) Notwithstanding any other provision of law, the board may
 33 destroy all examination materials two years following the date of
 34 an examination.

35 4999.54. Notwithstanding Section 4999.50, the board may
 36 issue a license to any person who submits an application for a
 37 license between October 1, 2008, and March 31, 2009, provided
 38 that all documentation is submitted within 12 months of the board’s
 39 evaluation of the application, and provided he or she meets one of
 40 the following sets of criteria:

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

2 (1) Has a master's or doctoral degree in counseling, or a closely
3 related degree, from a school, college, or university as specified
4 in Section 4999.32. Closely related degrees are degrees that include
5 the minimum core coursework required in this section. If the
6 person's degree does not include all the graduate coursework in
7 all nine subject areas as required by paragraph (1) of subdivision
8 (c) of Section 4999.32, a person shall provide documentation that
9 he or she has completed the required coursework postdegree. A
10 qualifying degree must include the supervised practicum or field
11 study experience as required in paragraph (4) of subdivision (c)
12 of Section 4999.32.

13 (A) A counselor educator whose degree contains at least seven
14 of the nine required courses shall be given credit for a course not
15 contained in the degree if the counselor educator provides
16 documentation that he or she has taught the equivalent of the
17 required course in a graduate program in counseling or a related
18 area.

19 (B) Degrees issued prior to 1996 shall include a minimum of
20 30 semester units or 45 quarter units and at least five of the nine
21 required courses specified in paragraph (1) of subdivision (c) of
22 Section 4999.32. The total number of units shall be no less than
23 48 semester units or 72 quarter units.

24 (C) Degrees issued in 1996 and after shall include a minimum
25 of 48 semester units or 72 quarter units and at least seven of the
26 nine courses specified in paragraph (1) of subdivision (c) of Section
27 4999.32.

28 (2) Additional coursework as required by Section 4999.38.

29 (3) Has at least two years, full-time or the equivalent, postdegree
30 counseling experience, that includes at least 1,000 hours of direct
31 client contact experience supervised by a licensed mental health
32 professional, or a master's level counselor or therapist who is
33 certified by a national certifying or registering organization,
34 including, but not limited to, the National Board for Certified
35 Counselors or the Commission on Rehabilitation Counselor
36 Certification.

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

38 (A) The National Counselor Examination for Licensure and
39 Certification or the Certified Rehabilitation Counselor
40 Examination.

1 (B) The National Clinical Mental Health Counselor
2 Examination.

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

6 (c) Is currently licensed as a clinical social worker in the State
7 of California and meets the coursework requirements described in
8 paragraph (1) of subdivision (a).

9 4999.56. A license issued under subdivision (a) of Section
10 4999.54 shall be valid for six years from the issuance date of the
11 initial license. After this six-year period, it shall be canceled unless
12 the licensee obtains a licensure renewal. The board shall begin
13 accepting applications for licensure renewal on January 1, 2010.
14 A person applying for licensure renewal shall pass the examinations
15 specified in Section 4999.52, which are required for licensure on
16 and after July 1, 2009, or document that he or she has already
17 passed those examinations.

18

19 Article 4. Practice Requirements

20

21 4999.70. A licensee shall display his or her license in a
22 conspicuous place in his or her primary place of practice.

23 4999.72. Any licensed professional counselor who conducts a
24 private practice under a fictitious business name shall not use any
25 name that is false, misleading, or deceptive, and shall inform the
26 patient, prior to the commencement of treatment, the name and
27 license designation of the owner or owners of the practice.

28 4999.74. Licensed professional counselors shall provide to
29 each client accurate information about the counseling relationship
30 and the counseling process.

31 4999.76. (a) Except as provided in subdivision (c), the board
32 shall not renew any license pursuant to this chapter unless the
33 applicant certifies to the board, on a form prescribed by the board,
34 that he or she has completed not less than 36 hours of approved
35 continuing education in or relevant to the field of professional
36 counseling in the preceding two years, as determined by the board.

37 (b) The board shall have the right to audit the records of any
38 applicant to verify the completion of the continuing education
39 requirement. Applicants shall maintain records of completed
40 continuing education coursework for a minimum of two years and

1 shall make these records available to the board for auditing
2 purposes upon request.

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

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

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

12 (2) Other continuing education providers, including, but not
13 limited to, a professional counseling association, a licensed health
14 facility, a governmental entity, a continuing education unit of a
15 four-year institution of higher learning that is accredited or
16 approved, or a mental health professional association, approved
17 by the board.

18 (e) The board shall establish, by regulation, a procedure for
19 approving providers of continuing education courses, and all
20 providers of continuing education, as described in paragraphs (1)
21 and (2) of subdivision (d), shall adhere to procedures established
22 by the board. The board may revoke or deny the right of a provider
23 to offer continuing education coursework pursuant to this section
24 for failure to comply with the requirements of this section or any
25 regulation adopted pursuant to this section.

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

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

30 (2) Significant recent developments in the discipline of
31 professional counseling.

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

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

37 (h) The board shall, by regulation, fund the administration of
38 this section through continuing education provider fees to be
39 deposited in the Behavioral Sciences Fund. The fees related to the
40 administration of this section shall be sufficient to meet, but shall

1 not exceed, the costs of administering the corresponding provisions
2 of this section. For the purposes of this subdivision, a provider of
3 continuing education as described in paragraph (1) of subdivision
4 (d) shall be deemed to be an approved provider.

5 (i) The continuing education requirements of this section shall
6 fully comply with the guidelines for mandatory continuing
7 education established by the Department of Consumer Affairs
8 pursuant to Section 166.

9

10 Article 5. Enforcement

11

12 4999.80. In order to carry out the provisions of this chapter,
13 the board shall do all of the following:

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

16 (b) Investigate complaints concerning the conduct of any
17 licensed professional counselor.

18 (c) Revoke, suspend, or fail to renew a license that it has
19 authority to issue for just cause, as enumerated in rules and
20 regulations of the board. The board may deny, suspend, or revoke
21 any license granted under this chapter pursuant to Section 480,
22 481, 484, 496, 498, or 499.

23 4999.82. It shall be unlawful for any person to engage in any
24 of the following acts:

25 (a) Engage in the practice of professional counseling, as defined
26 in Section 4999.20, without first having complied with the
27 provisions of this chapter and without holding a valid license as
28 required by this chapter.

29 (b) Represent himself or herself by the title “licensed
30 professional counselor,” “LPC,” “licensed counselor,” or
31 “professional counselor” without being duly licensed according
32 to the provisions of this chapter.

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

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

39 4999.84. It is the intent of the Legislature that any
40 communication made by a person to a licensed professional

1 counselor in the course of professional services shall be deemed
2 a privileged communication.

3 ~~4999.86. Any person who violates any of the provisions of this~~
4 ~~chapter is guilty of a misdemeanor punishable by imprisonment~~
5 ~~in the county jail not exceeding six months, or by a fine not~~
6 ~~exceeding two thousand five hundred dollars (\$2,500), or by both~~
7 ~~that fine and imprisonment.~~

8 *4999.86. The violation of any provision of this chapter is*
9 *subject to a civil penalty, not to exceed three thousand five hundred*
10 *dollars (\$3,500) for each violation, that may be recovered in a*
11 *civil action brought by a public prosecutor.*

12 4999.88. In addition to other proceedings provided in this
13 chapter, whenever any person has engaged, or is about to engage,
14 in any acts or practices that constitute, or will constitute, an offense
15 against this chapter, the superior court in and for the county
16 wherein the acts or practices take place, or are about to take place,
17 may issue an injunction, or other appropriate order, restraining
18 such conduct on application of the board, the Attorney General,
19 or the district attorney of the county.

20 The proceedings under this section shall be governed by Chapter
21 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
22 of Civil Procedure.

23 4999.90. The board may refuse to issue any registration or
24 license, or may suspend or revoke the registration or license of
25 any intern or licensed professional counselor, if the applicant,
26 licensee, or registrant has been guilty of unprofessional conduct.
27 Unprofessional conduct includes, but is not limited to, the
28 following:

29 (a) The conviction of a crime substantially related to the
30 qualifications, functions, or duties of a licensee or registrant under
31 this chapter. The record of conviction shall be conclusive evidence
32 only of the fact that the conviction occurred. The board may inquire
33 into the circumstances surrounding the commission of the crime
34 in order to fix the degree of discipline or to determine if the
35 conviction is substantially related to the qualifications, functions,
36 or duties of a licensee or registrant under this chapter. A plea or
37 verdict of guilty or a conviction following a plea of nolo contendere
38 made to a charge substantially related to the qualifications,
39 functions, or duties of a licensee or registrant under this chapter
40 shall be deemed to be a conviction within the meaning of this

1 section. The board may order any license or registration suspended
2 or revoked, or may decline to issue a license or registration when
3 the time for appeal has elapsed, or the judgment of conviction has
4 been affirmed on appeal, or, when an order granting probation is
5 made suspending the imposition of sentence, irrespective of a
6 subsequent order under Section 1203.4 of the Penal Code allowing
7 the person to withdraw a plea of guilty and enter a plea of not
8 guilty, or setting aside the verdict of guilty, or dismissing the
9 accusation, information, or indictment.

10 (b) Securing a license or registration by fraud, deceit, or
11 misrepresentation on any application for licensure or registration
12 submitted to the board, whether engaged in by an applicant for a
13 license or registration, or by a licensee in support of any application
14 for licensure or registration.

15 (c) Administering to himself or herself any controlled substance
16 or using any of the dangerous drugs specified in Section 4022, or
17 any alcoholic beverage to the extent, or in a manner, as to be
18 dangerous or injurious to the person applying for a registration or
19 license or holding a registration or license under this chapter, or
20 to any other person, or to the public, or, to the extent that the use
21 impairs the ability of the person applying for or holding a
22 registration or license to conduct with safety to the public the
23 practice authorized by the registration or license, or the conviction
24 of more than one misdemeanor or any felony involving the use,
25 consumption, or self-administration of any of the substances
26 referred to in this subdivision, or any combination thereof. The
27 board shall deny an application for a registration or license or
28 revoke the license or registration of any person, other than one
29 who is licensed as a physician and surgeon, who uses or offers to
30 use drugs in the course of performing licensed professional
31 counseling services.

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

34 (e) Violating, attempting to violate, or conspiring to violate any
35 of the provisions of this chapter or any regulation adopted by the
36 board.

37 (f) Misrepresentation as to the type or status of a license or
38 registration held by the person, or otherwise misrepresenting or
39 permitting misrepresentation of his or her education, professional
40 qualifications, or professional affiliations to any person or entity.

- 1 (g) Impersonation of another by any licensee, registrant, or
2 applicant for a license or registration, or, in the case of a licensee
3 or registrant, allowing any other person to use his or her license
4 or registration.
- 5 (h) Aiding or abetting, or employing, directly or indirectly, any
6 unlicensed or unregistered person to engage in conduct for which
7 a license or registration is required under this chapter.
- 8 (i) Intentionally or recklessly causing physical or emotional
9 harm to any client.
- 10 (j) The commission of any dishonest, corrupt, or fraudulent act
11 substantially related to the qualifications, functions, or duties of a
12 licensee or registrant.
- 13 (k) Engaging in sexual relations with a client, or a former client
14 within two years following termination of therapy, soliciting sexual
15 relations with a client, or committing an act of sexual abuse, or
16 sexual misconduct with a client, or committing an act punishable
17 as a sexually related crime, if that act or solicitation is substantially
18 related to the qualifications, functions, or duties of a licensed
19 professional counselor.
- 20 (l) Performing, or holding oneself out as being able to perform,
21 or offering to perform, or permitting any counselor trainee or intern
22 under supervision to perform, any professional services beyond
23 the scope of the license authorized by this chapter.
- 24 (m) Failure to maintain confidentiality, except as otherwise
25 required or permitted by law, of all information that has been
26 received from a client in confidence during the course of treatment
27 and all information about the client which is obtained from tests
28 or other means.
- 29 (n) Prior to the commencement of treatment, failing to disclose
30 to the client or prospective client the fee to be charged for the
31 professional services, or the basis upon which that fee will be
32 computed.
- 33 (o) Paying, accepting, or soliciting any consideration,
34 compensation, or remuneration, whether monetary or otherwise,
35 for the referral of professional clients. All consideration,
36 compensation, or remuneration shall be in relation to professional
37 counseling services actually provided by the licensee. Nothing in
38 this subdivision shall prevent collaboration among two or more
39 licensees in a case or cases. However, no fee shall be charged for

1 that collaboration, except when disclosure of the fee has been made
2 in compliance with subdivision (n).

3 (p) Advertising in a manner that is false, misleading, or
4 deceptive.

5 (q) Reproduction or description in public, or in any publication
6 subject to general public distribution, of any psychological test or
7 other assessment device, the value of which depends in whole or
8 in part on the naivete of the subject, in ways that might invalidate
9 the test or device.

10 (r) Any conduct in the supervision of any intern or counselor
11 trainee by any licensee that violates this chapter or any rules or
12 regulations adopted by the board.

13 (s) Performing or holding oneself out as being able to perform
14 professional services beyond the scope of one’s competence, as
15 established by one’s education, training, or experience. This
16 subdivision shall not be construed to expand the scope of the
17 license authorized by this chapter.

18 (t) Permitting a counselor trainee or intern under one’s
19 supervision or control to perform, or permitting the counselor
20 trainee or intern to hold himself or herself out as competent to
21 perform, professional services beyond the counselor trainee’s or
22 intern’s level of education, training, or experience.

23 (u) The violation of any statute or regulation of the standards
24 of the profession, and the nature of the services being rendered,
25 governing the gaining and supervision of experience required by
26 this chapter.

27 (v) Failure to keep records consistent with sound clinical
28 judgment, the standards of the profession, and the nature of the
29 services being rendered.

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

32 (x) Failing to comply with the elder and dependent adult abuse
33 reporting requirements of Section 15630 of the Welfare and
34 Institutions Code.

35 (y) Repeated acts of negligence.

36

Article 6. Revenue

37

38

39 4999.100. (a) An intern registration shall expire one year from
40 the last day of the month in which it was issued.

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

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

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

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

10 4999.102. (a) Licenses issued under this chapter shall expire
11 no more than 24 months after the issue date. The expiration date
12 of the original license shall be set by the board.

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

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

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

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

19 (4) Notify the board whether he or she has been convicted, as
20 defined in Section 490, of a misdemeanor or felony, or whether
21 any disciplinary action has been taken by any regulatory or
22 licensing board in this or any other state, subsequent to the
23 licensee's last renewal.

24 4999.104. A license that has expired may be renewed at any
25 time within three years of expiration. To renew an expired license,
26 the licensee shall do all of the following:

27 (a) File an application for renewal on a form prescribed by the
28 board.

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

31 (c) Pay all delinquency fees.

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

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

39 4999.106. A license that is not renewed within three years after
40 its expiration may not be renewed, restored, reinstated, or reissued,

1 except that a former licensee may apply for and obtain a new
 2 license if he or she complies with all of the following:

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

5 (b) He or she takes and passes the current examinations required
 6 for licensing.

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

8 4999.108. A suspended license is subject to expiration and
 9 shall be renewed as provided in this article, but that renewal does
 10 not entitle the licensee, while it remains suspended and until it is
 11 reinstated, to engage in the activity to which the license relates, or
 12 in any other activity or conduct in violation of the order or
 13 judgment by which it was suspended.

14 4999.110. A revoked license is subject to expiration as provided
 15 in this article, but it may not be renewed. If it is reinstated after its
 16 expiration, the licensee shall, as a condition precedent to its
 17 reinstatement, pay a reinstatement fee in an amount equal to the
 18 renewal fee in effect on the last regular renewal date before the
 19 date on which it is reinstated, plus the delinquency fee, if any,
 20 accrued at the time of its revocation.

21 4999.112. (a) A licensed professional counselor may apply to
 22 the board to request that his or her license be placed on inactive
 23 status. A licensee who holds an inactive license shall do all of the
 24 following:

- 25 (1) Pay a biennial fee of one-half of the active renewal fee.
- 26 (2) Be exempt from continuing education requirements.
- 27 (3) Not engage in the practice of professional counseling in this
 28 state.
- 29 (4) Otherwise be subject to this chapter.

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

- 32 (1) Submitting a request to the board.
- 33 (2) Certifying that he or she has not committed any acts or
 34 crimes constituting grounds for denial of licensure.
- 35 (3) Paying the remaining one-half of the renewal fee.
- 36 (4) Completing the following continuing education requirements:
 37 (A) Eighteen hours of continuing education is required within
 38 the two years preceding the date of the request for reactivation if
 39 the license will expire less than one year from the date of the
 40 request for reactivation.

1 (B) Thirty-six hours of continuing education is required within
2 the two years preceding the date of the request for reactivation if
3 the license will expire more than one year from the date of the
4 request for reactivation.

5 4999.114. The board shall report each month to the Controller
6 the amount and source of all revenue received pursuant to this
7 chapter and at the same time deposit the entire amount thereof in
8 the State Treasury for credit to the Behavioral Sciences Fund.

9 4999.116. (a) The moneys credited to the Behavioral Sciences
10 Fund under Section 4999.114 shall, upon appropriation by the
11 Legislature, be used for the purposes of carrying out and enforcing
12 the provisions of this chapter.

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

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

22 4999.118. A licensee or registrant shall give written notice to
23 the board of a name change within 30 days after each change,
24 giving both the old and new names. A copy of the legal document
25 authorizing the name change, such as a court order or marriage
26 certificate, shall be submitted with the notice.

27 4999.120. The board shall assess fees for the application for
28 and the issuance and renewal of licenses and for the registration
29 of interns to cover administrative and operating expenses of the
30 board related to this chapter.

31 4999.122. The professional counselor licensing program shall
32 be supported from fees assessed to applicants, interns, and
33 licensees. Startup funds to implement this program shall be derived,
34 as a loan, from the reserve fund of the Board of Behavioral
35 Sciences, subject to an appropriation by the Legislature in the
36 annual Budget Act. The board shall not be required to implement
37 this chapter until funds have been appropriated.

38 SEC. 5. Section 11165.7 of the Penal Code is amended to read:

39 11165.7. (a) As used in this article, “mandated reporter” is
40 defined as any of the following:

- 1 (1) A teacher.
- 2 (2) An instructional aide.
- 3 (3) A teacher's aide or teacher's assistant employed by any
4 public or private school.
- 5 (4) A classified employee of any public school.
- 6 (5) An administrative officer or supervisor of child welfare and
7 attendance, or a certificated pupil personnel employee of any public
8 or private school.
- 9 (6) An administrator of a public or private day camp.
- 10 (7) An administrator or employee of a public or private youth
11 center, youth recreation program, or youth organization.
- 12 (8) An administrator or employee of a public or private
13 organization whose duties require direct contact and supervision
14 of children.
- 15 (9) Any employee of a county office of education or the
16 California Department of Education, whose duties bring the
17 employee into contact with children on a regular basis.
- 18 (10) A licensee, an administrator, or an employee of a licensed
19 community care or child day care facility.
- 20 (11) A Head Start program teacher.
- 21 (12) A licensing worker or licensing evaluator employed by a
22 licensing agency as defined in Section 11165.11.
- 23 (13) A public assistance worker.
- 24 (14) An employee of a child care institution, including, but not
25 limited to, foster parents, group home personnel, and personnel of
26 residential care facilities.
- 27 (15) A social worker, probation officer, or parole officer.
- 28 (16) An employee of a school district police or security
29 department.
- 30 (17) Any person who is an administrator or presenter of, or a
31 counselor in, a child abuse prevention program in any public or
32 private school.
- 33 (18) A district attorney investigator, inspector, or local child
34 support agency caseworker unless the investigator, inspector, or
35 caseworker is working with an attorney appointed pursuant to
36 Section 317 of the Welfare and Institutions Code to represent a
37 minor.
- 38 (19) A peace officer, as defined in Chapter 4.5 (commencing
39 with Section 830) of Title 3 of Part 2, who is not otherwise
40 described in this section.

1 (20) A firefighter, except for volunteer firefighters.

2 (21) A physician, surgeon, psychiatrist, psychologist, dentist,
3 resident, intern, podiatrist, chiropractor, licensed nurse, dental
4 hygienist, optometrist, marriage, family and child counselor,
5 clinical social worker, or any other person who is currently licensed
6 under Division 2 (commencing with Section 500) of the Business
7 and Professions Code.

8 (22) Any emergency medical technician I or II, paramedic, or
9 other person certified pursuant to Division 2.5 (commencing with
10 Section 1797) of the Health and Safety Code.

11 (23) A psychological assistant registered pursuant to Section
12 2913 of the Business and Professions Code.

13 (24) A marriage, family, and child therapist trainee, as defined
14 in subdivision (c) of Section 4980.03 of the Business and
15 Professions Code.

16 (25) An unlicensed marriage, family, and child therapist intern
17 registered under Section 4980.44 of the Business and Professions
18 Code.

19 (26) A state or county public health employee who treats a minor
20 for venereal disease or any other condition.

21 (27) A coroner.

22 (28) A medical examiner, or any other person who performs
23 autopsies.

24 (29) A commercial film and photographic print processor, as
25 specified in subdivision (e) of Section 11166. As used in this
26 article, “commercial film and photographic print processor” means
27 any person who develops exposed photographic film into negatives,
28 slides, or prints, or who makes prints from negatives or slides, for
29 compensation. The term includes any employee of such a person;
30 it does not include a person who develops film or makes prints for
31 a public agency.

32 (30) A child visitation monitor. As used in this article, “child
33 visitation monitor” means any person who, for financial
34 compensation, acts as monitor of a visit between a child and any
35 other person when the monitoring of that visit has been ordered
36 by a court of law.

37 (31) An animal control officer or humane society officer. For
38 the purposes of this article, the following terms have the following
39 meanings:

1 (A) “Animal control officer” means any person employed by a
2 city, county, or city and county for the purpose of enforcing animal
3 control laws or regulations.

4 (B) “Humane society officer” means any person appointed or
5 employed by a public or private entity as a humane officer who is
6 qualified pursuant to Section 14502 or 14503 of the Corporations
7 Code.

8 (32) A clergy member, as specified in subdivision (d) of Section
9 11166. As used in this article, “clergy member” means a priest,
10 minister, rabbi, religious practitioner, or similar functionary of a
11 church, temple, or recognized denomination or organization.

12 (33) Any custodian of records of a clergy member, as specified
13 in this section and subdivision (d) of Section 11166.

14 (34) Any employee of any police department, county sheriff’s
15 department, county probation department, or county welfare
16 department.

17 (35) An employee or volunteer of a Court Appointed Special
18 Advocate program, as defined in Rule 1424 of the California Rules
19 of Court.

20 (36) A custodial officer as defined in Section 831.5.

21 (37) Any person providing services to a minor child under
22 Section 12300 or 12300.1 of the Welfare and Institutions Code.

23 (38) A licensed professional counselor, as defined in Section
24 4999.12 of the Business and Professions Code.

25 (b) Except as provided in paragraph (35) of subdivision (a),
26 volunteers of public or private organizations whose duties require
27 direct contact with and supervision of children are not mandated
28 reporters but are encouraged to obtain training in the identification
29 and reporting of child abuse and neglect and are further encouraged
30 to report known or suspected instances of child abuse or neglect
31 to an agency specified in Section 11165.9.

32 (c) Employers are strongly encouraged to provide their
33 employees who are mandated reporters with training in the duties
34 imposed by this article. This training shall include training in child
35 abuse and neglect identification and training in child abuse and
36 neglect reporting. Whether or not employers provide their
37 employees with training in child abuse and neglect identification
38 and reporting, the employers shall provide their employees who
39 are mandated reporters with the statement required pursuant to
40 subdivision (a) of Section 11166.5.

1 (d) School districts that do not train their employees specified
2 in subdivision (a) in the duties of mandated reporters under the
3 child abuse reporting laws shall report to the State Department of
4 Education the reasons why this training is not provided.

5 (e) Unless otherwise specifically provided, the absence of
6 training shall not excuse a mandated reporter from the duties
7 imposed by this article.

8 (f) Public and private organizations are encouraged to provide
9 their volunteers whose duties require direct contact with and
10 supervision of children with training in the identification and
11 reporting of child abuse and neglect.

12 SEC. 6. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1887 **VERSION:** INTRODUCED FEBRUARY 7, 2008

AUTHOR: BEALL **SPONSOR:** AUTHOR

RECOMMENDED POSITION: SUPPORT

SUBJECT: MENTAL HEALTH PARITY

Existing Law:

- 1) Prohibits a health plan that provides mental health benefits from placing an annual or lifetime limit on mental health benefits if the plan does not include a limit for substantially all medical and surgical benefits. (42 USCS § 300gg-5)
- 2) Requires health care service plan contracts and disability insurance policies which cover hospital, medical, or surgical benefits to provide coverage for the following under the same terms and conditions as other medical conditions beginning July 1, 2000:
(HSC § 1374.72(a), IC § 10144.5(a))
 - The diagnosis and treatment of severe mental illnesses
 - A child's serious emotional disturbance
- 3) Defines severe mental illness as any of the following: (HSC § 1374.72(d), IC § 10144.5(d))
 - Schizophrenia.
 - Schizoaffective disorder.
 - Bipolar disorder (manic-depressive illness).
 - Major depressive disorders.
 - Panic disorder.
 - Obsessive-compulsive disorder.
 - Pervasive developmental disorder or autism.
 - Anorexia nervosa.
 - Bulimia nervosa.
- 4) Defines "health insurance" as a disability insurance policy that provides coverage for hospital, medical, or surgical benefits in statutes effective on or after January 1, 2002. (IC § 106(b))

This Bill:

- 1) Permits the Board of Administration of the Public Employees' Retirement System to purchase a health care benefit plan or contract or health insurance policy that includes mental health coverage as described in HSC § 1374.73 or IC § 10144.7. (GC § 22856)
- 2) Requires health care service plan contracts which provide hospital, medical, or surgical coverage, and health insurance policies issued, amended or renewed on or after January 1, 2009 to provide coverage for the diagnosis and treatment of a mental illness of a person of

March 18, 2008

any age under the same terms and conditions applied to other medical conditions. (HSC § 1374.73(a), IC § 10144.7(a))

- 3) Defines “mental illness” as a mental disorder defined in the Diagnostic and Statistical Manual IV or subsequent editions, and includes abuse of alcohol, amphetamines, caffeine, cannabis, cocaine, hallucinogens, inhalants, nicotine, opioids, phencyclidine and sedatives. (HSC § 1374.73(a), IC § 10144.7(a))
- 4) Permits a plan or insurer to provide coverage for all or part of the mental health services required through a separate specialized health care service plan or mental health plan. (HSC § 1374.73(b)(1), IC § 10144.7(b)(1))
 - Does not require a plan or insurer to obtain an additional or specialized license for this purpose.
- 5) Requires a plan or insurer to provide mental health coverage in its entire service area and in emergency situations as required by law. (HSC § 1374.73(b)(2), IC § 10144.7(b)(2))
- 6) Does not preclude health care service plans from providing benefits through preferred provider contracting arrangements from requiring enrollees who reside or work in geographic areas served by specialized health care service plans or mental health plans to secure all or part of their mental health services within those geographic areas served by specialized health care service plans or mental health plans. (HSC § 1374.73(b)(2), IC § 10144.7(b)(2))
- 7) Permits a health care service plan to use case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing when providing treatment for mental illness to the extent permitted by law. (HSC § 1374.73(b)(3))
- 8) Does not deny or restrict the Department of Health Care Services (DHCS) authority to ensure plan compliance when a plan provides coverage for prescription drugs. (HSC § 1374.73(c))
- 9) Does not apply to contracts entered into between the DHCS and a health care service plan for enrolled Medi-Cal beneficiaries. (HSC § 1374.73(d))
- 10) Does not apply to a health care benefit plan or contract entered into with the Board of Administration of the Public Employees’ Retirement System unless the board elects to purchase a health care benefit plan or contract that provides mental health coverage as described in this legislation. (HSC § 1374.73(e), IC § 10144.7(d))
- 11) Permits a health insurer to use case management, managed care or utilization review when providing treatment for mental illness except as permitted by law. (IC § 10144.7(b)(3))
- 12) Prohibits any action that a health insurer takes to implement mental health parity, including but not limited to contracting with preferred provider organizations, to be deemed as an action that would otherwise require licensure as a health care service plan. (IC § 10144.7(b)(4))
- 13) Does not require mental health parity laws to apply to accident-only, specified disease, hospital indemnity, Medicare supplement, dental-only or vision-only insurance policies. (IC § 10144.7(c))

Comment:

- 1) Author's Intent.** According to the author, many health plans do not provide coverage for mental disorders, and those that do impose much stricter limits on mental health care than on other medical care. Individuals struggling with mental illness quickly deplete limited coverage and personal savings and become dependent upon taxpayer-supported benefits. This bill would correct a serious discrimination problem while resulting in premium increases of less than one dollar per member per month. Nearly all health plans discriminate against patients with biological brain disorders such as schizophrenia, depression and posttraumatic stress disorders. Additionally, an alarming number of mentally ill persons end up incarcerated because they lack access to appropriate care. This forces law enforcement officers to serve as the mental health providers of last resort, which costs state taxpayers roughly \$1.8 billion per year.
- 2) Mental Health Parity.** Mental illness and substance abuse are among the leading causes of death and disability. AB 88, California's current mental health parity law, was enacted in 2000. This bill requires health plans to provide coverage for mental health services that are equal to medical services, and covers only certain diagnoses considered to be a severe mental illness (SMI) or a serious emotional disturbance of a child, and therefore is sometimes referred to as "partial parity." An evaluative study conducted by Mathematica Policy Research for the California Health Care Foundation¹ identified so called partial parity as an ongoing challenge related to the implementation of AB 88. AB 1887 would extend parity to other non-SMI and substance use disorders.

31 states currently have full mental health parity laws, and 26 states include coverage for substance abuse, alcohol or drug addiction, or chemical dependency. Current California law regarding substance abuse treatment requires health plans and insurers that provide coverage on a group basis to offer coverage for the treatment of alcoholism under terms and conditions that are agreed upon between the group subscriber and the health care service plan.

For general information about mental health parity, please see the attached paper from Carnegie Mellon's *Heinz School Review*.

- 3) Cost and Access.** According to an analysis by the American Psychiatric Association², "Legislating diagnostic criteria for impairment on the basis of political and economic factors may limit treatment efforts and ultimately fail those most in need of care," and "Definitions of mental illness in state parity laws have important implications for access, cost, and reimbursement; they determine which populations receive a higher level of mental health services." This bill would substantially expand the types of diagnoses which must be covered, which would help to alleviate a problem that clinicians may face regarding diagnosis. Some clinicians may submit an inaccurate diagnosis, but one which is covered by current parity laws to ensure that the client is able to receive treatment.

The expansion of mental health parity should ensure that the costs are balanced with access to care. Any time costs are increased to insurers, the cost of insurance tends to increase. This is a problem for people who cannot afford an increase to insurance rates or copayments. This could lead to a decrease in insured residents and an increase in use of

¹ Lake, et. al. (2002)

² "An Analysis of the Definitions of Mental Illness Used in State Parity Laws." *APA Journal*. (2002)

public mental health programs, increasing costs to the state. However, one study found that the elimination of caps on mental health coverage might not lead to increased spending.³

- 4) Related Legislation and Board Position.** AB 423 (Beall, 2007) was virtually identical to AB 1887, and was vetoed by the governor. The Board took a position of “support” on AB 423, recognizing that mental health parity is a large and complex issue, and that support was grounded in the general idea that people should have access to mental health care.

Federal mental health parity legislation has been passed recently in both the House and the Senate. Both bills would outlaw health insurance practices that set lower limits on treatment or higher co-payments for mental health services than for other medical care. Insurers and employers have supported the Senate bill, and many have opposed the House version, saying it would drive up costs. President Bush endorsed the principle of mental health parity in 2002, but recently stated he opposes the House bill because it “would effectively mandate coverage of a broad range of diseases.”

- 5) CHBRP Analysis.** The California Health Benefits Review Program (CHBRP), created by AB 1996 in 2003, is required to analyze all legislation proposing mandated health care benefits. CHBRP performed an extensive analysis of AB 423 (Beall, 2007), legislation that was virtually identical to AB 1887. The executive summary of CHBRP’s report is attached. One important finding was that “AB 423 would expand parity to over 4 million estimated individuals with a mental health or substance abuse disorder diagnosis.” However, they also found that, “Any improvements in outcomes resulting from AB 423 are dependent on changes in access to care, utilization of care, and the appropriateness and effectiveness of treatment.” CHBRP’s analysis of AB 1887 is expected to be completed on April 8, 2008, but is not expected to differ significantly from their analysis of AB 423.

6) History

2008

Feb. 21	Referred to Com. on HEALTH.
Feb. 8	From printer. May be heard in committee March 9.
Feb. 7	Read first time. To print.

ATTACHMENTS

“Mental Health Parity,” *Heniz School Review*

“Executive Summary,” California Health Benefits Review Program Analysis of Assembly Bill 423

³ “Behavioral Health Insurance for Federal Employees,” *New England Journal of Medicine*, H. Goldman et. al. Volume 354:1378-1386, March 30, 2006.

Mental Health Parity

Legislation and Implications for Insurers and Providers by Joseph Peters

Introduction

In 2003 in the United States, outpatient visits to physicians' offices for treatment of mental disorders numbered over 40 million, and visits to hospital emergency rooms numbered close to 4 million.¹ Clearly, treatment of mental health represents a large and significant portion of the health care system as a whole. Yet mental health coverage within insurance plans has been treated differently from physical conditions. Within the last 10 years, the debate over mental health parity with other medical and surgical benefits has taken place both at the federal and state level, starting with Congress's passage of the Mental Health Parity Act of 1996. After five subsequent extensions of the Act's sunset provision (with the current sunset provision taking effect December 31st of this year), parity remains on the Congressional agenda, although it is overshadowed by other pressing policy concerns such as the War in Iraq, Medicare, and federal budget cuts.

The issue of mental health parity is far reaching and involves many stakeholders. In this paper I will focus on the implications of mental health parity for insurers and providers. My analysis will show that the interests of providers and insurers are at odds with one another, with providers (both physicians and hospital groups) siding with patient advocacy groups.

Defining Mental Health Parity

Mental health parity refers to equivalence of coverage for mental health treatment and clinical visits compared to regular medical and surgical benefits within an insurance plan². In other words, it is the requirement that mental health coverage be subject to the same dollar limits as the medical and surgical benefits that are covered in a health insurance plan (whether it is traditional indemnity insurance or managed care insurance). In recent debates, "parity" has also been taken to include mandatory coverage of mental health services (both inpatient and outpatient); however, federal legislation has only up to this point reflected the narrower definition of equivalent coverage within existing insurance plans that already cover mental health services. Currently, advocacy groups such as the National Mental Health Association (NMHA) and the National Alliance on Mental Illness (NAMI) consider parity in its expanded form to include mandatory mental health coverage.

Legislative Overview

The Mental Health Parity Act of 1996

The major piece of federal legislation regarding mental health parity, The Mental Health Parity Act of 1996 (MHPA) was passed on Sept. 26th of 1996 as an amendment to the Health Insurance Portability and Accountability Act (HIPAA).³ At the time, numerous states had already enacted different types of parity legislation, but advocacy groups pressed for national legislation that would address the lack of parity in those states where laws had not been passed.⁴ The 1996 Act required that annual or lifetime dollar limits applying to mental health benefits be no lower than any such dollar limits applying to medical or surgical benefits offered by a group health plan or any health insurance carrier associating itself with a group plan. The law applied to those health plans' enrollment/coverage years commencing on or after January 1, 1998.⁵ Other key items included:

- A sunset provision that the requirements for parity would not apply to benefits covering specific services on or after Sept. 30, 2001. (This has been extended on five separate occasions, with the last provision expiring Dec. 31st, 2006.)
- Employers could retain discretion with respect to the extent of coverage for mental health services offered to employees and their dependents. This included cost sharing, limits on the numbers of visits or days of coverage, or requirements addressing medical necessity.⁶

The Act excluded benefits for substance abuse and chemical dependency. There were also exemptions provided to companies with a small number of employees or in cases where costs rose as a result of the mandate. The Parity Act did not mandate that benefits for mental health services be offered—only that if these benefits were offered, they have parity with the annual and lifetime dollar amounts for medical and surgical benefits. Patient advocacy groups saw problems with this legislation and argued that it was weak.⁷ They pointed out that the legislation didn't mandate parity or require that it be universal in its application. The weakness of the legislation can be partially attributed to the political climate surrounding the creation of the bill at that particular point in time; the insurance industry played a role in applying pressure to influence the outcome. After the bill was passed, employers took advantage of loopholes. Some employers placed restrictions on health benefits by limiting the number of inpatient days for mental health services covered or the number of outpatient office visits covered.

State Parity Legislation

Most legislative activity regarding parity has taken place at the state level. To date, thirty-six states have passed parity legislation, and twelve states and the District of Columbia have made mental health benefits mandatory. Two states, Idaho and Wyoming, have no parity or mandate laws. There is a wide degree of variation among state parity laws. Some states (i.e. North Carolina and Kansas) mandate specifically that only the offering of mental health coverage be included in insurance plans, and this coverage, if accepted by enrollees, be subjected to some, but not all, terms/conditions with physical benefits. In other words, if mental health coverage is taken up, there is not complete parity. Other states, such as Kentucky and Connecticut mandate that insurance companies offer mental health benefits, and if the benefits are chosen then full parity is required; therefore, there is no difference between the terms of coverage between physical and mental health services. Finally, some states recently have passed legislation mandating coverage of mental health services in all group policies and additionally require the terms and conditions, breadth, and any cost restrictions for the coverage to be no more limiting than those conditions for physical illness. Some states even extend the mandates to individual as well as group insurance plans. There is also variation in the different types of mental health services that apply to state parity legislation. Some states restrict parity requirements to "severe" mental illness, while others extend to "serious" cases, and some include full parity for all mental illnesses addressed in the DSMIV, as well as services for substance abuse and alcoholism.⁸

Why such variation across the states? Are there any solid successes for patients? The answers to these questions revolve around the issue of utilization. Two years after the federal Parity Act was passed, Roland Sturm and Liccardo Pacula conducted a study that found that states with parity laws tended to have lower rates of utilization of mental health services. This remained the case even after controlling for confounding variables such as age, gender, income, ethnicity or region of the country.⁹ Sturm and Pacula also found that before and after the passage of state parity legislation, rates of utilization for mental health services were largely unchanged. These results, if accepted as prima facie evidence, suggest that parity legislation does not increase utilization, and hence not increase costs.

The study goes further to suggest that since parity legislation was passed in states without high rates of utilization, the resulting legislation was the result of a "political process" in which patient advocacy groups and insurance companies/employer organizations battled it out; patient advocacy groups and provider organizations were drawn to states with a small number of people receiving (or using) mental health services and saw it as an opportunity to affect a change in policy. The low numbers of patients utilizing services also allowed little opposition to the parity legislation.¹⁰

Implications for Insurers and Providers

Insurers

The Health Insurance Association of America (HIAA) has from the beginning of the parity debate argued that any legislation, state or federal, mandating mental health benefits would increase health costs, and increase the rolls of the uninsured. The organization has claimed that roughly 20 to 25 percent of the uninsured are not covered as a result of mandates.¹¹ Other studies conducted by academic institutions and non-profit research organizations have had contrary findings.

Managed care, specifically within the context of Managed Behavioral Healthcare Organizations (MBHO's), offers the chance to offset the purported increased costs of parity. Research by the RAND Corporation conducted shortly after the passage of the 1996 federal parity legislation concluded that given unlimited mental health benefits, under managed care, benefits cost "virtually the same" as those benefits that were capped; the typical increase was found to be \$1 per employee when compared with benefits falling under a \$25,000 limit.¹² During the national debate over parity legislation, insurance groups argued that even under managed care parity would drive up costs; the RAND study disputed that claim. In the end, it becomes difficult to discern the true effects of parity legislation on costs, with a large body of research split and attached to both parity's proponents and its dissenters.

A final implication for insurers has been the need after any state parity legislation and after the federal 1996 law to redesign benefit schemes to reflect compliance. During the period between passage of the federal 1996 parity legislation and its enforcement date, RAND conducted a study of 4,000 firms and found that 90% of these firms' mental health plans were not consistent with the parity legislation and hence necessitated revision. At the same time, research found that inefficiencies and unnecessary complexities could be eliminated under such a benefit redesign.¹³

Providers

Providers, composed of both physician groups such as the American Medical Association (AMA) and hospital groups such as the American Hospital Association (AHA) have on the other hand expressed positions that parallel those of patient advocacy groups (i.e. NAMI and NMHA). The American Medical Association has called for state medical associations to press for mental health parity at the state level. The AMA also supports parity with respect to coverage of substance abuse and alcoholism-treatment programs. The AMA has allied itself with the American Psychiatric Association (APA) in its lobbying efforts.¹⁴

The AHA sent a letter to Senator Pete Domenici, co-sponsor of current legislation that will expand provisions of the federal parity act of 1996, affirming its support of the legislation. They wrote that they admired Domenici's "leadership in promoting nondiscriminatory insurance coverage for those that suffer mental illness..."¹⁵ The justification for the support from both physician and hospital groups of parity legislation is not clearly stated in their respective professional publications. However, hospitals—both for-profit and non-profit—ultimately serve the community as well as a board of directors. So they have a vested interest in ensuring access to their services—specifically if the costs of these services (mainly mental health services) are placed on insurance plans. Physician groups also have a vested interest in the issue of access, especially if they are reimbursed under capitation or fee schedules instead of being paid a set salary. Several studies have confirmed that financial incentives may have an impact on mental health providers' courses of treatment.¹⁶[17]

Conclusion

In the debate over mental health parity the incentives facing insurers are quite the opposite of those facing provider groups. Insurers face the imperative of compliance with state and federal parity legislation, while at the same time trying to offset costs. Providers must act in accordance with professional expectations (the AMA) and those of the community (in the case of the AHA). In the end, the outcomes of mental health parity legislation have reflected the various concerns of both insurance and provider groups. The debate continues with the same concerns. Ultimately, as seen at the state level, what proved to be successful was the fact that

patient advocacy groups worked in states with low rates of utilization, thus encountering few opposition groups. States with large rates of utilization must overcome the legislative obstacles that exist to see any lasting results of parity legislation.

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³ Ibid.

⁴ From this point, I will refer to Mental Health Parity Legislation simply as “parity legislation” and Mental Health Parity simply as “parity.”

⁵ Centers for Medicare and Medicaid Services, “The Mental Health Parity Act,” HIPAA Insurance Reform: Health Insurance Portability and Accountability Act, Department of Health and Human Services, 09 Feb. 2005, <http://www.cms.hhs.gov/hipaa/hipaa1/content/mhpa.asp>.

⁶ Ibid.

⁷ Jacobi, John V, “Parity and Difference: The Value of Parity Legislation for the Seriously Mentally Ill,” American Journal of Law and Medicine 29, no. 2–3 (2003): 185–201. Accessed through LexisNexis™ Academic Universe: <http://web.lexis-nexis.com/universe> November 13, 2005.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

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¹³ Ibid.

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EXECUTIVE SUMMARY

California Health Benefits Review Program Analysis of Assembly Bill 423

The California Legislature has asked the California Health Benefits Review Program (CHBRP) to conduct an evidence-based assessment of the medical, financial, and public health impacts of Assembly Bill 423, Health Care Coverage: Mental Health Services, as amended on March 22, 2007. AB 423, as amended, would mandate “coverage for the diagnosis and medically necessary treatment of a mental illnesses of a person of any age, and of serious emotional disturbances of a child, under the same terms and conditions applied to other medical conditions...” AB 423 would add Section 1374.73 to California’s Health and Safety Code and Section 10144.7 to the Insurance Code.

Under the proposed mandate, the diagnoses of and medically necessary treatment for all mental health disorders, including substance abuse¹, defined in the *Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV)*² would be covered “on par” with coverage for other medical conditions.

The intent of AB 423, as amended, is twofold:

- 1) To “end discrimination against patients with mental disorders” by providing coverage for mental disorders; and
- 2) To require treatment and coverage of those illnesses that is “equitable to coverage provided for other medical illnesses.”³

Forty-eight states and the District of Columbia have now passed some type of legislation related to mental health parity. Thirty-one states have full parity laws. Twenty-six include coverage for substance abuse, alcohol or drug addiction, or chemical dependency. Some states exclude specific diagnostic codes from coverage. Rhode Island, for example, excludes tobacco and caffeine from its parity law.

California enacted its first mental health law in 1974. Health insurance products regulated by the California Department of Insurance that were offered on a group basis were required to *offer* coverage for expenses incurred as a result of mental or nervous disorders⁴. California enacted its second mental health law in 1999. AB 88, Health Care Coverage: Mental Illness, added Section 1374.72 to California’s Health and Safety Code and Section 10144.5 to the Insurance Code. AB 88 requires that health plans and insurers cover nine specific conditions known as severe mental illnesses (SMIs) for persons of

¹ Throughout this report the term “substance abuse” is used to refer to both “substance abuse” and “substance dependence” disorders as defined in the DSM-IV. The terms are used interchangeably- in this report with “substance use” disorders.

² The DSM-IV is available at www.psych.org/research/dor/dsm/index.cfm. Mental disorders included in subsequent editions of the DSM-IV would be covered.

³ Assembly Member Jim Beall Jr. Mental Health Parity Fact Sheet, January 22, 2007. Communication with Cris Forsyth, Office of Assembly Member Jim Beall, February 27, 2007.

⁴ California Insurance Code §10125.

any age, under the same terms and conditions as other medical conditions. AB 88 also requires coverage for serious emotional disturbances (SEDs) among children.

The proposed mandate is similar to current law in all of the following provisions:

- Conditions eligible for coverage would be based on diagnostic criteria set forth in the DSM-IV.
- The terms and conditions to which parity would apply include, but are not limited to, maximum lifetime benefits, co-payments and coinsurance, and individual and family deductibles.
- Services that would be mandated at parity levels include outpatient services, inpatient hospital services, partial hospital services, as well as prescription drug coverage for those plans and policies that include prescription drug coverage.
- AB 423 would apply to health care service plans subject to the requirements of the Knox-Keene Health Care Services Plan Act⁵ and to health insurance policies regulated under the Insurance Code. It would not apply to contracts between the State Department of Health Services and a health care service plan for Medi-Cal beneficiaries.
- The proposed mandate would not prohibit plans and insurers from engaging in their regular utilization and case management functions.

Current law with respect to substance abuse requires health plans and insurers that provide coverage on a group basis to offer coverage for the treatment of alcoholism under such terms and conditions as may be agreed upon between the group subscriber and the health care service plan.⁶

Under AB 423, coverage would be provided at parity levels for all of the following substances: alcohol, amphetamines, caffeine, cannabis, cocaine, hallucinogens, inhalants, nicotine, opioids, phencyclidine, and sedatives.

CHBRP has conducted two previous analyses relevant to this report. The first analysis was of an earlier legislative proposal (SB 572, 2005, Perata) to expand the parity law to all mental health disorders defined in the DSM-IV. The second analysis was of an earlier legislative proposal (SB 101, reintroduced as SB 1192, 2004, Chesbro) to expand the parity law to substance use disorders. Both analyses are available at www.chbrp.org/analyses.html.

The primary difference between AB 423 and SB 572 is that AB 423 includes codes defining substance abuse disorders (291.0 to 292.9, inclusive, and 303.0 to 305.9, inclusive) and “V” codes. Examples of “V” codes include relational problems, problems

⁵ Health maintenance organizations in California are licensed under the Knox-Keene Health Care Services Plan Act, which is part of the California Health and Safety Code.

⁶ Health & Safety Code § 1367.1; Insurance Code § 10123.6.

related to abuse or neglect, and child or adolescent antisocial behavior. The primary difference between AB 423 and SB 101 is caffeine-related disorders were excluded from coverage in SB 101, whereas there are no exclusions in AB 423.

Medical Effectiveness

Mental illness and substance abuse are among the leading causes of death and disability. There are effective treatments for many of the mental health and substance abuse (MH/SA) conditions to which AB 423 applies. In a traditional CHBRP report, the *Medical Effectiveness* section would examine the effectiveness of the services that a bill would require health plans to cover. However, the literature on all treatments for MH/SA conditions covered by AB 423—more than 400 diagnoses—could not be reviewed during the 60 days allotted for completion of CHBRP reports. Instead, the effectiveness review for this report summarizes the literature on the effects of parity in coverage for MH/SA services on utilization, cost, access, process of care, and health status of persons with MH/SA conditions.

The effects of parity in MH/SA coverage are difficult to separate from the effects of more intensive management of MH/SA services. Many employers that have implemented parity in MH/SA coverage have simultaneously increased the management of MH/SA services. Some employers have contracted with managed behavioral health organizations (MBHOs) to administer MH/SA benefits. Some employers that were already contracting with MBHOs have directed them to implement more stringent utilization management practices, such as preauthorization and concurrent review. In addition, some persons in states that have parity laws are enrolled in health maintenance organizations (HMOs) that tightly manage utilization of both medical and MH/SA services.

The generalizability of studies of MH/SA parity to AB 423 is limited. None of the studies published to date have examined the effects of parity in coverage for treatment of non-severe mental illnesses separately from treatment for severe mental illnesses. In addition, only a few studies have assessed use and/or cost of substance abuse services separately from mental health services. Moreover, in most studies the subjects had some level of coverage for MH/SA services prior to the implementation of parity. The presence of prior coverage constrains increases in utilization and expenditures relative to what they would be for persons in California who have health insurance but do not currently have any coverage for non-severe mental illness or substance abuse.

The methodological quality of studies of MH/SA parity is highly variable. None of the studies are randomized controlled trials (RCTs), because people cannot be randomly assigned to live in states that have parity laws or to work for employers that voluntarily implement parity. The most rigorous studies of MH/SA parity compare data on outcomes before and after implementation of parity, and compare trends in outcomes between persons who have parity in MH/SA coverage and persons who do not.

The impact of MH/SA parity legislation on the health status of persons with MH/SA conditions depends on a chain of events. Parity reduces consumers' out-of-pocket costs for MH/SA services. Lower cost sharing is expected to lead to greater utilization of these

services. If consumers obtain more appropriate and effective MH/SA services, their mental health may improve and they may recover from chemical dependency.

The findings from studies of parity in coverage for MH/SA services suggest that when parity is implemented in combination with intensive management of MH/SA services:

- Consumers' average out-of-pocket costs for MH/SA services decrease.
- There is a small decrease in health plans' expenditures *per user* of MH/SA services.
- Rates of growth in the use and cost of MH/SA services decrease.
- Utilization of mental health services and psychotropic medications does not increase, but utilization of substance abuse services increases slightly.
- Inpatient admissions for MH/SA care per 1,000 members decrease.
- The effect on outpatient MH/SA visits is ambiguous.

The studies also find that persons with mental health needs who reside in states that have implemented MH/SA parity are more likely to perceive that their health insurance and access to care have improved.

Very little research has been conducted on the effects of MH/SA parity on the provision of recommended treatment regimens or on mental health status and recovery from substance abuse. The literature search identified only two studies on these topics.

- One study reported that MH/SA parity is associated with modest improvements in receipt of a recommended amount and duration of treatment for depression.
- One study found that MH/SA parity laws are not associated with suicide rates for adults.

Utilization, Cost, and Coverage Impacts

- CHBRP estimates that 18,033,000 insured individuals would be affected by the mandate. None of these individuals currently have coverage at levels achieving full MH/SA parity with medical care, as would be mandated under AB 423. Therefore, all of them would experience an increase in coverage as a result of the mandate.
- Approximately 92% of insured Californians affected by AB 423 currently have some coverage for non-SMI disorders and 8% have none; 82% of insured Californians have some coverage for substance use disorders and 18% have none. In California, SMI services are already covered under AB 88, so the scope of AB

423 is much narrower, focusing on the incremental effect of extending parity to other non-SMI and substance use disorders.

- CHBRP has estimated that utilization of MH/SA services (including prescription drugs for smoking cessation) would increase modestly as a result of the mandate, e.g., by 24.5 outpatient mental health visits per 1000 members per year. Increased utilization would result from an elimination of benefit limits (e.g., annual limits on the number of hospital days and outpatient visits) and a reduction in cost sharing, because coinsurance rates are currently often higher for MH/SA or behavioral health services than for medical care. Utilization would also increase among insured individuals who previously had no coverage for conditions other than the SMI diagnoses covered under AB 88.
- The estimated increases in utilization are mitigated by two factors. First, direct management of MH/SA services is already substantial (e.g., due to the use of managed behavioral health care organizations or other utilization management processes), attenuating the influence of visit limits and cost-sharing requirements on utilization. Second, prior experience with parity legislation suggests that health plans are likely to respond to the mandate by further increasing utilization management (e.g., shifting patient care from inpatient to outpatient settings). More stringent management of care would partly offset increases due to more generous coverage.
- CHBRP estimates that after accounting for increases in utilization management likely to accompany its passage, AB 423 will increase total health care expenditures by \$109.93 million per year for the population in plans subject to the mandate. This is an increase of approximately 0.16%.
- Total premiums paid by all private employers in California would increase by about \$81.69 million per year, or 0.19%.
- Total premiums for individually purchased insurance would increase by about \$22.83 million, or 0.41%. The share of premiums paid by individuals for group or public insurance would increase by \$20.06 million, or 0.17%.
- The increase in individual premium costs would be partly offset by a decline in individual out-of-pocket expenditures (e.g., deductibles, co-payments) of \$18.82 million (-0.37%).
- CHBRP estimates that approximately 1,023 of the 794,000 individuals who currently purchase insurance products regulated by the CDI in the individual market would drop coverage due to the premium increases resulting from the mandate.

Table 1. Summary of Coverage, Utilization, and Cost Impacts of AB 423

	Before Mandate	After Mandate	Increase/Decrease	Change After Mandate
Coverage				
<i>Non-SMI Disorders</i>				
Percentage of individuals with coverage				
Coverage with full parity	0%	100%	100%	N/A
Coverage with less than full parity	91.86%	0%	-91.86%	-100%
No coverage	8.14%	0%	-8.14%	-100%
Number of individuals with coverage				
Coverage with full parity	0	18,033,000	18,033,000	N/A
Coverage with less than full parity	16,564,000	0	-16,564,000	-100%
No coverage	1,469,000	0	-1,469,000	-100%
<i>Substance Use Disorders (including nicotine)</i>				
Percentage of individuals with coverage				
Coverage with full parity	0%	100%	100%	N/A
Coverage with less than full parity	81.92%	0%	-81.92%	-100%
No coverage	18.08%	0%	-18.08%	-100%
Number of individuals with coverage				
Coverage with full parity	0	18,033,000	18,033,000	N/A
Coverage with less than full parity	14,772,000	0	-14,772,000	-100%
No coverage	3,261,000	0	-3,261,000	-100%
Utilization				
<i>Non-SMI Disorders</i>				
Annual inpatient days per 1,000 members	2.58	2.70	0.1	4.69%
Annual outpatient visits per 1,000 members	207.25	231.70	24.5	11.80%
<i>Substance Use Disorders (including nicotine)</i>				
Annual inpatient days per 1,000 members	10.24	11.76	1.5	14.88%
Annual outpatient visits per 1,000 members	33.52	42.64	9.1	27.21%
Average Cost Per Service				
<i>Non-SMI Disorders</i>				
Inpatient day	\$911.85	\$912.16	\$0.31	0.03%
Outpatient visit	\$88.74	\$89.75	\$1.01	1.14%
<i>Substance Use Disorders (including nicotine)</i>				
Inpatient day	\$630.51	\$632.42	\$1.91	0.30%
Outpatient visit	\$65.26	\$65.55	\$0.29	0.45%

Table 1. Summary of Coverage, Utilization, and Cost Impacts of AB 423 (cont'd)

	Before Mandate	After Mandate	Increase/ Decrease	Change After Mandate
Expenditures				
<i>Non-SMI Disorders</i>				
Premium expenditures by private employers for group insurance	\$43,945,000,000	\$43,996,000,000	\$51,030,000	0.12%
Premium expenditures for individually purchased insurance	\$5,516,000,000	\$5,531,000,000	\$14,855,000	0.27%
CalPERS employer expenditures	\$2,631,000,000	\$2,635,000,000	\$4,200,000	0.16%
Medi-Cal state expenditures*	\$183,152,000	\$183,142,000	-\$10,000	-0.01%
Healthy Families state expenditures	\$627,766,000	\$627,924,000	\$158,000	0.03%
Premium expenditures by individuals with group insurance, CalPERS, or Healthy Families	\$11,516,000,000	\$11,529,000,000	\$12,766,000	0.11%
Individual out-of-pocket expenditures (deductibles, co-payments, etc.)	\$5,137,000,000	\$5,117,000,000	-\$19,939,000	-0.39%
Expenditures for non-covered services	\$0	\$0	\$0	N/A
Total annual expenditures	\$69,556,000,000	\$69,619,000,000	\$63,047,000	0.09%
<i>Substance Use Disorders (including nicotine)</i>				
Premium expenditures by private employers for group insurance	\$43,945,000,000	\$43,976,000,000	\$30,657,000	0.07%
Premium expenditures for individually purchased insurance	\$5,516,000,000	\$5,524,000,000	\$7,980,000	0.14%
CalPERS employer expenditures	\$2,631,000,000	\$2,631,000,000	-\$107,000	0.00%
Medi-Cal state expenditures*	\$183,152,000	\$183,141,000	-\$11,000	-0.01%
Healthy Families state expenditures	\$627,766,000	\$627,721,000	-\$45,000	-0.01%
Premium expenditures by individuals with group insurance, CalPERS, or Healthy Families	\$11,516,000,000	\$11,523,000,000	\$7,291,000	0.06%
Individual out-of-pocket expenditures (deductibles, co-payments, etc.)	\$5,137,000,000	\$5,138,000,000	\$1,123,000	0.02%
Expenditures for non-covered services	\$0	\$0	\$0	N/A
Total annual expenditures	\$69,556,000,000	\$69,603,000,000	\$46,900,000	0.07%

Table 1. Summary of Coverage, Utilization, and Cost Impacts of AB 423 (cont'd)

	Before Mandate	After Mandate	Increase/ Decrease	Change After Mandate
<i>Non-SMI and Substance Use Disorders</i>				
Premium expenditures by private employers for group insurance	\$43,945,000,000	\$44,027,000,000	\$81,687,000	0.19%
Premium expenditures for individually purchased insurance	\$5,516,000,000	\$5,539,000,000	\$22,834,000	0.41%
CalPERS employer expenditures	\$2,631,000,000	\$2,635,000,000	\$4,080,000	0.16%
Medi-Cal state expenditures*	\$183,152,000	\$183,131,000	-\$21,000	-0.01%
Healthy Families state expenditures	\$627,766,000	\$627,879,000	\$113,000	0.02%
Premium expenditures by individuals with group insurance, CalPERS, or Healthy Families	\$11,516,000,000	\$11,536,000,000	\$20,057,000	0.17%
Individual out-of-pocket expenditures (deductibles, co-payments, etc.)	\$5,137,000,000	\$5,118,000,000	-\$18,817,000	-0.37%
Expenditures for non-covered services	\$0	\$0	\$0	N/A
Total annual expenditures	\$69,556,000,000	\$69,666,000,000	\$109,933,000	0.16%

Source: California Health Benefits Review Program, 2007.

Key: CalPERS = California Public Employees' Retirement System.

* Estimates shown are for AIM and MRMIP only; Medi-Cal is not subject to the provisions of AB 423.

Notes: The population includes individuals and dependents covered by employer-sponsored insurance (including CalPERS), individually purchased insurance, or public health insurance provided by a health plan subject to the requirements of the Knox-Keene Health Care Service Plan Act of 1975. All population figures include enrollees aged 0 to 64 years and enrollees 65 years or older covered by employment-sponsored insurance. Member contributions to premiums include employee contributions to employer-sponsored health insurance and member contributions to public health insurance. Figures may not add up due to rounding. SMI= serious mental illness

Public Health Impacts

- It is not possible to quantify the anticipated impact of the mandate on the public health of California because (1) the numerous approaches for treating MH/SA disorders and the multiple disorders (covered under AB 423) on which they may be applied renders a medical effectiveness analysis of mental health care treatment outside of the scope of this analysis; and (2) the literature review found an insufficient number of studies in the peer-reviewed scientific literature that specifically address physical and mental health outcomes related to the implementation of mental health parity laws to evaluate whether mental health parity has an impact on health outcomes.
- AB 88 currently covers approximately 12% of the population with an MH/SA disorder to which AB 423 applies. A larger percentage of children with MH/SA disorders are covered compared to adults (38% versus 5%). AB 423 would expand parity to over 4 million estimated individuals with an MH/SA disorder diagnosis.
- The scope of potential outcomes related to mental health treatment includes reduced suicides, reduced inpatient psychiatric care, reduced symptomatic distress, improved quality of life, health improvements for comorbid conditions, and other social outcomes, such as reduced crime. There are numerous potential health outcomes related to treating substance abuse including reduced pregnancy-related complications, reduced injuries, and reduced incidence of diseases.
- Any improvements in outcomes resulting from AB 423 are dependent on changes in access to care, utilization of care, and the appropriateness and effectiveness of treatment. There is not sufficient research to conclude that parity results in improvements in health outcomes.
- Although the lifetime prevalence for mental disorders is similar for males and females, gender differences exist with regard to specific mental disorder diagnoses, with some having a much higher frequency in males and others in females. Adult women are more likely to use mental health services than adult men.
- Race and poverty influence the risk of developing a mental disorder and the chance that treatment will be sought. There is substantial variation both across and within racial groups with respect to the prevalence of and treatment for MH/SA disorders. AB 423 has the potential to reduce racial disparities in *coverage* for mental health treatment. There is no evidence, however, that AB 423 would increase utilization of MH/SA treatment among minorities or that AB 423 would decrease disparities with regard to health outcomes.
- Mental and substance abuse disorders are a substantial cause of mortality and disability in the United States. Substance abuse, in particular, often results in premature death. There are sizeable economic costs associated with mental and

substance abuse disorders with an estimated \$147.8 billion in 1990 associated with mental disorders and \$428.1 billion in 1995 related to substance abuse. While these estimates illuminate the large financial costs of mental and substance abuse disorders, any changes in premature death and indirect costs resulting from AB 423 are dependent on changes in access to care, utilization of care, and the appropriateness and effectiveness of treatment.

ASSEMBLY BILL

No. 1887

Introduced by Assembly Member Beall

February 7, 2008

An act to add Section 22856 to the Government Code, to add Section 1374.73 to the Health and Safety Code, and to add Section 10144.7 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1887, as introduced, Beall. Health care coverage: mental health services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan contract and a health insurance policy are required to provide coverage for the diagnosis and treatment of severe mental illnesses of a person of any age. Existing law does not define “severe mental illnesses” for this purpose but describes it as including several conditions.

This bill would expand this coverage requirement for certain health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2009, to include the diagnosis and treatment of a mental illness of a person of any age and would define mental illness for this purpose as a mental disorder defined in the Diagnostic and Statistical Manual IV. The bill would specify that this requirement does not apply to a health care benefit plan, contract, or health insurance policy with the Board of Administration of the

Public Employees’ Retirement System unless the board elects to purchase a plan, contract, or policy that provides mental health coverage.

Because the bill would expand coverage requirements for health care service plans, the willful violation of which would be a crime, it 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: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 22856 is added to the Government Code,
2 to read:

3 22856. The board may purchase a health care benefit plan or
4 contract or a health insurance policy that includes mental health
5 coverage as described in Section 1374.73 of the Health and Safety
6 Code or Section 10144.7 of the Insurance Code.

7 SEC. 2. Section 1374.73 is added to the Health and Safety
8 Code, to read:

9 1374.73. (a) A health care service plan contract issued,
10 amended, or renewed on or after January 1, 2009, that provides
11 hospital, medical, or surgical coverage shall provide coverage for
12 the diagnosis and medically necessary treatment of a mental illness
13 of a person of any age, including a child, under the same terms
14 and conditions applied to other medical conditions as specified in
15 subdivision (c) of Section 1374.72. The benefits provided under
16 this section shall include all those set forth in subdivision (b) of
17 Section 1374.72. “Mental illness” for the purposes of this section
18 means a mental disorder defined in the Diagnostic and Statistical
19 Manual IV, or subsequent editions, published by the American
20 Psychiatric Association, and includes substance abuse.

21 (b) (1) For the purpose of compliance with this section, a plan
22 may provide coverage for all or part of the mental health services
23 required by this section through a separate specialized health care
24 service plan or mental health plan, and shall not be required to
25 obtain an additional or specialized license for this purpose.

1 (2) A plan shall provide the mental health coverage required by
2 this section in its entire service area and in emergency situations
3 as may be required by applicable laws and regulations. For
4 purposes of this section, health care service plan contracts that
5 provide benefits to enrollees through preferred provider contracting
6 arrangements are not precluded from requiring enrollees who reside
7 or work in geographic areas served by specialized health care
8 service plans or mental health plans to secure all or part of their
9 mental health services within those geographic areas served by
10 specialized health care service plans or mental health plans.

11 (3) In the provision of benefits required by this section, a health
12 care service plan may utilize case management, network providers,
13 utilization review techniques, prior authorization, copayments, or
14 other cost sharing to the extent permitted by law or regulation.

15 (c) Nothing in this section shall be construed to deny or restrict
16 in any way the department's authority to ensure plan compliance
17 with this chapter when a plan provides coverage for prescription
18 drugs.

19 (d) This section shall not apply to contracts entered into pursuant
20 to Chapter 7 (commencing with Section 14000) or Chapter 8
21 (commencing with Section 14200) of Part 3 of Division 9 of the
22 Welfare and Institutions Code, between the State Department of
23 Health Care Services and a health care service plan for enrolled
24 Medi-Cal beneficiaries.

25 (e) This section shall not apply to a health care benefit plan or
26 contract entered into with the Board of Administration of the Public
27 Employees' Retirement System pursuant to the Public Employees'
28 Medical and Hospital Care Act (Part 5 (commencing with Section
29 22750) of Division 5 of Title 2 of the Government Code) unless
30 the board elects, pursuant to Section 22856 of the Government
31 Code, to purchase a health care benefit plan or contract that
32 provides mental health coverage as described in this section.

33 SEC. 3. Section 10144.7 is added to the Insurance Code, to
34 read:

35 10144.7. (a) A policy of health insurance that covers hospital,
36 medical, or surgical expenses in this state that is issued, amended,
37 or renewed on or after January 1, 2009, shall provide coverage for
38 the diagnosis and medically necessary treatment of a mental illness
39 of a person of any age, including a child, under the same terms
40 and conditions applied to other medical conditions as specified in

1 subdivision (c) of Section 10144.5. The benefits provided under
2 this section shall include all those set forth in subdivision (b) of
3 Section 10144.5. “Mental illness” for the purposes of this section
4 means a mental disorder defined in the Diagnostic and Statistical
5 Manual IV, or subsequent editions, published by the American
6 Psychiatric Association, and includes substance abuse.

7 (b) (1) For the purpose of compliance with this section, a health
8 insurer may provide coverage for all or part of the mental health
9 services required by this section through a separate specialized
10 health care service plan or mental health plan, and shall not be
11 required to obtain an additional or specialized license for this
12 purpose.

13 (2) A health insurer shall provide the mental health coverage
14 required by this section in its entire in-state service area and in
15 emergency situations as may be required by applicable laws and
16 regulations. For purposes of this section, health insurers are not
17 precluded from requiring insureds who reside or work in
18 geographic areas served by specialized health care service plans
19 or mental health plans to secure all or part of their mental health
20 services within those geographic areas served by specialized health
21 care service plans or mental health plans.

22 (3) In the provision of benefits required by this section, a health
23 insurer may utilize case management, managed care, or utilization
24 review to the extent permitted by law or regulation.

25 (4) Any action that a health insurer takes to implement this
26 section, including, but not limited to, contracting with preferred
27 provider organizations, shall not be deemed to be an action that
28 would otherwise require licensure as a health care service plan
29 under the Knox-Keene Health Care Service Plan Act of 1975
30 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
31 the Health and Safety Code).

32 (c) This section shall not apply to accident-only, specified
33 disease, hospital indemnity, Medicare supplement, dental-only, or
34 vision-only insurance policies.

35 (d) This section shall not apply to a policy of health insurance
36 purchased by the Board of Administration of the Public Employees’
37 Retirement System pursuant to the Public Employees’ Medical
38 and Hospital Care Act (Part 5 (commencing with Section 22750)
39 of Division 5 of Title 2 of the Government Code) unless the board
40 elects, pursuant to Section 22856 of the Government Code, to

1 purchase a policy of health insurance that covers mental health
2 services as described in this section.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1922 **VERSION:** INTRODUCED FEBRUARY 12, 2008

AUTHOR: HERNANDEZ **SPONSOR:** CAMFT

RECOMMENDED POSITION: SUPPORT

SUBJECT: MARRIAGE AND FAMILY THERAPISTS: PEER REVIEW

Existing Law:

- 1) Declares the intent of the legislature that the laws of this state pertaining to peer review of healing arts practitioners shall apply in lieu of Chapter 117 (commencing with §11101) of Title 42 of the United States Code because the laws of this state provide a more careful articulation of the protections for both those undertaking peer review activity and those subject to review, and better integrate public and private systems of peer review. Therefore California exercises its right to opt out of specified provisions of the Health Care Quality Improvement Act relating to professional review actions. (BPC § 809(a)(9)(A))
- 2) Defines a "peer review body" to include: (BPC § 805(a))
 - a) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare Program as an ambulatory surgical center.
 - b) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.
 - c) Any medical, psychological, marriage and family therapy, social work, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.
 - d) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.
- 3) Defines the term "licentiate" for purposes of the provisions relating to the definition of a peer review body as a physician and surgeon, podiatrist, clinical psychologist, marriage and family therapist (MFT), Licensed Clinical Social Worker (LCSW) or dentist. (BPC 805(a)(1)(D)(2))

- 4) Entitles a licentiate who is the subject of a final proposed action of a peer review body for which a report is required to file a written notice, and to include specific information. (BPC 809.1 (a))
- 5) Defines a licentiate as related to the provisions providing for written notice of final proposed action of a peer review body, as a physician and surgeon, podiatrist, clinical psychologist or dentist. (BPC 809(b))

This Bill: Adds MFTs to the list of healing arts practitioners defined as "licentiates" under peer review statutes relating to notice of final proposed action. (BPC 809(b))

Comment:

- 1) **Author's Intent.** According to the author's office, "This bill would update the definition of 'licentiate' in BPC section 809 to include marriage and family therapists, who since 1999 have been 'licentiates' and may be reported under BPC 805 and the subject of a peer review. Since a marriage and family therapist can have their membership, employment, or privileges adversely affected by a section 805 report, they should be allowed the same due process protections provided by section 809. AB 1922 would simply update the law to provide those protections."
- 2) **Background.** Congress enacted the Health Care Quality Improvement Act of 1986 to encourage physicians to engage in effective professional peer review, but gave each state the opportunity to "opt-out" of some of the provisions of the federal act. Due to deficiencies in the federal act and the possible adverse interpretations by the courts of the federal act, California opted out of the federal program, and instead designed its own peer review system.

Under current state law, persons associated with "peer review" bodies must file reports with the appropriate licensing agency when, for any medical disciplinary cause, a "licentiate" is denied staff privileges, employment, or membership in a professional society. Further, current law provides that a licentiate, who is the subject of a peer review, is entitled to notice and a hearing.

Existing law requiring a notice and opportunity for a hearing to an individual who is the subject of a peer review is known as a Section 805 report. At the time the statute was enacted, the definition of a "licentiate" only included physicians, podiatrists, clinical psychologists, and dentists. However, AB 352 (Migden), Chapter 252, Statutes of 1999 amended Section 805 to include MFTs as well as clinical social workers as "licentiates." Unfortunately, the definition of a licentiate in statute providing notice and a hearing was not updated to reflect the expanded definition of a licentiate made by the AB 352.

- 3) **Support and Opposition.**
Support: California Association of Marriage and Family Therapists (sponsor)
 American Association for Marriage and Family Therapy

Opposition: None on file

- 4) **History**
 2008
 Feb. 28 Referred to Com. on B. & P.
 Feb. 13 From printer. May be heard in committee March 14.
 Feb. 12 Read first time. To print.

ASSEMBLY BILL

No. 1922

Introduced by Assembly Member Hernandez

February 12, 2008

An act to amend Section 809 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1922, as introduced, Hernandez. Healing arts practitioners: peer review.

Existing law provides various due process rights for specified healing arts licentiates who are the subject of a final proposed disciplinary action of a peer review body. Existing law defines the term "licentiate" for purposes of those provisions as a physician and surgeon, podiatrist, clinical psychologist, or dentist.

This bill would revise that definition to also include a marriage and family therapist.

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 809 of the Business and Professions Code
2 is amended to read:
3 809. (a) The Legislature hereby finds and declares the
4 following:
5 (1) In 1986, Congress enacted the Health Care Quality
6 Improvement Act of 1986 (Chapter 117 (commencing with Section
7 11101) Title 42, United States Code), to encourage physicians to

1 engage in effective professional peer review, but giving each state
2 the opportunity to “opt-out” of some of the provisions of the federal
3 act.

4 (2) Because of deficiencies in the federal act and the possible
5 adverse interpretations by the courts of the federal act, it is
6 preferable for California to “opt-out” of the federal act and design
7 its own peer review system.

8 (3) Peer review, fairly conducted, is essential to preserving the
9 highest standards of medical practice.

10 (4) Peer review that is not conducted fairly results in harm both
11 to patients and healing arts practitioners by limiting access to care.

12 (5) Peer review, fairly conducted, will aid the appropriate state
13 licensing boards in their responsibility to regulate and discipline
14 errant healing arts practitioners.

15 (6) To protect the health and welfare of the people of California,
16 it is the policy of the State of California to exclude, through the
17 peer review mechanism as provided for by California law, those
18 healing arts practitioners who provide substandard care or who
19 engage in professional misconduct, regardless of the effect of that
20 exclusion on competition.

21 (7) It is the intent of the Legislature that peer review of
22 professional health care services be done efficiently, on an ongoing
23 basis, and with an emphasis on early detection of potential quality
24 problems and resolutions through informal educational
25 interventions.

26 (8) Sections 809 to 809.8, inclusive, shall not affect the
27 respective responsibilities of the organized medical staff or the
28 governing body of an acute care hospital with respect to peer
29 review in the acute care hospital setting. It is the intent of the
30 Legislature that written provisions implementing Sections 809 to
31 809.8, inclusive, in the acute care hospital setting shall be included
32 in medical staff bylaws that shall be adopted by a vote of the
33 members of the organized medical staff and shall be subject to
34 governing body approval, which approval shall not be withheld
35 unreasonably.

36 (9) (A) The Legislature thus finds and declares that the laws
37 of this state pertaining to the peer review of healing arts
38 practitioners shall apply in lieu of Chapter 117 (commencing with
39 Section 11101) of Title 42 of the United States Code, because the
40 laws of this state provide a more careful articulation of the

1 protections for both those undertaking peer review activity and
2 those subject to review, and better integrate public and private
3 systems of peer review. Therefore, California exercises its right
4 to opt out of specified provisions of the Health Care Quality
5 Improvement Act relating to professional review actions, pursuant
6 to Section 11111(c)(2)(B) of Title 42 of the United States Code.
7 This election shall not affect the availability of any immunity under
8 California law.

9 (B) The Legislature further declares that it is not the intent or
10 purposes of Sections 809 to 809.8, inclusive, to opt out of any
11 mandatory national data bank established pursuant to Subchapter
12 II (commencing with Section 11131) of Chapter 117 of Title 42
13 of the United States Code.

14 (b) For the purpose of this section and Sections 809.1 to 809.8,
15 inclusive, “healing arts practitioner” or “licentiate” means a
16 physician and surgeon, podiatrist, clinical psychologist, *marriage*
17 *and family therapist*, or dentist; and “peer review body” means a
18 peer review body as specified in paragraph (1) of subdivision (a)
19 of Section 805, and includes any designee of the peer review body.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1925 **VERSION:** AMENDED MARCH 24, 2008

AUTHOR: ENG **SPONSOR:** FRANCHISE TAX BOARD

RECOMMENDED POSITION: OPOSE UNLESS AMENDED

SUBJECT: BUSINESS AND PROFESSIONAL LICENSES: SUSPENSION: UNPAID TAX LIABILITY

Existing Law:

- 1) Requires a licensee to provide a federal identification number or social security number at that time of issuance of the license and provides that the licensing entity must report to the Franchise Tax Board (FTB) any licensee that fails to comply with this requirement. (BPC §30 (a)and (b))
- 2) Requires specified licensing board, upon request of the FTB, to furnish to the FTB the following information with the respect to every licensee: (BPC §30 (d))
 - a) Name
 - b) Address of record
 - c) Federal employer identification number if the entity is a partnership or social security number of all others
 - d) Type of license
 - e) Effective date if license or renewal
 - f) Expiration date of license
 - g) Whether license is active, or inactive, if known
 - h) Whether license is new or a renewal
- 3) Allows the FTB to send a notice to any licensee failing to provide the identification number or social security number as required describing the information that was missing, the penalty associated with not providing it, and that failure to provide the information within 30 days will result in the assessment of the penalty. (RTC §19528(a))
- 4) Allows the FTB after 30 days following the issuance of the notice describe above to assess a one hundred dollar (\$100) penalty, due and payable upon notice and demand, for any licensee failing to provide either its federal employer identification number or social security number. (RTC §19528(b))

- 5) Requires specified licensing entities to immediately serve notice to an applicant of the board's intent to withhold issuance or renewal of the license if the Department of Child Support Services reports that the licensee or applicant is not in compliance with a judgment or order of support. (FC §17520(e)(2))

This Bill:

- 1) Requires all state licensing entities issuing professional or occupational licenses to provide the names and social security numbers (or federal taxpayer identification number) of licensees to the FTB. (RTC §19265(a)(1))
- 2) Authorizes FTB to send a notice of license suspension to the issuing state licensing entity and the licensee if the licensee has unpaid state tax liabilities. (RTC §19265(a)(1))
- 3) Requires that FTB give the licensee 60 days notice of the suspension. (RTC §19265(a)(1))
- 4) Permits the affected licensee to request a hearing within 30 days of the notice of suspension to contest the charge that the licensee has failed to pay the state tax lien, and requires that FTB provide for a hearing within 30 days of receipt of the request. (RTC §19265(e)(3))
- 5) Permits the affected licensee to request an administrative hearing to contest the suspension due to substantial financial hardship within 30 days of the notice of suspension, and requires FTB to provide for a hearing within 30 days of receipt of the request. (RTC §19265(b))
- 6) Requires the FTB notice to advise that, within 30 days of the date of the FTB's notice, the licensee may request in writing a hearing and that the hearing shall be limited to whether the licensee has failed to pay the taxes reflected in the notice of state tax lien, and may not review the validity of the tax liability. (RTC §19265 (e)(2))
- 7) Permits FTB to defer or cancel any license suspension based on a demonstration of substantial financial hardship by the licensee, and if the licensee agrees to an acceptable payment arrangement. (RTC §19265(b)(1))
- 8) Requires FTB to notify both the licensee and licensing entity within 10 days of the licensee satisfying the tax debt either through payment or agreement to payment terms. (RTC §19265(a)(2))
- 9) Requires state governmental licensing entities to provide the information required by this section to FTB when needed. (RTC §19265(a)(3))
- 10) For a state tax lien assessment recorded prior to January 1, 2009, the FTB shall mail a notice to any licensee who would be affected by this section. (RTC §19265(e)(1))
- 11) Prohibits FTB from suspending any license if a licensee can substantiate that the taxes reflected in the notice of state tax lien have been paid. (RTC §19265 (e)(4))
- 12) States that if a licensee does not request a hearing or cannot substantiate that the taxes have been paid, the licensee shall be subject to suspension. (RTC §19265(e)(5))
- 13) Provides that the hearing procedures outlined in the section are not subject to the administrative adjudication provisions of the Administrative Procedure Act. (RTC §19265(e)(6))

- 14) States that implementation of this bill is contingent on the appropriation of funds in the Budget Act. (RTC §19265(d))
- 15) Expresses that it is the understanding and intent of the Legislature that consistent with the decision in *Crum v. Vincent* (8th Cir. 2007) 593F3d 988, the suspension of a professional or occupational license for failure to file returns or pay delinquent taxes satisfies the due process requirement of the California and Federal constitutions if a taxpayer is provided an opportunity for a hearing to challenge a proposed tax assessment prior to it becoming final and collectable. Because California law provides an opportunity for a hearing prior to a proposed assessment becoming final, due process is satisfied without an additional hearing prior to the suspension of a professional or occupational license of a delinquent taxpayer. (uncodified language)

Comment:

- 1) **Author's Intent.** According to the author's office, current state law lacks an effective method to collect income taxes from licensees who operate on a cash basis. This proposal would reduce the tax gap by increasing enforcement measures to collect outstanding taxes by giving FTB the ability to suspend certain tax debtors' professional or occupational licenses
- 2) **Background.** According to background provided by the author's office, California's annual income tax gap is approximately \$6.5 billion, and underreported business income makes up nearly 70 percent of that amount. While FTB has an automated tax collection system to search records and locate delinquent assets, this system is largely ineffective against taxpayers who operate on a cash basis because current information on their income is unavailable.

The author's office asserts that this bill will reduce the tax gap by increasing the collection and enforcement measures available to FTB. There are over 25,000 delinquent taxpayers with a state-issued occupational or professional license, and this bill will enable FTB to suspend their ability to generate income until they reconcile their delinquency with FTB.

- 3) **Licensee is not notified of right for a financial hardship hearing.** This bill permits FTB to defer or cancel any suspension if the licensee can prove that they would experience substantial financial hardship (RTC §19265(b)(1)). In order for an individual to apply for a waiver due to substantial financial hardship, the licensee has to request a hearing, in writing, within 30 days from the mailing date of the preliminary notice (RTC §19265(b)(2)). However, this bill does not provide for any notification to the licensee of his or her rights under this law to request a hearing for deferral or cancellation of the suspension ordered pursuant to this bill. RTC section 19265(e)(2) requires the preliminary notice of suspension to advise the licensee that he or she may request a hearing with respect to the suspension, but expressly prohibits that hearing to hear pleas of financial hardship.
- 4) **Board is not notified if licensee is suspended by FTB.** The only notification of impending license suspension provided to the board is in the form of the preliminary notice, 60 days or more prior to the set suspension date. RTC section 19265(a) requires FTB to mail a notice of suspension to the applicable governmental licensing entity and the licensee. This bill contains no other provision specifying that the license issuing entity be notified that suspension has occurred.

- 5) No provisions are made for license reinstatement.** RTC section 19265(a)(2) requires FTB, within 10 business days of compliance by the licensee with the tax obligation, to notify both the state governmental licensing entity and the licensee that the unpaid taxes have been paid or that an installment agreement has been entered into to satisfy the unpaid taxes. However, this bill does not provide for actual license reinstatement upon fulfilling the overdue tax obligation.
- 6) Lack of communication between FTB and board.** As discussed in previous sections of this analysis, this bill lacks the mechanisms necessary to ensure a consistent flow of information from FTB to the board relating to the status of an individual's license. Additionally, internal board enforcement action may affect the status of a license, unbeknownst to FTB. Because of this lack of communication and duplication of disciplinary action by two separate governmental entities, miscommunication and mistaken action against a licensee will most likely ensue. Additionally, without the board having knowledge of action taken by FTB, the consumer protection function of the board may be hindered by continuing to have an individual listed as a licensee in good standing in our board database (and disclosed on the board website) that may not be in good standing.
- 7) Unintended consequences to patients under the care of board licensees.** The practical side effect of this bill is that patients of board licensed practitioners will suddenly lose their mental health care provider. The mental health arena is already suffering from a documented workforce shortage, and although the Board believes that licensees should be held accountable for unpaid taxes and related financial liabilities to the state, the practical consequence to the consumers may far outweigh the potential revenue to the state. This bill will ultimately punish the patient and not the practitioner.

Additionally, many nonprofit facilities utilize board licensed professionals in order to receive Medi-Cal reimbursement for mental health services rendered. In some workforce shortage areas, the loss of a licensed practitioner may mean the difference between continuing to provide services and being forced to limit or even stop mental health services altogether.

- 8) Suggested Amendments.** It is important to both hold licensees accountable for their actions and to preserve vital programs for the public. Additionally, in the face of the state budget crisis, it is important to address the issue of outstanding tax liabilities – revenue needed to help prevent the reduction in core state programs and services. However, staff recommends looking within the current constructs of existing law to address the issues asserted by FTB. It is important that the board maintain the enforcement function relative to board licensees in order to continue to provide continuity in care and consumer protection.

Staff recommends working with FTB to exchange information regarding licensees that have unpaid tax liabilities. Using statutes contained in Contractor State Licensing Law as a model, the board may wish to add a section to board statute stipulating a procedure to receive tax liability information from FTB. Additionally, a provision should be added to the unprofessional conduct provisions of each practice act stating that any outstanding tax liabilities constitutes unprofessional conduct. Suggested language:

The board may refuse to issue, reinstate, reactivate, or renew a license or may suspend a license for the failure of a licensee to resolve any outstanding tax liabilities, which include taxes, additions to tax, penalties, interest, and any fees that may be assessed by the Franchise Tax Board.

All versions of the application for board issued licenses shall include, as part of the application, an authorization by the applicant, in the form and manner mutually

agreeable to the Franchise Tax Board and the board, for the Franchise Tax Board to disclose the tax information that is required for the board to administer this section.

9) Support and Opposition.

Support:

Franchise Tax Board (sponsor)
California Professional Firefighters
SEIU Local 1000

Opposition:

California Taxpayers' Association

10) History

2008

Mar. 25 Re-referred to Com. on B. & P.

Mar. 24 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

Feb. 28 Referred to Coms. on B. & P. and REV. & TAX.

Feb. 13 From printer. May be heard in committee March 14.

Feb. 12 Read first time. To print.

Attachment

Crum v. Vincent (8th Cir. 2007) 593F3d 988

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**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 06-3471

Jerry D. Crum,	*	
	*	
Plaintiff/Appellant,	*	
	*	Appeal from the United States
Douglas C. Richards,	*	District Court for the
	*	Western District of Missouri.
Plaintiff,	*	
	*	
v.	*	
	*	
Trish Vincent, Missouri Director of	*	
Revenue; Missouri State Board of	*	
Registration for the Hearing Arts,	*	
	*	
Defendants/Appellees.	*	

Submitted: March 14, 2007
Filed: July 27, 2007

Before COLLOTON, HANSEN, and GRUENDER, Circuit Judges.

COLLOTON, Circuit Judge.

Dr. Jerry D. Crum's medical license was revoked under Missouri Revised Statutes section 324.010 (Supp. 2003), because he failed to file state income tax returns for 2000, 2001, and 2002. Although Crum's license was reinstated after he

belatedly filed his returns, he brought this action against the Missouri Director of Revenue (“the Director”) and the Missouri Board of the Healing Arts (“the Board”). The lawsuit seeks a declaration that section 324.010 violated several of Crum’s rights under federal and Missouri law, including his rights to due process and equal protection, and that the revocation of his license was void. He also seeks damages and a mandatory injunction directing the Board to expunge all records of the revocation. The district court¹ granted the defendants’ motion for summary judgment and dismissed the case. Crum appeals, and we affirm.

I.

Crum has been licensed to practice medicine in Missouri since 1998. Although he knew he was required to file income tax returns with the Missouri Department of Revenue (“the Department”), he did not do so for tax years 2000, 2001, and 2002. He later explained that he did not consider filing his returns to be a “priority,” because he believed that he was entitled to a refund for each year.

In 2003, the Missouri General Assembly passed House Bill 600, section 2 of which was codified as Missouri Revised Statutes section 324.010. *See* 2003 Mo. Legis. Serv. H.B. 600, § 2 (West). Section 324.010 requires many Missouri licensing boards to report the names and social security numbers of licensees to the Director. If the Director discovers that any licensee is delinquent on state taxes or has failed to file a tax return in the last three years, the Director must send the licensee a notice indicating this delinquency or failure. As of 2003, unless the Director could verify that the licensee had made arrangements to remedy the delinquency or failure to file,

¹The Honorable Nanette Laughrey, United States District Judge for the Western District of Missouri.

the licensee's license was revoked ninety days after the mailing of the notice.² Other sections of House Bill 600 provided for sanctions on state employees, judges, and elected state officials who fail to pay taxes or file their tax returns. *See* 2003 Mo. Legis. Serv. H.B. 600, § 1 (West), codified as Mo. Rev. Stat. § 105.262 (Supp. 2003).

In late 2003, the Board sent Crum a license renewal packet containing a note that explained the operation of section 324.010. On January 26, 2004, Crum signed a license renewal application included in the packet and mailed it to the Board.

On January 21, 2004, shortly before Crum submitted his renewal application, the Department mailed Crum notices that he had not filed his state income tax returns for 2000, 2001, and 2002. These notices also stated that if he did not file his returns within ninety days, his Missouri medical license would be revoked by operation of law.

The Department received only an irrelevant federal tax form in response, with no explanation of Crum's failure to file returns or why he had sent the federal form. The Department then sent Crum another letter on February 10, 2004, explaining that it still required his Missouri tax returns with all schedules and W-2 forms.

After receiving no further response from Crum, on April 7, 2004, the Director mailed Crum "Notices of Deficiency" for tax years 2000, 2001, and 2002. These notices calculated Crum's total tax liability at \$47,679.15, including interest. They represented Crum's final notice to pay the taxes, and advised Crum that he could object by filing a protest with the Department. They also informed Crum that he must respond in some form by April 20. If he did not respond, the Notices of Deficiency automatically would become a final assessment of his tax liability after sixty days,

² Section 324.010 has since been amended so that licenses are now suspended rather than revoked. *See* 2004 Mo. Legis. Serv. H.B. 978 (West).

without any further notice to him. Crum acknowledges that he received these deficiency notices and that he made no effort to protest or appeal.

Finally, on June 25, 2004, the Director sent a Certificate of Non-Compliance to the Board. The Certificate indicated that ninety days had elapsed since the Department informed Crum that he had failed to file tax returns, and that Crum had not remedied this failure. Accordingly, the Certificate concluded, "Pursuant to Section 324.010, RSMo., the professional license . . . shall be REVOKED." The Board then mailed Crum a letter on June 29, 2004, informing him that his medical license was "REVOKED by operation of law as of July 21, 2004." After Crum's license was revoked on July 21, the Board reported this revocation to the Healthcare Integrity and Protection Data Bank, the National Practitioner Data Bank, and the Federation of State Medical Boards of the United States.

Crum claims that before he received the June 29 letter from the Board, he was unaware that his license could be revoked if he failed to file his tax returns. Nonetheless, he apparently took no action in response to this letter until July 21, when he called the Department to request an extension of time to file his returns and was informed that the Department did not grant extensions for House Bill 600 accounts. Crum did not actually file his returns until September 30, 2004, when he submitted them in person at the Department of Revenue's Jefferson City office. When he did so, the Department issued Crum a Certificate of Tax Compliance. Crum then presented this certificate to the Board, which reinstated his license the same day.

II.

Crum claims that section 324.010 deprives a licensee of property without due process of law, in violation of the Fourteenth Amendment and article I, section 10 of the Missouri Constitution. Generally speaking, these constitutional provisions prohibit the State from depriving a person of his property without notice and an

opportunity to be heard. *Jones v. Flowers*, 126 S. Ct. 1708, 1712 (2006); *Conseco Fin. Servicing Corp. v. Missouri Dept. of Revenue*, 195 S.W.3d 410, 415 (Mo. 2006). Crum contends that section 324.010 deprived him of a property right in his license, without either the requisite notice or opportunity to be heard. The defendants concede that Crum has a property interest in his license, but argue that section 324.010 provides sufficient notice and an opportunity for a hearing.

The Due Process Clause requires notice that is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). It does not require a showing by the State that an interested party received actual notice, *Jones*, 126 S.Ct. at 1713, and “[n]otice by mail is ordinarily presumed to be constitutionally sufficient.” *Nunley v. Dep’t of Justice*, 425 F.3d 1132, 1136 (8th Cir. 2005).

Section 324.010 requires that the Department inform a licensee of his tax deficiency and then wait ninety days – to allow the licensee to cure the deficiency – before a license is revoked. Crum received notice three times: the January notices, the February letter, and the April notices. He concedes that the notices were sent to the correct address and acknowledges receiving the April notices. Although he suggests that his staff may have misplaced the other notices, he has not identified any unusual circumstances that would have made notice by mail inadequate. *Cf. Jones*, 126 S.Ct. at 1716. Thus, the State repeatedly provided Crum with notice that he had failed to file his tax returns and specifically gave notice in the January mailings that this failure could lead to the revocation of his license. Crum therefore received constitutionally adequate notice.

Crum also claims that the State could not revoke his license until he received a hearing. The State satisfied the requirements of due process, however, by giving Crum an *opportunity* for a hearing at a meaningful time and in a meaningful manner.

See Armstrong v. Manzo, 380 U.S. 545, 552 (1965). The tax deficiency notices mailed to Crum in April explained how he could request a hearing to challenge the Department's assessment. Crum never received such a hearing simply because he never requested one.

We also reject Crum's argument that he was constitutionally entitled to opportunities for two hearings – one to challenge the tax deficiency and another to challenge the revocation of his license. So long as one hearing will provide the affected individual with a meaningful opportunity to be heard, due process does not require two hearings on the same issue. *See Goldberg v. Kelly*, 397 U.S. 254, 267 n.14 (1970); *cf. Mitchell v. Fankhauser*, 375 F.3d 477, 481 (6th Cir. 2004) (holding a post-termination hearing was required where a pre-termination hearing was insufficiently meaningful). Both the Director's finding of a tax deficiency and the subsequent license revocation had the same factual predicate – Crum's failure to file his tax returns. A license revocation hearing could add nothing to a tax deficiency hearing in this case, because the outcome of the tax hearing would necessarily determine the outcome of the revocation hearing. Crum had notice that he could lose his license if he failed to file his returns, and he was thus apprised of the matters that would be at stake in a tax deficiency hearing. Because Crum received both notice and an opportunity for a hearing, he was not deprived of property without due process of law.

Crum also claims that section 324.010 infringes his right to equal protection of the laws under the Fourteenth Amendment and article I, section 2 of the Missouri Constitution. He argues that section 324.010 violates equal protection in two ways. First, the section does not apply to certain professional licensees, such as security brokers and teachers, or to practitioners of unlicensed professions. Second, state employees, judges, and certain elected officials face different sanctions if they fail to file their returns. State employees, for example, are terminated. *See Mo. Rev. Stat. § 105.262* (Supp. 2003).

Neither of these distinctions violates the constitutional guarantee of equal protection. As Crum has not shown that he is a member of a suspect class or that a fundamental right is at issue, his equal protection claim is analyzed under the rational basis test. *Vacco v. Quill*, 521 U.S. 793, 799 (1997). Under that analysis, “we presume legislation is valid and will sustain it if the classification drawn by the statute is rationally related to a legitimate [governmental] interest.” *Gilmore v. County of Douglas*, 406 F.3d 935, 939 (8th Cir. 2005) (internal quotation omitted). A statutory distinction will not be set aside “if any state of facts reasonably may be conceived to justify it.” *Bowen v. Gilliard*, 483 U.S. 587, 601 (1987) (internal quotation omitted); *see also Snodgras v. Martin & Bayley, Inc.*, 204 S.W.3d 638, 641 (Mo. 2006).

Section 324.010 satisfies this deferential standard. As the district court noted, several plausible reasons exist for imposing higher penalties on licensed professionals who shirk their Missouri tax obligations than on those without licenses. The General Assembly may have perceived licensed professionals as more financially secure and better educated, thus increasing the amount of taxes they likely owe and making their neglect less excusable. Similarly, since state boards already monitor licensees, limiting section 324.010 to licensees may have been a more efficient way to increase tax compliance than a statute that applied more broadly. The General Assembly’s decision to sanction judges and elected officials differently from licensees is readily explained by the limitations the Missouri Constitution places on the removal of judges and elected officials. *See Missouri Const. art. V, § 24.3; art. VII, § 12.* The differing procedure for state employees – which is arguably more onerous than that faced by licensees, *see Mo. Rev. Stat. § 105.262.2* – can rationally be explained by the State’s special interest in ensuring that its own employees comply with the tax code.

We also reject Crum’s vagueness challenge. A statute is impermissibly vague if it “fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits” or “authorizes or even encourages arbitrary and discriminatory enforcement.” *Hill v. Colorado*, 530 U.S. 703, 732 (2000); *see also*

State v. Allen, 905 S.W.2d 874, 877 (Mo. 1995). The conduct prohibited by section 324.010 is plain from its language – failing to pay taxes or file a tax return when obligated to do so under Missouri law. Section 324.010 does not encourage arbitrary or discriminatory enforcement. The Director is required to identify and notify those licensees who have failed to fulfill these tax obligations. If these licensees fail to remedy this failure, then the revocation of their license is automatic. The Director retains no discretion that might lead to arbitrary enforcement.

III.

Crum also brought a series of challenges to section 324.010 based exclusively on Missouri law. We consider each in turn.

First, Crum contends that the license revocation was void because he was denied his right to appeal the Director’s finding that he had failed to file his tax returns. Section 621.050.1 of the Missouri Revised Statutes states that “[e]xcept as otherwise provided by law, any person or entity shall have the right to appeal to the administrative hearing commission from any finding, order, decision, assessment or additional assessment made by the director of revenue.” Any decision of the Director also must provide the affected party notice of this right to appeal. Mo. Rev. Stat. § 621.050.1 (2000). Crum argues that the “Certificate of Non-Compliance” that the Director sent to the Board on June 25, 2004, was such a “finding, order, [or] decision,” and that the Director violated section 621.050.1, because Crum was never informed of his right to appeal the decision.

We disagree. Before issuing the Certification of Non-Compliance, the Director sent Crum three tax deficiency notices on April 7, 2004, each of which explained his right to appeal. These findings of tax deficiency were the last “findings” the Director made for the purposes of section 621.050. The tax deficiency notices informed Crum that if he did not appeal the findings, they would become a final assessment of his tax

deficiency, by operation of law, sixty days after they were mailed. *See* Mo. Rev. Stat. § 143.621 (2000). Since Crum did not appeal the deficiency notices, the assessments became final on June 6, and no further findings by the Director were necessary. Accordingly, Crum's tax deficiency already had been established under Missouri law when the Director issued the Certificate of Non-Compliance on June 25. The Certificate merely recognized this deficiency's existence, and Crum was not entitled to appeal the issuance of the Certificate.

Second, Crum argues that his license was never revoked, because the Director did not have legal authority to revoke his license and the Board never voted to do so. We conclude that the license was properly revoked. As the June 29 letter from the Board stated, Crum's license was revoked "by operation of law." Once initial notice is given, section 324.010 requires no action by either the Director or the Board to revoke a license: "In case of such delinquency or failure to file, the licensee's license shall be revoked within ninety days after notice of the such delinquency or failure to file." After the Director informed Crum of his failure to file, and ninety days elapsed without Crum taking action to correct the deficiency, the license was automatically revoked by law. The Director and the Board merely recognized this revocation. Crum contends that *Cantrell v. State Bd. of Registration for the Healing Arts*, 26 S.W.3d 824 (Mo. Ct. App. 2000), holds that a license cannot be revoked without action by the Board, but *Cantrell* is inapposite. *Cantrell* was decided under sections 334.100 and 621.045, which, as we discuss below, apply to different situations than section 324.010, and establish a different procedure for revocation.

Third, Crum argues that his license could not be revoked without a finding by the Administrative Hearing Commission that cause existed to revoke it. Crum bases this argument on sections 334.100 and 621.045 of the Missouri Revised Statutes. Section 621.045 states: "The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by [the Board or other state licensing board] may be revoked

or suspended” Section 334.100 in turn lists numerous grounds on which licensees may be disciplined, including drug abuse, fraud, and violation of various professional standards, but it does not include tax delinquency or the failure to file tax returns. Mo. Rev. Stat. § 334.100.2 (2000). It then provides that “[u]pon a finding by the administrative hearing commission that the grounds . . . for disciplinary action are met, the board may . . . revoke the person’s license.” Mo. Rev. Stat. § 334.100.4 (2000). Based on this statutory scheme, the Supreme Court of Missouri held that “[t]he Board may discipline a physician *only* if the Administrative Hearing Commission first finds cause for discipline.” *Bodenhausen v. Mo. Bd. of Registration for the Healing Arts*, 900 S.W.2d 621, 622 (Mo. 1995). Because Crum’s license was revoked without a finding by the Administrative Hearing Commission, he argues that the revocation violated sections 334.100 and 621.045.

Crum is incorrect, however, because he reads sections 324.010, 334.100, and 621.045 in isolation. As the district court noted, Missouri law requires courts to read statutes *in pari materia*, harmonizing sections covering the same subject matter if possible. *See, e.g., Bachtel v. Miller County Nursing Home Dist.*, 110 S.W.3d 799, 801 (Mo. 2003). When doing so, courts are not to interpret statutes in a “hyper-technical” manner, but rather in a manner that is “reasonable, logical, and . . . give[s] meaning to the statutes.” *See In re Boland*, 155 S.W.3d 65, 67 (Mo. 2005). Thus, if possible, the provisions of sections 334.100 and 621.045 must be reconciled with section 324.010’s requirement that the license of a licensee who has not filed his tax return be revoked by operation of law. When a general and a specific statute cannot be fully reconciled, “the more specific prevails over the more general.” *KC Motorcycle Escorts, L.L.C. v. Easley*, 53 S.W.3d 184, 187 (Mo. Ct. App. 2001).

The district court correctly reconciled the statutes here, holding that a hearing before the Administrative Hearing Commission was not required to revoke Crum’s license. A hearing before the Administrative Hearing Commission is required when a licensee has been accused of one of the disciplinary infractions listed in

section 334.100. There is practical reason for this statutory directive: The Administrative Hearing Commission must determine whether the licensee is in fact guilty of one of the infractions listed in section 334.100. No such findings are necessary, however, when a license is revoked under section 324.010. A license cannot be revoked under section 324.010 until the Director has found that the licensee has failed to pay his taxes or to file his tax return, but the licensee is entitled to appeal this finding to the Administrative Hearing Commission when it is made. We do not think the Missouri General Assembly intended to grant a licensee the opportunity to present exactly the same factual question to the Administrative Hearing Commission a second time before his license is revoked. If the General Assembly had intended to subject license revocations for tax delinquency and failure to file to the requirements of sections 334.100 and 621.045, it could simply have added these wrongs to section 334.100's preexisting list of infractions, instead of establishing a new, separate revocation procedure under section 324.010. Therefore, we hold that the State was not required to conduct a hearing before the Administrative Hearing Commission before Crum's license was revoked.³

Crum next contends that section 324.010 is "retrospective in its operation," and thus unconstitutional under article I, section 13 of the Missouri Constitution. His argument is premised on the fact that section 324.010 was passed in 2003, while he was sanctioned for failing to file tax returns in 1999, 2000, and 2001.

³Crum raises no argument that he remedied or arranged to remedy his failure to file tax returns within ninety days of receiving notice of this failure. He does not contend, for example, that the Director failed to "verify" such remedial action in accordance with section 324.010, or that the revocation of his license occurred despite such verification by the Director, in contravention of section 324.010. We need not address, therefore, whether a licensee in one of those situations would have an opportunity for administrative review or judicial review pursuant to section 621.050 or section 536.150, given that the issue in dispute would be different from the question here – whether the Director was correct in the first instance to find that the licensee failed to file his tax returns.

Under Missouri law, a law is generally retrospective only if it impairs a “vested right.” *See La-Z-Boy Chair Co. v. Dir. of Econ. Dev.*, 983 S.W.2d 523, 525 (Mo. 1999). An individual does not have a vested right to be free from suit or sanction for a legal violation until the statute of limitations for that violation has expired. *See Doe v. Roman Catholic Diocese of Jefferson City*, 862 S.W.2d 338, 341 (Mo. 1993). Missouri has no statute of limitations for the failure to file a tax return. “If no return is filed . . . a notice of deficiency may be mailed to the taxpayer at any time.” Mo. Rev. Stat. § 143.711.3 (2000). Thus, Crum had no vested right to be free from sanction for his failure to file his tax returns, and punishing him for his failure was not unconstitutionally retrospective.

For all of these reasons, we conclude that the State of Missouri properly revoked Crum’s medical license for non-payment of taxes. Thus, contrary to Crum’s claims, this revocation was a “final adverse action” within the meaning of 42 U.S.C. § 1320a-7e(g)(1)(A)(iii)(II) (2000), and the revocation was properly reported under § 1320a-7e(b)(1) to the Healthcare Integrity and Protection Data Bank, the National Practitioner Data Bank, and the Federation of State Medical Boards of the United States.

* * *

For the foregoing reasons, the judgment of the district court is affirmed.

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1925

Introduced by Assembly Member Eng

February 12, 2008

An act to amend Sections 31 and 7145.5 of the Business and Professions Code, and to add Sections 19265 and 19571 to the Revenue and Taxation Code, relating to taxes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1925, as amended, Eng. Franchise Tax Board: business and professional licenses.

The Personal Income Tax Law and the Bank and Corporation Tax Law ~~imposes~~ *impose* taxes on, or measured by, income. Existing law allows a tax return or return information filed under those laws to be disclosed in a judicial or administrative proceeding pertaining to tax administration under certain circumstances. Existing law requires every board, as defined under the Business and Professions Code, and the Department of Insurance to, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board certain information with respect to every licensee.

This bill would require a state governmental licensing entity, as defined, issuing professional *or occupational* licenses, certificates, registrations, or permits to provide to the Franchise Tax Board the name and social security number or federal *taxpayer* identification number of each licensee of that entity. The bill would require the Franchise Tax Board, if a licensee fails to pay taxes for which a notice of state tax lien has been recorded, to send a notice of suspension to the applicable state governmental licensing entity and to the licensee. The bill would require

the Franchise Tax Board to meet certain requirements with regard to such a suspension, and would make related changes. The bill would make implementation of its provisions contingent upon appropriation of funds for that purpose in the annual Budget Act.

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 31 of the Business and Professions Code
2 is amended to read:

3 31. (a) As used in this section, “board” means any entity listed
4 in Section 101, the entities referred to in Sections 1000 and 3600,
5 the State Bar, the Department of Real Estate, and any other state
6 agency that issues a license, certificate, or registration authorizing
7 a person to engage in a business or profession.

8 (b) Each applicant for the issuance or renewal of a license,
9 certificate, registration, or other means to engage in a business or
10 profession regulated by a board who is not in compliance with a
11 judgment or order for support shall be subject to Section 17520 of
12 the Family Code.

13 (c) “Compliance with a judgment or order for support,” has the
14 meaning given in paragraph (4) of subdivision (a) of Section 17520
15 of the Family Code.

16 (d) Each licensee who has not paid any applicable state income
17 tax, including interest, penalties, and other fees, shall be subject
18 to Section 19265 of the Revenue and Taxation Code.

19 SEC. 2. Section 7145.5 of the Business and Professions Code
20 is amended to read:

21 7145.5. (a) The registrar may refuse to issue, reinstate,
22 reactivate, or renew a license or may suspend a license for the
23 failure of a licensee to resolve all outstanding final liabilities, which
24 include taxes, additions to tax, penalties, interest, and any fees that
25 may be assessed by the board, the Department of Industrial
26 Relations, the Employment Development Department, or the
27 Franchise Tax Board.

28 (1) Until the debts covered by this section are satisfied, the
29 qualifying person and any other personnel of record named on a
30 license that has been suspended under this section shall be
31 prohibited from serving in any capacity that is subject to licensure

1 under this chapter, but shall be permitted to act in the capacity of
2 a nonsupervising bona fide employee.

3 (2) The license of any other renewable licensed entity with any
4 of the same personnel of record that have been assessed an
5 outstanding liability covered by this section shall be suspended
6 until the debt has been satisfied or until the same personnel of
7 record disassociate themselves from the renewable licensed entity.

8 (b) The refusal to issue a license or the suspension of a license
9 as provided by this section shall be applicable only if the registrar
10 has mailed a notice preliminary to the refusal or suspension that
11 indicates that the license will be refused or suspended by a date
12 certain. This preliminary notice shall be mailed to the licensee at
13 least 60 days before the date certain.

14 (c) (1) In the case of outstanding final liabilities assessed by
15 the Franchise Tax Board, this section shall be operative within 60
16 days after the Contractors' State License Board has provided the
17 Franchise Tax Board with the information required under Section
18 30, relating to licensing information that includes the federal
19 employee identification number or social security number.

20 (2) All versions of the application for contractors' licenses shall
21 include, as part of the application, an authorization by the applicant,
22 in the form and manner mutually agreeable to the Franchise Tax
23 Board and the board, for the Franchise Tax Board to disclose the
24 tax information that is required for the registrar to administer this
25 section. The Franchise Tax Board may from time to time audit
26 these authorizations.

27 ~~(3) This subdivision shall become inoperative upon the~~
28 ~~implementation of subdivision (a) of Section 19265 of the Revenue~~
29 ~~and Taxation Code.~~

30 *(d) This section shall not be interpreted to conflict with the*
31 *suspension of a license by the Franchise Tax Board pursuant to*
32 *Section 19265 of the Revenue and Taxation Code.*

33 SEC. 3. Section 19265 is added to the Revenue and Taxation
34 Code, to read:

35 19265. (a) (1) All state governmental licensing entities issuing
36 professional *or occupational* licenses, certificates, registrations,
37 or permits shall provide to the Franchise Tax Board the name and
38 social security number or federal *taxpayer* identification number,
39 as applicable, of each ~~taxpayer that is issued a license by, or is a~~
40 licensee of; that state governmental licensing entity. If any licensee

1 has failed to pay taxes, including any penalties, interest, and any
2 applicable fees, imposed under Part 10 (commencing with Section
3 17001), Part 11 (commencing with Section 23001), or this part,
4 for which a notice of state tax lien has been recorded in any county
5 recorder's office in this state, pursuant to Chapter 14 (commencing
6 with Section 7150) of Division 7 of Title 1 of the Government
7 Code, the Franchise Tax Board shall ~~send~~ *mail* a notice of
8 suspension to the applicable state governmental licensing entity
9 and to the licensee. The rights, powers, and privileges of any
10 licensee whose professional *or occupational* license, certificate,
11 registration, or permit has been suspended pursuant to this section
12 shall be subject to the same prohibitions, limitations, and
13 restrictions as if the professional *or occupational* license,
14 certificate, registration, or permit ~~was~~ *were* suspended by the state
15 governmental licensing entity that issued the professional *or*
16 *occupational* license, certificate, registration, or permit. The
17 suspension authorized by this section shall be applicable only if
18 the Franchise Tax Board has mailed a preliminary notice of the
19 suspension that indicates that the license will be suspended by a
20 date certain. This preliminary notice shall be mailed to the licensee
21 at least 60 days before that date certain.

22 (2) The Franchise Tax Board shall, within 10 business days of
23 compliance by the licensee with the tax obligation, notify both the
24 state governmental licensing entity and the licensee that the unpaid
25 taxes have been paid or that an installment payment agreement,
26 as described in Section 19008, has been entered into to satisfy the
27 unpaid taxes.

28 (3) *State governmental licensing entities shall provide to the*
29 *Franchise Tax Board the information required by this subdivision*
30 *at a time that the Franchise Tax Board may require.*

31 (b) (1) The Franchise Tax Board may defer or cancel any
32 suspension authorized by this section if a licensee would experience
33 substantial financial hardship. The Franchise Tax Board shall, if
34 requested by the licensee in writing, provide for an administrative
35 hearing to determine if the licensee will experience substantial
36 financial hardship from the suspension of the license, certificate,
37 registration, or permit.

38 (2) The request for a hearing specified in paragraph (1) shall be
39 made in writing within 30 days from the mailing date of the
40 preliminary notice described in subdivision (a).

1 (3) The Franchise Tax Board shall conduct a hearing within 30
2 days after receipt of a request pursuant to paragraph (1).

3 (4) A licensee seeking relief under this subdivision shall only
4 be entitled to relief described in paragraph (1) if the licensee
5 provides the Franchise Tax Board with financial documents that
6 substantiate a substantial financial hardship, and agrees to an
7 acceptable payment arrangement.

8 (c) For purposes of this section and Section 19571, the following
9 definitions shall apply:

10 (1) “Hardship” means financial hardship, as determined by the
11 Franchise Tax Board, where the ~~taxpayer~~ *licensee* is financially
12 unable to pay any part of the amount described in subdivision (a)
13 and is unable to qualify for an installment payment arrangement
14 as provided for by Section 19008. In order to establish the existence
15 of a financial hardship, the ~~taxpayer~~ *licensee* shall submit any
16 information requested by the Franchise Tax Board for the purpose
17 of making that determination.

18 (2) “License” includes a certificate, registration, or any other
19 authorization to engage in a ~~business or profession~~ *profession or*
20 *occupation* issued by a state governmental licensing entity.

21 (3) “Licensee” means any entity authorized by a license,
22 certificate, registration, or other authorization to engage in a
23 ~~business or profession~~ *profession or occupation* issued by a state
24 governmental licensing entity.

25 (4) “State governmental licensing entity” means any entity listed
26 in Section 101, 1000, or 19420 of the Business and Professions
27 Code, the Office of the Attorney General, the Department of
28 Insurance, the State Bar of California, the Department of Real
29 Estate, and any other state agency, board, or commission that issues
30 a license, certificate, or registration authorizing a person to engage
31 in a ~~business or profession~~ *profession or occupation*. “State
32 governmental licensing entity” shall not include the Department
33 of Motor Vehicles.

34 (d) Implementation of this section shall be contingent on the
35 appropriation of funds for the purposes of this section in the annual
36 Budget Act.

37 (e) (1) *For an assessment for which a notice of state tax lien*
38 *has been recorded in a county recorder’s office in this state,*
39 *pursuant to Chapter 14 (commencing with Section 7150) of*
40 *Division 7 of Title 1 of the Government Code, prior to January 1,*

1 2009, the Franchise Tax Board shall mail a notice to any licensee
2 who would be affected by this section.

3 (2) The notice referred to in paragraph (1) shall advise a
4 licensee that he or she may request in writing, within 30 days of
5 the date of the notice, a hearing with respect to the possible
6 suspension of the license. The grounds for this hearing shall be
7 limited to whether the licensee has failed to pay the taxes, including
8 penalties, interest, and applicable fees, reflected in the notice of
9 state tax lien. The hearing may not review the validity of the
10 underlying tax liability, which has previously been made under
11 Section 19044, or financial hardship, which is provided for under
12 subdivision (b).

13 (3) If a hearing is requested by a licensee in accordance with
14 paragraph (2), the Franchise Tax Board shall provide for the
15 hearing within 30 days of receipt of the request.

16 (4) The Franchise Tax Board shall not suspend any license as
17 authorized by this subdivision if a licensee can substantiate that
18 the taxes, including penalties, interest, and applicable fees,
19 reflected in the notice of state tax lien, have been paid.

20 (5) If a licensee fails to request a hearing under this subdivision
21 or fails to substantiate at that hearing that the taxes, including
22 penalties, interest, and applicable fees, have been paid, then the
23 licensee shall be subject to suspension in accordance with this
24 section.

25 (6) Chapter 4.5 (commencing with Section 11400) of Part 1 of
26 Division 3 of Title 2 of the Government Code does not apply to a
27 hearing authorized by this subdivision.

28 (f) If this section or any portion of this section is held invalid,
29 or the application of this section to any person or circumstance is
30 held invalid, that invalidity shall not affect other provisions of law
31 or applications that can be given effect without the invalid
32 provision or application.

33 SEC. 4. Section 19571 is added to the Revenue and Taxation
34 Code, to read:

35 19571. (a) The Franchise Tax Board may disclose to state
36 governmental licensing entities information regarding suspension
37 of licensees pursuant to Section 19265.

38 (b) Neither the state governmental *licensing* entity, nor any
39 officer, employee, or agent, or former officer, employee, or agent
40 of a state governmental licensing entity, may disclose or use any

1 information obtained from the Franchise Tax Board, pursuant to
2 this section, except to inform the public of the suspension of a
3 license pursuant to Section 19265.

4 (c) For purposes of this section, the definitions in Section 19265
5 shall apply.

6 SEC. 5. The Legislature hereby finds and declares the
7 following:

8 (a) It is the understanding and intent of the Legislature that,
9 consistent with the decision in *Crum v. Vincent*, Missouri Director
10 of Revenue *Vincent* (8th Cir. 2007) 493 F.3d 988, the suspension
11 of a professional or occupational license for failure to file returns
12 or pay delinquent taxes satisfies the due process requirements of
13 the California and federal constitutions if a taxpayer is provided
14 an opportunity for a hearing to challenge a proposed tax assessment
15 prior to it becoming final and collectable. Because California law
16 provides an opportunity for a hearing prior to a proposed
17 assessment becoming final, due process is satisfied without an
18 additional hearing prior to the suspension of a professional or
19 occupational license of a delinquent taxpayer.

20 (b) To prevent financial hardship, Section 19265 of the Revenue
21 and Taxation Code, as added by this act, grants a delinquent
22 taxpayer the opportunity for an additional hearing for financial
23 hardship prior to the suspension of a professional or occupational
24 license. *An opportunity for a limited hearing is also provided to*
25 *a delinquent taxpayer if a suspension would be based on an*
26 *assessment for which a notice of a state tax lien was recorded*
27 *prior to the effective date of this act.*

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1951

VERSION: AMENDED MARCH 11, 2008

AUTHOR: HAYASHI

SPONSOR: BAY AREA SUICIDE AND CRISIS INTERVENTION ALLIANCE

RECOMMENDED POSITION: NONE

SUBJECT: SUICIDE PREVENTION TRAINING

Existing Law:

1) Mandates the following educational requirements for BBS applicants and licensees:

License Type	Required as Part of Education	Required Prior to Licensure	Licensee Continuing Education Requirement
Marriage & Family Therapist (MFT)	<ul style="list-style-type: none"> Specifies degree content including diagnosis, assessment, and treatment of mental disorders, marriage, family and child counseling, developmental issues, practicum, and a number of other requirements (4980.37, 4980.40) 15 hrs Substance Abuse (4980.41(d)) 15 hrs Partner Abuse (4980.41(e)) 	<ul style="list-style-type: none"> 10 hrs. Aging and Long-Term Care (4980.39) 2 sem/3qtr units CA Law & Ethics (4980.41(a)) 7 hrs Child Abuse (4980.41(b)) 10 hrs Human Sexuality (4980.41(c)) 2 sem/3 qtr units Psych Testing (4980.41(f)) 2 sem/3 qtr units Psychopharmacology (4980.41(g)) 	<ul style="list-style-type: none"> Total of 36 hours every 2 years (4980.54) 7 hrs HIV/AIDS one-time (16CCR§1887.3(c)) 6 hrs Law & Ethics every 2 years (16CCR§1887.3(d)) If supervising, 6 hrs Supervision every 2 years (16CCR§1833.1(a)(6))
Licensed Educational Psychologist (LEP)	<ul style="list-style-type: none"> Degree content not specified (4989.20) 	None	<ul style="list-style-type: none"> Total of 36 hours every 2 years (4989.34-<i>not yet implemented, requires regulations</i>)
Licensed Clinical Social Worker (LCSW)	<ul style="list-style-type: none"> Degree content not specified (4996.2(b)) 	<ul style="list-style-type: none"> 15 hrs Substance Abuse (4996.2(e)) 15 hrs Partner Abuse (4996.2(f)) 10 hrs Human Sexuality (4996.2(g)) 7 hrs Child Abuse (4996.2(h)) 10 hrs Aging & Long Term Care (4996.25) 	<ul style="list-style-type: none"> Total of 36 hours every 2 years (4996.22) 7 hrs Partner Abuse one-time (if not in degree program-4996.22(a)(2)) 3 hrs Aging & Long Term Care (if not in degree program-4996.26) 7 hrs HIV/AIDS one-time (16CCR§1887.3(c)) 6 hrs Law & Ethics every 2 years (16CCR§1887.3(d)) If supervising, 15 hrs Supervision one-time (16CCR§1870(a)(4))

All section numbers are from the Business and Professions Code or California Code of Regulations

- 2) Requires licensees to complete 18 hours of continuing education (CE) during their initial renewal period. (16CCR§1887.2(a))
- 3) Requires licensees to complete 36 hours of CE during each two-year renewal period. (BPC § § 4980.54(a), 4989.34(a), 4996.22(a))
- 4) Permits the board to audit a licensee's records to verify completion of the CE requirements. (BPC § § 4980.54(d), 4989.34(d), 4996.22(b))
- 5) Establishes the following good cause exceptions to CE requirements when one of the following occurred during the licensee's previous renewal period: (16CCR§1887.2)
 - Served in the military for at least one year
 - Resided in another country for at least one year
 - The licensee or immediate family member, where the licensee has primary caregiver responsibility, was suffering from a disability.
- 6) Requires licensees to obtain CE from either an accredited school or a provider that has been approved by the board. (BPC § § 4980.54(g), 4989.34(b), 4996.22(e), 16CCR§1887.6)

This Bill:

- 1) Requires an applicant for licensure as a psychologist, MFT, LEP or LCSW, who began graduate study *on or after* January 1, 2010 to complete, as a condition of licensure, a minimum of six hours of coursework in suicide prevention. (BPC § § 2915.8(a), 4980.415(a), 4989.23(a), 4996.27(a))
- 2) Requires a licensed psychologist, MFT, LEP or LCSW, who began graduate study *prior to* January 1, 2010 to complete a minimum of six hours of coursework in suicide prevention during the licensee's first renewal period after the law takes effect. (BPC § § 2915.8(a), 2915.9(a), 4980.415(a), 4980.416(a), 4989.23(a), 4989.24(a), 4996.27(a), 4996.28(a))
- 3) Specifies the content of the suicide prevention training for applicants and licensees as including the following: (BPC § § 2915.8(a), 2915.9(a), 4980.415(a), 4980.416(a), 4989.23(a), 4989.24(a), 4996.27(a), 4996.28(a))
 - Suicide prevention, assessment, intervention, and postintervention strategies
 - Training in community resources
 - Training in an understanding of cultural factors that promote help-seeking behavior
- 4) Requires the coursework to be obtained from one of the following sources: (BPC § § 2915.8(b), 2915.9(b), 4980.415(b), 4980.416(b), 4989.23(b), 4989.24(b), 4996.27(b), 4996.28(b))
 - An accredited or approved educational institution
 - A CE provider approved by the board
 - A course sponsored or offered by a professional association and approved by the board
 - A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

- A course sponsored or offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.
- 5) Permits coursework taken in fulfillment of other educational requirements for licensure or in a separate course of study to, at the discretion of the board, fulfill the suicide prevention coursework requirements. (BPC § § 2915.8(c), 4980.415(c), 4989.23(c), 4996.27(c))
 - 6) Requires applicants and licensees to submit to the board evidence of his or her satisfactory completion of the suicide prevention coursework. (BPC § § 2915.8(d), 2915.9(c), 4980.415(d), 4980.416(c), 4989.23(d), 4989.24(c), 4996.27(d), 4996.28(c))
 - 7) Permits applicants and licensees to request an exemption from this requirement if the licensee practices or the applicant intends to practice in an area where this training would not be needed. (BPC § § 2915.8(a), 2915.9(a), 4980.415(a), 4980.416(a), 4989.23(a), 4989.24(a), 4996.27(a), 4996.28(a))
 - 8) Permits a licensee to submit to the board a certificate evidencing completion of equivalent coursework in suicide prevention, assessment, intervention, and postintervention strategies taken prior to the operative date of this legislation, or proof of equivalent teaching or practice experience. Permits the board, in its discretion, to accept that certification as meeting the coursework requirements. (BPC § § 2915.9(d), 4980.416(d), 4989.24(d), 4996.28(d))
 - 9) Permits licensees to apply this training to the 36 hours of continuing education that must be completed each two-year renewal period. (BPC § § 2915.9(g), 4980.416(g), 4989.24(g), 4996.28(g))

Comment:

- 1) **Author's Intent.** According to the author, suicide prevention training for mental health professionals remains discretionary rather than required. Many mental health professionals counsel patients with suicidal behavior without being fully aware of the patient's condition or how to properly intervene. A University of California survey found that about 45% of individuals who died by suicide had contact with a mental health professional within one year of their death, indicating a dangerous trend of missed opportunities for prevention and intervention. This measure would help professionals to be adequately trained to assess and intervene in critical situations, which will enhance the level of service to patients and save lives. If trained to recognize and respond to warning signs, these individuals are in a unique place to promote early intervention for people at risk.
- 2) **Timing of Coursework and SB 1218.** This bill proposes that suicide prevention training be required prior to licensure. However, MFT interns and Associate Clinical Social Workers (ASW), who see clients under supervision while they are gaining hours of experience toward licensure, should be required to take this training prior to registration. In addition, this bill poses a conflict with SB 1218 (Correa), which is pending in the Senate. SB 1218 would require any coursework that is currently required prior to licensure as a MFT and permitted to be taken outside of the degree program, to instead be completed prior to registration as a MFT intern and within the degree program. This requirement would apply to persons who begin graduate study on or after August 1, 2012.
- 3) **Board Approval.** This legislation specifies that courses offered by professional associations, local, county, or state departments of health or mental health, or by nationally

certified nonprofit agencies require board approval. Although the author's intention appears to be that the board approve these providers rather than the specific courses, the wording of the bill is ambiguous. The Board's current practice is that any person or entity that wishes to provide continuing education, other than an accredited school, must apply to the Board and receive approval as a provider of continuing education. The Board does not approve specific courses, and it would be an administrative burden for it to do so. For this legislation to be implemented without a sizeable impact to the Board, it must fit into the Board's current system for administration of continuing education program.

- 4) **Course Content.** This legislation specifies minimal course content requirements, including prevention, assessment, intervention and postintervention strategies, community resources and an understanding of cultural factors that promote help-seeking behaviors. Training content should also include, at minimum, best practices, evidence based practices, and promising practices, as well as other cultural factors and socioeconomic impacts.
- 5) **Exemptions.** The ability to request an exemption from this training is troubling because the ability to obtain an exemption is based on where a person is currently practicing (licensees) or where they intend to practice (registrants). Since people do change jobs, no such exemptions should be permitted. This legislation also provides an exemption for licensees who have equivalent education or teaching experience. A time limit should be specified for when this education or teaching occurred, perhaps within the past five years.
- 6) **Enforceability of CE.** The Board currently performs random audits of licensees to determine their compliance with the continuing education requirement. Compliance with the overall requirement of 36 hours every two years is generally good. However, of those licensees who fail the CE audit, most (about 80%) fail because they have not met the requirement for completion of specific coursework. The same lack of compliance would be expected should this bill be enacted. When a licensee fails an audit, a citation and fine is issued. The enactment of this new requirement would place an administrative burden on the board.

7) Suggested Amendments.

A. Amendment to SB 1218 (Correa), BPC § 4980.36(d)(2)(I):

(d)(2)(I) Coursework in suicide prevention, assessment, intervention, and postintervention strategies, including best practices, evidence based practices, and promising practices, cultural factors and socioeconomic impacts. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

B. BPC § 4980.415:

(a) An applicant for licensure registration as a marriage and family therapist intern who began graduate study on or after January 1, 2010, shall complete, as a condition of licensure registration, a minimum of six hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies, including best practices, evidence based practices, and promising practices, cultural factors and socioeconomic impacts. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

C. BPC § 4989.23:

(a) An applicant for licensure as an educational psychologist who began graduate study on or after January 1, 2010, shall complete, as a condition of licensure, a minimum of 15 hours of coursework in suicide prevention, assessment, intervention, and

postintervention strategies, including best practices, evidence based practices, and promising practices, cultural factors and socioeconomic impacts. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

D. BPC § 4996.27:

(a) An applicant for licensure registration as a ~~licensed~~ an associate clinical social worker who began graduate study on or after January 1, 2010, shall complete, as a condition of licensure registration, a minimum of six hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies, including best practices, evidence based practices, and promising practices, cultural factors and socioeconomic impacts. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

E. BPC § § 4980.415, 4980.416:

(b) Coursework required by this section shall be obtained from one of the following sources:

- (1) An accredited or approved educational institution, as specified in Section 4980.40.
- (2) A continuing education provider approved by the board.
- (3) A ~~course sponsored or offered by~~ a professional association ~~and~~ approved by the board.
- (4) A ~~course sponsored or offered by~~ a local, county, or state department of health or mental health and approved by the board.
- (5) A ~~course offered by~~ a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

F. BPC § § 4989.23, 4989.35:

(b) Coursework required by this section shall be obtained from one of the following sources:

- (1) An educational institution approved by the board, as provided in paragraph (1) of subdivision (a) of Section 4989.20.
- (2) A continuing education provider approved by the board.
- (3) A ~~course sponsored or offered by~~ a professional association ~~and~~ approved by the board.
- (4) A ~~course sponsored or offered by~~ a local, county, or state department of health or mental health and approved by the board.
- (5) A ~~course offered by~~ a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

G. BPC § § 4996.27, 4996.275:

(b) Coursework required by this section shall be obtained from one of the following sources:

- (1) An accredited ~~or approved~~ educational institution, as specified in Section 4996.18.
- (2) A continuing education provider approved by the board.
- (3) A ~~course sponsored or offered by~~ a professional association ~~and~~ approved by the board.
- (4) A ~~course sponsored or offered by~~ a local, county, or state department of health or mental health and approved by the board.

(5) ~~A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.~~

H. BPC § § 4980.415, 4989.23, 4996.275

(c) Coursework taken in fulfillment of other educational requirements for ~~license~~ registration pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

~~(e) An applicant may request an exemption from this section if he or she intends to practice in an area where the training required by this section would not be needed.~~

(f) The board shall not issue a ~~license~~ registration to the applicant until the applicant has met the requirements of this section.

I. BPC § § 4980.416, 4989.35, 4996.275:

(a) A licensee who began graduate study prior to January 1, 2010, shall complete a minimum of six hours of continuing education coursework in suicide prevention, assessment, intervention, and postintervention strategies, including best practices, evidence based practices, and promising practices, cultural factors and socioeconomic impacts, during his or her first renewal period after the operative date of this section. The coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(d) A person seeking to meet the requirements of this section may submit to the board a certificate evidencing completion of equivalent coursework in suicide prevention, assessment, intervention, and postintervention strategies taken ~~prior to the operative date of this section~~ within the past five years, or proof of equivalent teaching or practice experience within the past five years. The board, in its discretion, may accept that certification or other proof as meeting the requirements of this section.

~~(e) A licensee may request an exemption from this section if he or she practices in an area where the training required by this section is not needed.~~

8) Support and Opposition.

Support

Bay Area Suicide and Crisis Intervention Alliance (Sponsor)
Bridge Rail Foundation
Contra Costa Crisis Center
Crisis Support Services of Alameda County
Crisis Intervention and Suicide Prevention of San Mateo
San Francisco Suicide Prevention
Suicide Prevention and Community Counseling Services of Marin
Turning Point

9) History

2008

Apr. 1	Hearing Date - Com. on B. & P.
Mar. 12	Re-referred to Com. on B. & P.
Mar. 11	From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
Feb. 28	Referred to Com. on B. & P.

Feb. 14 From printer. May be heard in committee March 15.
Feb. 13 Read first time. To print.

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AMENDED IN ASSEMBLY MARCH 11, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1951

Introduced by Assembly Member Hayashi
(Coauthor: Assembly Member Dymally)

February 13, 2008

An act to add Sections 2915.8, 2915.9, 4980.415, 4980.416, 4989.23, 4989.35, 4996.27, and 4996.275 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1951, as amended, Hayashi. Mental health professionals: suicide prevention training.

Existing law provides for the licensure and regulation of various professionals who provide mental health-related services, including psychologists, marriage and family therapists, educational psychologists, and clinical social workers. Under existing law, an applicant for licensure in these professions is required to complete certain coursework or training in order to be eligible for a license. Existing law also requires these professionals to participate in continuing education as a prerequisite for renewing their license.

This bill would require that an applicant for licensure as a psychologist, marriage and family therapist, educational psychologist, or clinical social worker, or for renewal of one of those licenses, complete 6 hours of training in suicide prevention, assessment, intervention, and postintervention strategies, as specified.

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 2915.8 is added to the Business and
2 Professions Code, to read:

3 2915.8. (a) An applicant for licensure as a psychologist who
4 began graduate study on or after January 1, 2010, shall complete,
5 as a condition of licensure, a minimum of ~~15~~ *six* hours of
6 coursework in suicide prevention, assessment, intervention, and
7 postintervention strategies. This coursework shall also include
8 training in community resources and an understanding of cultural
9 factors that promote help-seeking behavior.

10 (b) Coursework required by this section shall be obtained from
11 one of the following sources:

12 (1) An accredited or approved educational institution, as defined
13 in Section 2902.

14 (2) A continuing education provider approved by the board.

15 (3) A course sponsored or offered by a professional association
16 and approved by the board.

17 (4) A course sponsored or offered by a local, county, or state
18 department of health or mental health and approved by the board.

19 (5) *A course offered by a nationally certified nonprofit agency,*
20 *including, but not limited to, a crisis center or a suicide prevention*
21 *hotline, provided that the agency is a continuing education*
22 *provider, has at least five years of experience conducting suicide*
23 *prevention training, and is approved by the board.*

24 (c) Coursework taken in fulfillment of other educational
25 requirements for licensure pursuant to this chapter, or in a separate
26 course of study, may, at the discretion of the board, fulfill the
27 requirements of this section.

28 (d) An applicant shall submit to the board evidence acceptable
29 to the board of the applicant’s satisfactory completion of the
30 coursework required by subdivision (a).

31 (e) An applicant may request an exemption from this section if
32 he or she intends to practice in an area where the training required
33 by this section would not be needed.

34 (f) The board shall not issue a license to the applicant until the
35 applicant has met the requirements of this section.

36 SEC. 2. Section 2915.9 is added to the Business and Professions
37 Code, to read:

1 2915.9. (a) A licensee who began graduate study prior to
2 January 1, 2010, shall complete a minimum of ~~15~~ *six* hours of
3 continuing education coursework in suicide prevention, assessment,
4 intervention, and postintervention strategies during his or her first
5 renewal period after the operative date of this section. The
6 coursework shall also include training in community resources
7 and an understanding of cultural factors that promote help-seeking
8 behavior.

9 (b) The coursework required by this section shall be obtained
10 from one of the following:

11 (1) An accredited or approved educational institution, as defined
12 in Section 2902.

13 (2) A continuing education provider approved by the board.

14 (3) A course sponsored or offered by a professional association
15 and approved by the board.

16 (4) A course sponsored or offered by a local, county, or state
17 department of health or mental health and approved by the board.

18 (5) *A course offered by a nationally certified nonprofit agency,*
19 *including, but not limited to, a crisis center or a suicide prevention*
20 *hotline, provided that the agency is a continuing education*
21 *provider, has at least five years of experience conducting suicide*
22 *prevention training, and is approved by the board.*

23 (c) A licensee shall submit to the board evidence acceptable to
24 the board of the licensee's satisfactory completion of the
25 coursework required by subdivision (a).

26 (d) A person seeking to meet the requirements of this section
27 may submit to the board a certificate evidencing completion of
28 equivalent coursework in suicide prevention, assessment,
29 intervention, and postintervention strategies taken prior to the
30 operative date of this section, or proof of equivalent teaching or
31 practice experience. The board, in its discretion, may accept that
32 certification as meeting the requirements of this section.

33 (e) A licensee may request an exemption from this section if he
34 or she practices in an area where the training required by this
35 section is not needed.

36 (f) The board may not renew an applicant's license until the
37 applicant has met the requirements of this section.

38 (g) Continuing education courses taken pursuant to this section
39 shall be applied to the 36 hours of approved continuing education
40 required in Section 2915.

1 (h) This section shall become operative on January 1, 2011.

2 SEC. 3. Section 4980.415 is added to the Business and
3 Professions Code, to read:

4 4980.415. (a) An applicant for licensure as a marriage and
5 family therapist who began graduate study on or after January 1,
6 2010, shall complete, as a condition of licensure, a minimum of
7 ~~15~~ six hours of coursework in suicide prevention, assessment,
8 intervention, and postintervention strategies. This coursework shall
9 also include training in community resources and an understanding
10 of cultural factors that promote help-seeking behavior.

11 (b) Coursework required by this section shall be obtained from
12 one of the following sources:

13 (1) An accredited or approved educational institution, as
14 specified in Section 4980.40.

15 (2) A continuing education provider approved by the board.

16 (3) A course sponsored or offered by a professional association
17 and approved by the board.

18 (4) A course sponsored or offered by a local, county, or state
19 department of health or mental health and approved by the board.

20 (5) *A course offered by a nationally certified nonprofit agency,*
21 *including, but not limited to, a crisis center or a suicide prevention*
22 *hotline, provided that the agency is a continuing education*
23 *provider, has at least five years of experience conducting suicide*
24 *prevention training, and is approved by the board.*

25 (c) Coursework taken in fulfillment of other educational
26 requirements for licensure pursuant to this chapter, or in a separate
27 course of study, may, at the discretion of the board, fulfill the
28 requirements of this section.

29 (d) An applicant shall submit to the board evidence acceptable
30 to the board of the applicant's satisfactory completion of the
31 coursework required by subdivision (a).

32 (e) An applicant may request an exemption from this section if
33 he or she intends to practice in an area where the training required
34 by this section would not be needed.

35 (f) The board shall not issue a license to the applicant until the
36 applicant has met the requirements of this section.

37 SEC. 4. Section 4980.416 is added to the Business and
38 Professions Code, to read:

39 4980.416. (a) A licensee who began graduate study prior to
40 January 1, 2010, shall complete a minimum of ~~15~~ six hours of

1 continuing education coursework in suicide prevention, assessment,
2 intervention, and postintervention strategies during his or her first
3 renewal period after the operative date of this section. The
4 coursework shall also include training in community resources
5 and an understanding of cultural factors that promote help-seeking
6 behavior.

7 (b) The coursework required by this section shall be obtained
8 from one of the following:

9 (1) An accredited or approved educational institution, as
10 specified in Section 4980.40.

11 (2) A continuing education provider approved by the board.

12 (3) A course sponsored or offered by a professional association
13 and approved by the board.

14 (4) A course sponsored or offered by a local, county, or state
15 department of health or mental health and approved by the board.

16 (5) *A course offered by a nationally certified nonprofit agency,*
17 *including, but not limited to, a crisis center or a suicide prevention*
18 *hotline, provided that the agency is a continuing education*
19 *provider, has at least five years of experience conducting suicide*
20 *prevention training, and is approved by the board.*

21 (c) A licensee shall submit to the board evidence acceptable to
22 the board of the licensee's satisfactory completion of the
23 coursework required by subdivision (a).

24 (d) A person seeking to meet the requirements of this section
25 may submit to the board a certificate evidencing completion of
26 equivalent coursework in suicide prevention, assessment,
27 intervention, and postintervention strategies taken prior to the
28 operative date of this section, or proof of equivalent teaching or
29 practice experience. The board, in its discretion, may accept that
30 certification as meeting the requirements of this section.

31 (e) A licensee may request an exemption from this section if he
32 or she practices in an area where the training required by this
33 section is not needed.

34 (f) The board may not renew an applicant's license until the
35 applicant has met the requirements of this section.

36 (g) Continuing education courses taken pursuant to this section
37 shall be applied to the 36 hours of approved continuing education
38 required in Section 4980.54.

39 (h) This section shall become operative on January 1, 2011.

1 SEC. 5. Section 4989.23 is added to the Business and
2 Professions Code, to read:

3 4989.23. (a) An applicant for licensure as an educational
4 psychologist who began graduate study on or after January 1, 2010,
5 shall complete, as a condition of licensure, a minimum of ~~15~~ *six*
6 hours of coursework in suicide prevention, assessment,
7 intervention, and postintervention strategies. This coursework shall
8 also include training in community resources and an understanding
9 of cultural factors that promote help-seeking behavior.

10 (b) Coursework required by this section shall be obtained from
11 one of the following sources:

12 (1) An educational institution approved by the board, as provided
13 in paragraph (1) of subdivision (a) of Section 4989.20.

14 (2) A continuing education provider approved by the board.

15 (3) A course sponsored or offered by a professional association
16 and approved by the board.

17 (4) A course sponsored or offered by a local, county, or state
18 department of health or mental health and approved by the board.

19 (5) *A course offered by a nationally certified nonprofit agency,*
20 *including, but not limited to, a crisis center or a suicide prevention*
21 *hotline, provided that the agency is a continuing education*
22 *provider, has at least five years of experience conducting suicide*
23 *prevention training, and is approved by the board.*

24 (c) Coursework taken in fulfillment of other educational
25 requirements for licensure pursuant to this chapter, or in a separate
26 course of study, may, at the discretion of the board, fulfill the
27 requirements of this section.

28 (d) An applicant shall submit to the board evidence acceptable
29 to the board of the applicant's satisfactory completion of the
30 coursework required by subdivision (a).

31 (e) An applicant may request an exemption from this section if
32 he or she intends to practice in an area where the training required
33 by this section would not be needed.

34 (f) The board shall not issue a license to an applicant until the
35 applicant has met the requirements of this section.

36 SEC. 6. Section 4989.35 is added to the Business and
37 Professions Code, to read:

38 4989.35. (a) A licensee who began graduate study prior to
39 January 1, 2010, shall complete a minimum of ~~15~~ *six* hours of
40 continuing education coursework in suicide prevention, assessment,

1 intervention, and postintervention strategies during his or her first
2 renewal period after the operative date of this section. The
3 coursework shall also include training in community resources
4 and an understanding of cultural factors that promote help-seeking
5 behavior.

6 (b) The coursework required by this section shall be obtained
7 from one of the following:

8 (1) An educational institution approved by the board, as provided
9 in paragraph (1) of subdivision (a) of Section 4989.20.

10 (2) A continuing education provider approved by the board.

11 (3) A course sponsored or offered by a professional association
12 and approved by the board.

13 (4) A course sponsored or offered by a local, county, or state
14 department of health or mental health and approved by the board.

15 (5) *A course offered by a nationally certified nonprofit agency,*
16 *including, but not limited to, a crisis center or a suicide prevention*
17 *hotline, provided that the agency is a continuing education*
18 *provider, has at least five years of experience conducting suicide*
19 *prevention training, and is approved by the board.*

20 (c) A licensee shall submit to the board evidence acceptable to
21 the board of the person's satisfactory completion of the coursework
22 required by subdivision (a).

23 (d) A person seeking to meet the requirements of this section
24 may submit to the board a certificate evidencing completion of
25 equivalent coursework in suicide prevention, assessment,
26 intervention, and postintervention strategies taken prior to the
27 operative date of this section, or proof of equivalent teaching or
28 practice experience. The board, in its discretion, may accept that
29 certification as meeting the requirements of this section.

30 (e) A licensee may request an exemption from this section if he
31 or she practices in an area where the training required by this
32 section is not needed.

33 (f) The board may not renew an applicant's license until the
34 applicant has met the requirements of this section.

35 (g) Continuing education courses taken pursuant to this section
36 shall be applied to the 36 hours of approved continuing education
37 required in Section 4989.34.

38 (h) This section shall become operative on January 1, 2011.

39 SEC. 7. Section 4996.27 is added to the Business and
40 Professions Code, to read:

1 4996.27. (a) An applicant for licensure as a licensed clinical
2 social worker who began graduate study on or after January 1,
3 2010, shall complete, as a condition of licensure, a minimum of
4 ~~15~~ six hours of coursework in suicide prevention, assessment,
5 intervention, and postintervention strategies. This coursework shall
6 also include training in community resources and an understanding
7 of cultural factors that promote help-seeking behavior.

8 (b) Coursework required by this section shall be obtained from
9 one of the following sources:

10 (1) An accredited or approved educational institution, as
11 specified in Section 4996.18.

12 (2) A continuing education provider approved by the board.

13 (3) A course sponsored or offered by a professional association
14 and approved by the board.

15 (4) A course sponsored or offered by a local, county, or state
16 department of health or mental health and approved by the board.

17 (5) *A course offered by a nationally certified nonprofit agency,*
18 *including, but not limited to, a crisis center or a suicide prevention*
19 *hotline, provided that the agency is a continuing education*
20 *provider, has at least five years of experience conducting suicide*
21 *prevention training, and is approved by the board.*

22 (c) Coursework taken in fulfillment of other educational
23 requirements for licensure pursuant to this chapter, or in a separate
24 course of study, may, at the discretion of the board, fulfill the
25 requirements of this section.

26 (d) An applicant shall submit to the board evidence acceptable
27 to the board of the person’s satisfactory completion of the
28 coursework required by subdivision (a).

29 (e) An applicant may request an exemption from this section if
30 he or she intends to practice in an area where the training required
31 by this section would not be needed.

32 (f) The board shall not issue a license to an applicant until the
33 applicant has met the requirements of this section.

34 SEC. 8. Section 4996.275 is added to the Business and
35 Professions Code, to read:

36 4996.275. (a) A licensee who began graduate study prior to
37 January 1, 2010, shall complete a minimum of ~~15~~ six hours of
38 continuing education coursework in suicide prevention, assessment,
39 intervention, and postintervention strategies during his or her first
40 renewal period after the operative date of this section. The

1 coursework shall also include training in community resources
2 and an understanding of cultural factors that promote help-seeking
3 behavior.

4 (b) The coursework required by this section shall be obtained
5 from one of the following:

6 (1) An accredited or approved educational institution, as
7 specified in Section 4996.18.

8 (2) A continuing education provider approved by the board.

9 (3) A course sponsored or offered by a professional association
10 and approved by the board.

11 (4) A course sponsored or offered by a local, county, or state
12 department of health or mental health and approved by the board.

13 (5) *A course offered by a nationally certified nonprofit agency,*
14 *including, but not limited to, a crisis center or a suicide prevention*
15 *hotline, provided that the agency is a continuing education*
16 *provider, has at least five years of experience conducting suicide*
17 *prevention training, and is approved by the board.*

18 (c) A licensee shall submit to the board evidence acceptable to
19 the board of the person's satisfactory completion of the coursework
20 required by subdivision (a).

21 (d) A person seeking to meet the requirements of this section
22 may submit to the board a certificate evidencing completion of
23 equivalent coursework in suicide prevention, assessment,
24 intervention, and postintervention strategies taken prior to the
25 operative date of this section, or proof of equivalent teaching or
26 practice experience. The board, in its discretion, may accept that
27 certification as meeting the requirements of this section.

28 (e) A licensee may request an exemption from this section if he
29 or she practices in an area where the training required by this
30 section is not needed.

31 (f) The board may not renew an applicant's license until the
32 applicant has met the requirements of this section.

33 (g) Continuing education courses taken pursuant to this section
34 shall be applied to the 36 hours of approved continuing education
35 required in Section 4996.22.

36 (h) This section shall become operative on January 1, 2011.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2543 **VERSION:** AMENDED MARCH 25, 2008

AUTHOR: BERG **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: GERIATRIC AND GERONTOLOGY WORKFORCE EXPANSION ACT

Existing Law:

- 1) Establishes the Office of Statewide Health Planning and Development (OSHPD) for the administration of state health policy and planning. (HSC §127000)
- 2) Requires a ten dollar (\$10) surcharge for renewal of the Psychologist, MFT, and Licensed Clinical Social Worker license to support the Mental Health Practitioner Education fund. (BPC §2987.2, BPC §4984.75, and BPC §4996.65 respectively)

This Bill:

- 1) Creates the Geriatric and Gerontology Workforce Expansion Act. (uncodified language)
- 2) Makes the following legislative findings and declarations: (uncodified language)
 - a) The population of California is aging at an exponential rate;
 - b) The greatest growth in the aging population will be those 85 and older who will, by 2030, comprise 20 percent of California's older residents;
 - c) As California ages it will become more racially and ethnically diverse, requiring a greater need for multilingual service providers;
 - d) It is the policy of the Mello-Granlund Older Californians Act that older adults and those with disabilities live as independently and as long as possible;
 - e) It is the policy of the Mello-Granlund Older Californians Act and the federal Older Americans Act that older Californians must have an array of home and community-based services that support a quality of life and saves money, compared to institutionalization;
 - f) In order to sustain an independent lifestyle for older adults, there must be trained gerontologists and health care professionals trained in geriatrics to address the social and health needs of older adults;
 - g) California faces a severe shortage of professional and paraprofessional gerontologists and geriatricians needed to operate programs and provide services for older adults;

- h) Incentives for recruiting students into training for careers in gerontology and geriatrics must be developed to fill the gap between workforce supply and demand; and,
 - i) Student loan forgiveness programs are a proven method of inducing health care professionals to pursue stipulated career fields for a specified time in exchange for loan assistance.
- 3) Defines the following for purposes of the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program(CGSWMFTLAP): (HSC §128310.2)
- a) “Account” means the Geriatric Social Workers and MFT Account in the fund;
 - b) “Board” means the Board of Behavioral Sciences;
 - c) “Fund” means the Behavioral Sciences Fund;
 - d) “Geriatrics” means the practice of medicine, with training in, and application to, adults 65 years of age or older, or those with disabilities;
 - e) “Office” means the OSHPD; and,
 - f) “Program” means the CGSWMFTLAP.
- 4) Requires the program applicants to be registered associate clinical social workers (ASWs) receiving supervision or to possess a current valid license to practice social work or marriage and family therapy in California. (HSC §128310.3(a))
- 5) Directs the office to develop the guidelines for selection and placement of applicants. Requires the guidelines to: (HSC §128310.3(b))
- a) Provide priority consideration to applicants who are trained in, and practice, geriatric social work or marriage and family therapy, and who can meet the cultural and linguistic needs of diverse populations of older Californians;
 - b) Provide priority consideration to applicants who have recently obtained their license to practice marriage and family therapy or clinical social work or be a registered associate clinical social worker receiving supervision;
 - c) Give preference to applicants who have completed an internship in geriatric social work or marriage and family therapy;
 - d) Seek to place the most qualified applicants in the areas with the greatest need;
 - e) Include a factor ensuring geographic distribution of placements; and,
 - f) Ensure that applicants may not discriminate against those who cannot pay for medical services or those who are funded, in part or in whole, by Medicare or Medi-Cal.
- 6) Requires program participants to work in, or have a signed agreement with, an eligible practice setting. The program participant shall have full-time status, as defined by the OSHPD. OSHPD may establish exceptions to this requirement on a case by case basis. (HSC §128310.3(c))

- 7) Requires program participants to commit to a minimum of three years of service in a geriatric care setting. Leaves of absence shall be permitted for serious illnesses, pregnancy, or other natural causes. OSHPD shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the participant is back to full-time status. (HSC §128310.3(d))
- 8) Requires OSHPD to develop a process should a participant be unable to complete his or her three-year obligation. (HSC §128310.3(e))
- 9) Requires OSHPD to develop outreach programs to potentially eligible applicants. (HSC §128310.3(f))
- 10) Permits OSHPD to adopt any other standards of eligibility, placement, or termination appropriate to achieve the aim of providing competent social services in geriatrics. (HSC §128310.3(g))
- 11) Declares the creation of the Geriatric Social Workers and MFT Account in the Board's Behavioral Sciences Fund. (HSC §128310.4(a))
- 12) Specifies that funds placed in the Geriatric Social Workers and MFT account shall be used by OSHPD to repay the loans of program participants. (HSC §128310.4(c))
 - a) Funds paid for loan repayment may have a funding match from a foundation or other private source;
 - b) Loan repayments shall not exceed \$30,000 per program participant; and,
 - c) Loan repayments shall not exceed the amount of the educational loans incurred by the program participant.
- 13) Permits OSHPD to seek and receive matching funds from foundations and private sources to be placed into the account. Also permits the office to contract with an exempt foundation for the receipt of matching funds to be transferred to the account for use by this program. (HSC §128310.4(d))
- 14) Sets the loan repayment terms as follows: (HSC §128310.5)
 - a) After a program participant completes one year of providing services as a licensed MFT, LCSW or ASW in a geriatric setting, OSHPD shall provide up to \$7,500 for a loan repayment;
 - b) After a program participant completes two consecutive years of providing services as a licensed MFT, LCSW or ASW in a geriatric setting, OSHPD shall provide up to an additional \$10,000 of loan repayment, for a total loan repayment of up to \$17,500; and,
 - c) After a program participant has completed three consecutive years of providing services as a licensed MFT, LCSW or ASW in a geriatric setting, OSHPD shall provide up to a maximum of an additional \$12,500 of loan repayment, for a total loan repayment of up to \$30,000.
- 15) Permits OSHPD to work in conjunction with the Health Professions Education Foundation for the implementation and administration of this program. (HSC §128310.6(b))

- 16) Permits OSHPD to promulgate emergency regulations to implement the program. (HSC §128310.6(c))
- 17) Sets January 1, 2010 as the first date applications from licensed MFTs, LCSWs or ASWs may be submitted for program participation. (HSC §128310.6(a))
- 18) Amends the following relating to the Steven M. Thompson Physician Corps Loan Repayment Program:
 - a) "Primary specialty" includes geriatrics, as well as family practice, internal medicine, pediatrics, or obstetrics/gynecology; (HSC §128552(j))
 - b) Requires the selection committee to fill 15 percent of the available positions with program applicants that agree to practice in a geriatric care setting. Priority consideration shall be given to applicants who are trained in, and practice, geriatrics, and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians. (HSC §128553(d)(3))
- 19) Creates the California Geriatric and Gerontology Student Loan Assistance Program of 2008. (HSC §128559)
- 20) States the intent that OSHPD, in consultation with the Medical Board of California, state allied health professional and behavioral sciences licensing boards, postsecondary schools of health sciences and social work, health advocates representing diverse ethnic communities, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded programs targeting treatment and services for older adults, and members of the public with health care issue-area expertise, shall develop and implement the program. (HSC §128559.1)
- 21) Establishes the California Geriatric and Gerontology Student Loan Assistance Program of 2008 within OSHPD. (HSC §128559.2(a))
- 22) States that OSHPD shall operate the program in accordance with, but not limited to, the following: (HSC §128559.2(b))
 - a) Increased efforts in educating students trained in geriatrics and gerontology of the need for health care and social work professionals to meet the demands of the older adult population, and of programs available that provide incentives to practice in settings and areas in need;
 - b) Strategic collaboration with California postsecondary schools of health sciences and social work to better prepare health care professionals and social workers to meet the distinctive cultural and medical needs of California's older adult populations;
 - c) Establish, encourage, and expand programs for students of the health care and social work professions for mentoring at primary and secondary schools, and college levels to increase the number of students entering the studies of health professions and social work with a concentration in geriatrics or gerontology; and,
 - d) Administer financial aid or other incentives to encourage new or experienced health care professionals and social workers to practice in the fields of geriatrics and gerontology.

- 23) Requires OSHPD to administer the program. Allows any individual enrolled in an institution of postsecondary education participating in these loan assistance programs to receive a conditional warrant for loan repayment to be redeemed upon becoming employed as a licensed health professional, MFT, LCSW or registered ASW in a setting serving primarily older adult populations. Eligibility is contingent on the following: (HSC §128559.4(a))
- a) The applicant's postsecondary institution must deem the applicant to have outstanding ability which may be based on, but not limited to, the following:
 - i) Grade point average;
 - ii) Test scores;
 - iii) Faculty evaluations;
 - iv) Interviews; and,
 - v) Other recommendations.
 - b) The applicant has received an educational loan under one or more of the following loan programs:
 - i) The Federal Family Education Loan Program; or,
 - ii) Any loan approved by the Student Aid Commission.
 - c) The applicant has agreed to provide services as a licensed health professional, MFT, or social worker, or to be registered as an ASW with satisfactory progress toward licensure, for up to three consecutive years, after obtaining the appropriate license or registration in a setting providing health or social services primarily to older adults; or,
 - d) The applicant has agreed not to discriminate against any patient or client who cannot pay for services or those who are funded, in part or in whole, by Medicare or Medi-Cal.
- 24) Requires OSHPD to give priority to applicants best suited to meet the cultural and linguistic needs of diverse geriatric populations and who meet one or more of the following criteria: (HSC §128559.4(b))
- a) Have received significant training in cultural and linguistically appropriate service delivery; and,
 - b) Have done a clinical rotation or social work internship, of at least two semesters, serving older adult populations.
- 25) Limits a participant in this program to one warrant. (HSC §128559.4(c))
- 26) Requires OSHPD to adopt rules and regulations regarding the reallocation of warrants if a participating institution is unable to utilize its allocated warrants or is unable to distribute them within a reasonable time period. (HSC §128559.4(d))
- 27) Requires OSHPD to develop the process to redeem an applicant's warrant. (HSC §128559.5)

- 28) Requires OSHPD to distribute student applications to participate in the program to postsecondary institutions eligible to participate in the state and federal financial aid programs and that have a program of professional preparation for health care professionals, social workers, or MFTs. (HSC §128559.5(b))
- 29) Requires each participating institution to sign an institutional agreement with OSHPD, certifying its intent to administer the program according to all applicable published rules, regulations, and guidelines, and to make special efforts to notify students regarding the availability of the program particularly to economically disadvantaged students. (HSC §128559.5(c))
- 30) Requires, to the extent possible, OSHPD and each participating institution to coordinate with other existing programs with similar intent. These programs include, but are not limited to: (HSC §128559(d))
 - a) The Song-Brown Family Physician Training Act;
 - b) The Health Education and Academic Loan Act; or
 - c) The National Health Service Corps.
- 31) Requires OSHPD to administer the program and adopt rules and regulations. These rules and regulations shall include, but not be limited to, provisions regarding the period of time for which a warrant shall remain valid, the reallocation of warrants that are not used, and the development of projections for funding purposes.(HSC §128559.6(a))
- 32) Requires OSHPD to work with lenders participating in federal or other loan programs to develop a streamlined application process for participation in the program. (HSC §128559(b))
- 33) Requires OSHPD to establish a fund to administer the loan assistance program. (HSC §128559.7(a))
- 34) Permits OSHPD to seek matching funds from foundations and private sources. Also allows OSHPD to contract with an exempt foundation for the receipt of matching funds. (HSC §128559.7(b))
- 35) States that the provisions of the California Geriatric and Gerontology Student Loan Assistance Program will not become operative unless appropriate funding is made available.(HSC §128559(c))
- 36) Requires that on or before January 31 of each year, OSHPD provide an annual report to the Legislature on the program with certain elements, as specified. (HSC §128559.8)

Comment:

- 1) **Author's intent.** The author's office states, "The aging of California's baby boomer population will increase the demand for professionals with expertise in the aging process. Currently, California is facing a severe shortage in the number of physicians, social workers, and nurses needed to serve our existing population of older adults. For example, California only has 890 board-certified geriatricians, which breaks down to one geriatrician for every

4,000 Californians over the age of 65. In addition, California can expect to need 240,000 full-time registered nurses in the next six years.

"In recent years, a number of profession-specific loan assistance programs have been developed to fill the workforce shortage; however, none has focused specifically on recruiting individuals to work in geriatric care settings. While working with older adults can be very rewarding, wages are generally not as high as in other fields, particularly in rural areas. Loan assistance programs specifically targeted towards geriatric services can be a valuable incentive for professionals entering the job market."

- 2) **Current licensure renewal surcharge for MFTs and LCSWs.** Currently upon licensure renewal all MFTs and LCSWs are required to pay an additional ten dollars (\$10) to be deposited into an account for the Mental Health Practitioner Education Fund. This fund provides loan repayment assistance for Psychologists, MFTs and LCSWs practicing in mental health professional shortage areas, as defined (HSC §128454). The Board has sponsored a bill this year, SB 1505 (Yee) to increase the fee associated with this fund to thirty dollars (\$30) per license renewal for MFTS and LCSWs. SB 1505 includes language which in turn directs the Board to decrease the total license renewal fee by the same amount, twenty dollars (\$20), thereby resulting in no change in fees for the licensee.
- 3) **MFT Interns are not eligible for loan assistance.** As currently drafted, this bill provides that MFTs, LCSWs and ASWs may apply for an award under the provisions of CGSWMFTLAP. Health and Safety Code (HSC) section 128310.3(a) specifies that ASWs receiving supervision may apply to the program. Similarly, under provisions of the Student Loan Assistance Program (HSC §128559.4), students may redeem a warrant for loan forgiveness upon becoming employed as a licensed mental health professional, MFT, LCSW or ASW. The qualification for registration of a MFT Intern and an ASW are comparable and therefore the provisions of this bill should apply equally to both categories of registrants. Additionally, by allowing MFT Interns, representing a larger number of pre-licensurees, to be eligible for the benefits proposed in this bill, more potential licensees will be exposed to the specialty of geriatrics and gerontology making it more likely that the intent of this bill will be realized.
- 4) **Loan assistance program makes reference to “health profession” and “social work.”** HSC section 128559 makes reference to eligible applicants as students in preparation for a career in the health care profession or social work profession. Similarly, HSC section 128559.4 outlines another criterion of eligibility relating to if an applicant has received, or is approved to receive, a loan under specified programs, but references the loan as a means to meeting the cost of obtaining a health profession or social work degree only. These references to the social work profession and social worker degree unduly narrow the field of eligible applicants and is not consistent with the provisions of this bill that allow MFTs to apply to the program.
- 5) **Bill does not provide that program awards will be proportionate to funds derived from each licensing category.** Currently there are over 37,500 MFTs and over 21,500 LCSWs licensed by the Board in California. It is important that the funds awarded by the program created in this bill are awarded proportionately to the funding received from each licensing category to ensure equity to the licensees that paid into the fund.
- 6) **Eligible practice setting not defined.** HSC section 128310.3(c) specifies that funds are available to program participants that work in, or agree to work in, an eligible practice setting. However, this bill fails to define what is an eligible practice setting. In order to clarify eligibility the applicable practice setting should be expressly defined in the provisions of this

bill.

7) Loan repayment funds deposited into an account within the Board fund. HSC section 128310.4(a) creates the Geriatric Social Worker and Marriage and Family Therapist Account within the Board's Behavioral Sciences Fund. HSC 128310.4(c) provides that the funds deposited into the account shall be used by OSHPD to repay the loans of program participants. Staff recommends that the Geriatric Social Worker and Marriage and Family Therapist Account should instead be established in a fund within the State Treasury to allow full and direct access by OSHPD to the funds.

8) Both board related programs created in this bill target the same population. The California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008, established in HSC section 128310, provides licensed MFTs, LCSWs or registered ASWs with loan repayment funding based on the years of services in eligible practice settings. Program participants must be working in, or have agreed to work in, the eligible setting, with priority consideration to be given to applicants who have recently obtained their license or are registered as an ASW. Loan repayment awards are funded through a surcharge on current licensees for licensure issuance and renewal.

The second program, the California Geriatric and Gerontology Student Loan Assistance Program of 2008, is intended to increase the number of students trained in geriatrics and gerontology. Eligible applicants are students receiving or approved to receive loans from the Federal Family Education Loan Program or any other loan program approved by the Student Aid Commission and have agreed to provide services after licensure in an eligible setting for up to three years. Approved applicants for this program will receive a warrant for loan repayment. The bill does not provide for a revenue source for this program.

The California Geriatric and Gerontology Student Loan Assistance Program of 2008 is intended to target students by providing a warrant for loan repayment. However, loan repayment traditionally begins after an individual has graduated from their degree program. This bill does not specify when the warrant would be issued, but only that the applicant must agree to provide services in an eligible setting. It appears that this program, though intended for students, may capture the same population as the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008 – recent licensees and ASWs. In order to better realize the goals of this bill, the author may want to consider amending the California Geriatric and Gerontology Student Loan Assistance Program of 2008 to offer stipends to current students that meet certain curriculum requirements specializing in geriatrics. This change may better capture mental health professionals in all stages of development, from those currently in a degree program to those that are already part of the workforce.

9) Timeline concerns. This bill permits applications to be submitted to OSHPD on or after January 1, 2010 (HSC §128310.6). This bill further directs OSHPD to promulgate emergency regulations if necessary to implement the program. However, this bill does not direct a date certain for the Board to begin collecting the ten dollar (\$10) fee from applicants and licensees, thereby making a default start date of January 1, 2009 (the date the bill would go into effect if signed into law). It would be impossible for the board to implement the provisions of this bill by January 1, 2009 as the board would have to notify licensees, create new forms, and perform related administrative functions in order to begin accepting the additional fee mandated by this bill.

10) Suggested Amendments.

- a) The following are technical and corrective amendments recommended by staff:
 - i) This bill “adds” Business and Professions Code (BPC) section 4984.75, however, this code section already exists in current law. This bill should be amended to instead add the contents into a new code section. Staff suggests adding BPC section 4984.76.
 - ii) Correct a drafting error on Page 12, line 39, strike “be” and insert “is”
- b) The following are suggested amendments to address the issues discussed in the comment section of this analysis:
 - i) Add the following language to HSC section 128310.4 in order to direct funding proportionately according to the fees paid by each licensee category:

“The program shall keep the fees from the different licensed providers separate to ensure that all grants are funded by those fees collected from the corresponding licensed provider.”
 - ii) Change all references in Geriatric and Gerontology Student Loan Assistance Program of 2008 (beginning with HSC §128559) from “social work professionals” to “mental health professionals” and make all conforming changes.
 - iii) Change the reference to “social work degree” in HSC section 128559.4(a)(2) to “mental health related degree”
 - iv) Add MFT interns as eligible recipients under both the Student Loan Assistance Program and CGSWMFTLAP.
 - v) Strike the provision creating the Geriatric Social Workers and Marriage and Family Therapists Account within the BBS (HSC §128310.4(a)) and instead create the account in the Mental Health Practitioner Education fund in the State Treasury.
 - vi) Add a delayed implementation date of July 1, 2009 for the Board to begin collecting the fees contained in this bill.

11) Support and Opposition.

Support:

American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME)
 Alzheimer’s Association
 California Association of Marriage and Family Therapists
 California Council on Gerontology & Geriatrics
 California Geriatric Education Center
 California Geriatrics Society
 California Mental Health Planning Council
 County of Yolo Department of Employment and Social Services
 Gray Panthers
 Health Projects Center
 State of California, California Senior Legislative
 UCLA Department of Social Welfare, School of Public Affairs

Opposition:
 None on file

12) History

- Mar. 28 Re-referred to Com. on B. & P.
- Mar. 25 Re-referred to Com. on B. & P. From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
- Mar. 24 (Corrected March 24.) From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
- Mar. 6 Referred to Coms. on B. & P. and HEALTH.
- Feb. 25 Read first time.
- Feb. 24 From printer. May be heard in committee March 25.
- Feb. 22 Introduced. To print.

AMENDED IN ASSEMBLY MARCH 25, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2543

Introduced by Assembly Member Berg
(Coauthor: Assembly Member De La Torre)

February 22, 2008

An act to add Sections ~~2435.4~~, 2815.2, 4984.75, and 4996.66 to the Business and Professions Code, and to ~~add Article 4 (commencing with Section 128300)~~, *amend Sections 128552 and 128553 of*, to add Article 5 (commencing with Section 128305); and Article 6 (commencing with Section 128310) to Chapter 4 of Part 3 of Division 107 of, and to add Chapter 6 (commencing with Section 128559) to Part 3 of Division 107 of, the Health and Safety Code, relating to loan assistance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2543, as amended, Berg. Geriatric and Gerontology Workforce Expansion Act.

Existing

(1) Existing law provides for the licensure and regulation of ~~physicians and surgeons~~, nurses, social workers, and marriage and family therapists by specified boards. Existing law requires those persons to pay licensing and renewal fees for licensure, as specified.

This bill would establish the Geriatric and Gerontology Workforce Expansion Act, which would be administered by the Office of Statewide Health Planning and Development; to provide loan repayment assistance to ~~physicians and surgeons~~, nurses, social workers, and marriage and

family therapists who work in a geriatric care setting, as specified. For those purposes, the bill would raise the licensing and renewal fees of these licensees by \$10 ~~or \$50~~, as specified, for deposit into the continuously appropriated funds ~~or other funds~~ of the boards described above, thereby making an appropriation.

This bill would also establish the California Geriatric and Gerontology Student Loan Assistance Program of 2008, which would be administered by the Office of Statewide Health Planning and Development for purposes of providing loan assistance to students who intend to become employed as licensed health care professionals, social workers, or marriage and family therapists in a geriatric care setting, as specified. Those provisions would only become operative if appropriate funding, as determined by the office, is made available. The bill would require the office to report annually to the Legislature with regard to the program, as specified.

(2) Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program in the California Physician Corps Program within the Health and Professions Education Foundation, which provides financial incentives, as specified, to a physician and surgeon for practicing in a medically underserved community. Existing law authorizes the foundation to appoint a selection committee to provide policy direction and guidance over the program.

This bill would require that selection committee to fill 15% of the available positions with program applicants that agree to practice in a geriatric care setting. These provisions would become operative only if AB 2439 is enacted and becomes effective on or before January 1, 2009.

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

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 Geriatric and Gerontology Workforce Expansion Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The population of California is aging at an exponential rate
- 5 with Californians who are 65 years of age or over reaching 6.5
- 6 million by 2010, which is over 14 percent of the total population,
- 7 and reaching over 9 million by 2020.

1 (b) The greatest growth within the aging population will be
2 those who are 85 years of age or older who will, by 2030, comprise
3 one in five of California’s older residents.

4 (c) As California ages, it will become more racially and
5 ethnically diverse, with African Americans, Latinos, and Asian
6 Americans exceeding 40 percent of the older adult population,
7 many of whom were born outside the United States; meaning,
8 therefore, that there is a greater need for those providing services
9 to older adults to be bilingual or multilingual.

10 (d) It is the policy of the Mello-Granlund Older Californians
11 Act (Division 8.5 (commencing with Section 9000) of the Welfare
12 and Institutions Code) that older adults and those with disabilities
13 live as independent from institutions as much as possible and as
14 long as possible.

15 (e) It is the policy of the Mello-Granlund Older Californians
16 Act (Division 8.5 (commencing with Section 9000) of the Welfare
17 and Institutions Code) that to live independently, older Californians
18 must have an array of home and community-based services, in
19 conjunction with the federal Older Americans Act (42 U.S.C. Sec.
20 3001 et seq.), that support a quality of life and saves taxpayer
21 dollars in contrast to the cost of institutionalization.

22 (f) In order to sustain an independent lifestyle for older adults,
23 there must be trained gerontologists and health care professionals
24 trained in geriatrics to address the social and health needs of older
25 adults as they age.

26 (g) At present, California faces a severe shortage of professional
27 and paraprofessional gerontologists and geriatricians needed to
28 operate programs and provide services for older adults. Currently,
29 there is only one board-certified physician geriatrician per 4,000
30 Californians who are 65 years of age or older; and currently, only
31 5 percent of social workers are trained in gerontology or geriatrics,
32 yet 62 percent of licensed social workers have, or have had, care
33 management responsibilities.

34 (h) Incentives for recruiting students into training for careers in
35 gerontology and geriatrics must be developed in order to fill the
36 gap between workforce supply and demand lest the state incur the
37 greater cost of institutionalization and the quality of life for older
38 Californians suffers.

1 (i) Student loan forgiveness programs are a proven method of
2 inducing health care professionals to pursue stipulated career fields
3 for a specified time in exchange for loan assistance.

4 ~~SEC. 3. Section 2435.4 is added to the Business and Professions
5 Code, to read:~~

6 ~~2435.4. In addition to the fees charged for initial issuance or
7 biennial renewal of a physician and surgeon’s certificate pursuant
8 to Section 2435, and at the time those fees are charged, the board
9 shall charge each applicant or licensee an additional fee of fifty
10 dollars (\$50) for the purposes of the California Geriatric Medical
11 Loan Repayment Program of 2008 (Article 4 (commencing with
12 Section 128300) of Chapter 4 of Part 3 of Division 107 of the
13 Health and Safety Code). Payment of this fifty-dollar (\$50) fee
14 shall be made at the time of application for initial licensure or
15 biennial renewal. All fees collected pursuant to this section shall
16 be deposited in the Geriatric Medical Account, as provided in
17 Section 128300.4 of the Health and Safety Code.~~

18 ~~SEC. 4.~~

19 ~~SEC. 3. Section 2815.2 is added to the Business and Professions
20 Code, to read:~~

21 ~~2815.2. In addition to the fees charged for initial issuance or
22 biennial renewal of a license pursuant to Section 2815, and at the
23 time those fees are charged, the board shall charge each applicant
24 or licensee an additional fee of ten dollars (\$10) for the purposes
25 of the California Geriatric Registered Nurses Loan Assistance
26 Program of 2008 (Article 5 (commencing with Section 128305)
27 of Chapter 4 of Part 3 of Division 107 of the Health and Safety
28 Code). Payment of this ten-dollar (\$10) fee shall be made at the
29 time of application for initial licensure or biennial renewal. All
30 fees collected pursuant to this section shall be deposited in the
31 Geriatric Registered Nurses Account, as provided in Section
32 128305.4 of the Health and Safety Code.~~

33 ~~SEC. 5.~~

34 ~~SEC. 4. Section 4984.75 is added to the Business and
35 Professions Code, to read:~~

36 ~~4984.75. In addition to the fees charged for initial issuance or
37 biennial renewal of a license pursuant to Section 4984.7, and at
38 the time those fees are charged, the board shall charge each
39 applicant or licensee an additional fee of ten dollars (\$10) for the
40 purposes of the California Geriatric Social Workers and Marriage~~

1 and Family Therapists Loan Assistance Program of 2008 (Article
2 6 (commencing with Section 128310) of Chapter 4 of Part 3 of
3 Division 107 of the Health and Safety Code). Payment of this
4 ten-dollar (\$10) fee shall be made at the time of application for
5 initial licensure or biennial renewal. All fees collected pursuant to
6 this section shall be deposited in the Geriatric Social Workers and
7 Marriage and Family Therapists Account, as provided in Section
8 128310.4 of the Health and Safety Code.

9 ~~SEC. 6.~~

10 *SEC. 5.* Section 4996.66 is added to the Business and
11 Professions Code, to read:

12 4996.66. In addition to the fees charged for initial issuance or
13 biennial renewal of a license pursuant to Section 4996.3, and at
14 the time those fees are charged, the board shall charge each
15 applicant or licensee an additional fee of ten dollars (\$10) for the
16 purposes of the California Geriatric Social Workers and Marriage
17 and Family Therapists Loan Assistance Program of 2008 (Article
18 6 (commencing with Section 128310) of Chapter 4 of Part 3 of
19 Division 107 of the Health and Safety Code). Payment of this
20 ten-dollar (\$10) fee shall be made at the time of application for
21 initial licensure or biennial renewal. All fees collected pursuant to
22 this section shall be deposited in the Geriatric Social Workers and
23 Marriage and Family Therapists Account, as provided in Section
24 128310.4 of the Health and Safety Code.

25 ~~SEC. 7. Article 4 (commencing with Section 128300) is added~~
26 ~~to Chapter 4 of Part 3 of Division 107 of the Health and Safety~~
27 ~~Code, to read:~~

28

29 ~~Article 4. California Geriatric Medical Loan Assistance Program~~
30 ~~of 2008~~

31

32 ~~128300. There is hereby established in the Office of Statewide~~
33 ~~Health Planning and Development, the California Geriatric Medical~~
34 ~~Loan Assistance Program of 2008.~~

35 ~~128300.1. It is the intent of this article that the office, in~~
36 ~~consultation with the board, the medical community, including~~
37 ~~representatives of ethnic minority groups, medical schools, health~~
38 ~~advocates, primary care clinics, public hospitals and health care~~
39 ~~systems, statewide agencies administering state and federally~~
40 ~~funded health programs targeting communities of older~~

1 Californians, and members of the public with health care issue-area
2 expertise, shall develop and implement the California Geriatric
3 Medical Loan Assistance Program of 2008.

4 128300.2. For purposes of this article, the following terms have
5 the following meanings:

6 (a) “Account” means the Geriatric Medical Account that is
7 contained within the fund.

8 (b) “Board” means the Medical Board of California.

9 (c) “Fund” means the Contingent Fund of the Medical Board
10 of California.

11 (d) “Geriatrics” means the practice of medicine, with training
12 in, and application to, older adults who are 65 years of age or older
13 or those with disabilities.

14 (e) “Office” means the Office of Statewide Health Planning and
15 Development.

16 (f) “Program” means the California Geriatric Medical Loan
17 Assistance Program of 2008.

18 128300.3. (a) Program applicants shall possess a current valid
19 license to practice medicine in this state issued by the board
20 pursuant to Section 2050 of the Business and Professions Code.

21 (b) The office, in accordance with Section 128300.1, shall
22 develop the guidelines for selection and placement of applicants.
23 The guidelines shall do all of the following:

24 (1) Provide priority consideration to applicants who are trained
25 in, and practice, geriatrics and who can meet the cultural and
26 linguistic needs and demands of diverse populations of older
27 Californians.

28 (2) Provide priority consideration to applicants who have
29 recently obtained their license to practice medicine.

30 (3) Give preference to applicants who have completed a
31 three-year residency in a primary specialty.

32 (4) Seek to place the most qualified applicants under this section
33 in the areas with the greatest need.

34 (5) Include a factor ensuring geographic distribution of
35 placements.

36 (6) Ensure that applicants may not discriminate against those
37 who cannot pay for medical services or those who are funded, in
38 part or in whole, by Medicare or Medi-Cal.

39 (c) Program participants shall be working in, or have a signed
40 agreement with, an eligible practice setting. The program

1 participant shall have full-time status, as defined by the office. The
2 office may establish exemptions to this requirement on a
3 case-by-case basis.

4 (d) Program participants shall commit to a minimum of three
5 years of service in a geriatric care setting. Leaves of absence shall
6 be permitted for serious illnesses, pregnancy, or other natural
7 causes. The office, in accordance with Section 128300.1, shall
8 develop the process for determining the maximum permissible
9 length of an absence and the process for reinstatement. Loan
10 repayment shall be deferred until the physician and surgeon is back
11 to full-time status.

12 (e) The office, in accordance with Section 128300.1, shall
13 develop the process should a physician and surgeon be unable to
14 complete his or her three-year obligation.

15 (f) The office, in accordance with Section 128300.1, shall
16 develop a process for outreach to potentially eligible applicants.

17 (g) The office may adopt any other standards of eligibility,
18 placement, or termination appropriate to achieve the aim of
19 providing competent health care services in geriatrics.

20 128300.4. (a) The Geriatric Medical Account is hereby created
21 in the fund.

22 (b) Funding for the account shall be from fees paid at the time
23 of initial licensure or renewal of a physician's and surgeon's
24 certificate as prescribed by Section 2435.4 of the Business and
25 Professions Code.

26 (c) Funds placed into the account shall be used by the office to
27 repay the loans of program participants pursuant to agreements
28 made under the program.

29 (1) Funds paid out for loan repayment may have a funding match
30 from foundation or other private sources.

31 (2) Loan repayments shall not exceed one hundred five thousand
32 dollars (\$105,000) per program participant.

33 (3) Loan repayments shall not exceed the amount of the
34 educational loans incurred by the program participant.

35 (d) Notwithstanding Section 11005 of the Government Code,
36 the office may seek and receive matching funds from foundations
37 and private sources to be placed into the account. The office also
38 may contract with an exempt foundation for the receipt of matching
39 funds to be transferred to the account for use by this program.

1 128300.5. ~~The terms of loan repayment granted under this~~
2 ~~article shall be as follows:~~

3 ~~(a) After a program participant has completed one year of~~
4 ~~providing services as a physician and surgeon in a geriatric setting,~~
5 ~~the office shall provide up to twenty-five thousand dollars~~
6 ~~(\$25,000) for loan repayment.~~

7 ~~(b) After a program participant has completed two consecutive~~
8 ~~years of providing services as a physician and surgeon in a geriatric~~
9 ~~setting, the office shall provide up to an additional thirty-five~~
10 ~~thousand dollars (\$35,000) of loan repayment, for a total loan~~
11 ~~repayment of up to sixty thousand dollars (\$60,000).~~

12 ~~(c) After a program participant has completed three consecutive~~
13 ~~years of providing services as a physician and surgeon in a geriatric~~
14 ~~setting, the office shall provide up to a maximum of an additional~~
15 ~~forty-five thousand dollars (\$45,000) of loan repayment, for a total~~
16 ~~loan repayment of up to one hundred five thousand dollars~~
17 ~~(\$105,000).~~

18 128300.6. ~~(a) On and after January 1, 2010, applications from~~
19 ~~physicians and surgeons for program participation may be~~
20 ~~submitted.~~

21 ~~(b) The office may work in conjunction with the Health~~
22 ~~Professions Education Foundation for the implementation and~~
23 ~~administration of this program.~~

24 ~~(c) The office may promulgate emergency regulations to~~
25 ~~implement the program.~~

26 ~~SEC. 8:~~

27 ~~SEC. 6.~~ Article 5 (commencing with Section 128305) is added
28 to Chapter 4 of Part 3 of Division 107 of the Health and Safety
29 Code, to read:

30

31 Article 5. California Geriatric Registered Nurses Loan
32 Assistance Program of 2008

33

34 128305. There is hereby established in the Office of Statewide
35 Health Planning and Development, the California Geriatric
36 Registered Nurses Loan Assistance Program of 2008.

37 128305.1. It is the intent of this article that the office, in
38 consultation with the board, the medical community, including
39 representatives of ethnic minority groups, medical schools, health
40 advocates, primary care clinics, public hospitals and health care

1 systems, statewide agencies administering state and federally
2 funded health programs targeting communities of older
3 Californians, and members of the public with health care issue-area
4 expertise, shall develop and implement the California Geriatric
5 Registered Nurses Loan Assistance Program of 2008.

6 128305.2. For purposes of this article, the following terms have
7 the following meanings:

8 (a) “Account” means the Geriatric Registered Nurses Account
9 that is contained within the fund.

10 (b) “Board” means the Board of Registered Nursing.

11 (c) “Fund” means the Board of Registered Nursing Fund.

12 (d) “Geriatrics” means the practice of nursing, with training in,
13 and application to, older adults who are 65 years of age or older
14 or those with disabilities.

15 (e) “Office” means the Office of Statewide Health Planning and
16 Development.

17 (f) “Program” means the California Geriatric Registered Nurses
18 Loan Assistance Program of 2008.

19 128305.3. (a) Program applicants shall possess a current valid
20 license to practice registered nursing in this state issued by the
21 board pursuant to Section 2742 of the Business and Professions
22 Code.

23 (b) The office shall develop the guidelines for selection and
24 placement of applicants. The guidelines shall do all of the
25 following:

26 (1) Provide priority consideration to applicants who are trained
27 in, and practice, geriatric nursing, including, but not limited to,
28 nurses with doctorate degrees in gerontology, geriatric nurse
29 practitioners, and geriatric nurse clinicians, and who can meet the
30 cultural and linguistic needs and demands of diverse populations
31 of older Californians.

32 (2) Provide priority consideration to applicants who are
33 recognized as geriatric nurse practitioners or geriatric nurse
34 clinicians and that have recently obtained their license to practice
35 as a registered nurse.

36 (3) Give preference to applicants who have completed a
37 residency in nursing.

38 (4) Seek to place the most qualified applicants under this section
39 in the areas with the greatest need.

- 1 (5) Include a factor ensuring geographic distribution of
2 placements.
- 3 (6) Ensure that applicants may not discriminate against those
4 who cannot pay for medical services or those who are funded, in
5 part or in whole, by Medicare or Medi-Cal.
- 6 (c) Program participants shall be working in, or have a signed
7 agreement with, an eligible practice setting. The program
8 participant shall have full-time status, as defined by the office. The
9 office may establish exemptions to this requirement on a
10 case-by-case basis.
- 11 (d) Program participants shall commit to a minimum of three
12 years of service in a geriatric care setting. Leaves of absence shall
13 be permitted for serious illnesses, pregnancy, or other natural
14 causes. The office shall develop the process for determining the
15 maximum permissible length of an absence and the process for
16 reinstatement. Loan repayment shall be deferred until the nurse is
17 back to full-time status.
- 18 (e) The office shall develop the process should a nurse be unable
19 to complete his or her three-year obligation.
- 20 (f) The office shall develop a process for outreach to potentially
21 eligible applicants.
- 22 (g) The office may adopt any other standards of eligibility,
23 placement, or termination appropriate to achieve the aim of
24 providing competent health care services in geriatrics.
- 25 128305.4. (a) The Geriatric Registered Nurses Account is
26 hereby created in the fund.
- 27 (b) Funding for the account shall be from fees paid at the time
28 of initial licensure or renewal pursuant to Section 2815.2 of the
29 Business and Professions Code.
- 30 (c) Funds placed into the account shall be used by the office to
31 repay the loans of program participants pursuant to agreements
32 made under the program.
- 33 (1) Funds paid out for loan repayment may have a funding match
34 from foundation or other private sources.
- 35 (2) Loan repayments shall not exceed thirty thousand dollars
36 (\$30,000) per program participant.
- 37 (3) Loan repayments shall not exceed the amount of the
38 educational loans incurred by the program participant.
- 39 (d) Notwithstanding Section 11005 of the Government Code,
40 the office may seek and receive matching funds from foundations

1 and private sources to be placed into the account. The office also
2 may contract with an exempt foundation for the receipt of matching
3 funds to be transferred to the account for use by this program.

4 128305.5. The terms of loan repayment granted under this
5 article shall be as follows:

6 (a) After a program participant has completed one year of
7 providing services as a registered nurse in a geriatric setting, the
8 office shall provide up to seven thousand five hundred dollars
9 (\$7,500) for loan repayment.

10 (b) After a program participant has completed two consecutive
11 years of providing services as a registered nurse in a geriatric
12 setting, the office shall provide up to an additional ten thousand
13 dollars (\$10,000) of loan repayment, for a total loan repayment of
14 up to seventeen thousand five hundred dollars (\$17,500).

15 (c) After a program participant has completed three consecutive
16 years of providing services as a registered nurse in a geriatric
17 setting, the office shall provide up to a maximum of an additional
18 twelve thousand five hundred dollars (\$12,500) of loan repayment,
19 for a total loan repayment of up to thirty thousand dollars
20 (\$30,000).

21 128305.6. (a) On and after January 1, 2010, applications from
22 registered nurses for program participation may be submitted.

23 (b) The office may work in conjunction with the Health
24 Professions Education Foundation for the implementation and
25 administration of this program.

26 (c) The office may promulgate emergency regulations to
27 implement the program.

28 ~~SEC. 9.~~

29 *SEC. 7.* Article 6 (commencing with Section 128310) is added
30 to Chapter 4 of Part 3 of Division 107 of the Health and Safety
31 Code, to read:

32

33 Article 6. California Geriatric Social Workers and Marriage
34 and Family Therapists Loan Assistance Program of 2008

35

36 128310. There is hereby established in the Office of Statewide
37 Health Planning and Development, the California Geriatric Social
38 Workers and Marriage and Family Therapists Loan Assistance
39 Program of 2008.

1 128310.1. It is the intent of this article that the office, in
2 consultation with the board, the medical community, including
3 representatives of ethnic minority groups, schools of social work,
4 health advocates, primary care clinics, public hospitals and health
5 care systems, statewide agencies administering state and federally
6 funded health programs targeting communities of older
7 Californians, and members of the public with health care issue-area
8 expertise, shall develop and implement the California Geriatric
9 Social Workers and Marriage and Family Therapists Loan
10 Assistance Program of 2008.

11 128310.2. For purposes of this article, the following terms have
12 the following meanings:

13 (a) “Account” means the Geriatric Social Workers and Marriage
14 and Family Therapists Account that is contained within the fund.

15 (b) “Board” means the Board of Behavioral Sciences.

16 (c) “Fund” means the Behavioral Sciences Fund.

17 (d) “Geriatrics” means the practice of medicine, with training
18 in, and application to, older adults who are 65 years of age or older
19 or those with disabilities.

20 (e) “Office” means the Office of Statewide Health Planning and
21 Development.

22 (f) “Program” means the California Geriatric Social Workers
23 and Marriage and Family Therapists Loan Assistance Program of
24 2008.

25 128310.3. (a) Program applicants shall be registered associate
26 clinical social workers receiving supervision or shall possess a
27 current valid license to practice social work or marriage and family
28 therapy in this state issued by the board pursuant to Section 4980.30
29 or 4996.1 of the Business and Professions Code.

30 (b) The office shall develop the guidelines for selection and
31 placement of applicants. The guidelines shall do all of the
32 following:

33 (1) Provide priority consideration to applicants who are trained
34 in, and practice, geriatric social work or marriage and family
35 therapy, and who can meet the cultural and linguistic needs and
36 demands of diverse populations of older Californians.

37 (2) Provide priority consideration to applicants who have
38 recently obtained their license to practice marriage and family
39 therapy or clinical social work or be a registered associate clinical
40 social worker receiving supervision.

1 (3) Give preference to applicants who have completed an
2 internship in geriatric social work or marriage and family therapy.

3 (4) Seek to place the most qualified applicants under this section
4 in the areas with the greatest need.

5 (5) Include a factor ensuring geographic distribution of
6 placements.

7 (6) Ensure that applicants may not discriminate against those
8 who cannot pay for medical services or those who are funded, in
9 part or in whole, by Medicare or Medi-Cal.

10 (c) Program participants shall be working in, or have a signed
11 agreement with, an eligible practice setting. The program
12 participant shall have full-time status, as defined by the office. The
13 office may establish exemptions to this requirement on a
14 case-by-case basis.

15 (d) Program participants shall commit to a minimum of three
16 years of service in a geriatric care setting. Leaves of absence shall
17 be permitted for serious illnesses, pregnancy, or other natural
18 causes. The office shall develop the process for determining the
19 maximum permissible length of an absence and the process for
20 reinstatement. Loan repayment shall be deferred until the
21 participant is back to full-time status.

22 (e) The office shall develop the process should a participant be
23 unable to complete his or her three-year obligation.

24 (f) The office shall develop a process for outreach to potentially
25 eligible applicants.

26 (g) The office may adopt any other standards of eligibility,
27 placement, or termination appropriate to achieve the aim of
28 providing competent social services in geriatrics.

29 128310.4. (a) The Geriatric Social Workers and Marriage and
30 Family Therapists Account is hereby created in the fund.

31 (b) Funding for the account shall be from fees paid at the time
32 of initial licensure or renewal pursuant to Sections 4984.75 and
33 4996.66 of the Business and Professions Code.

34 (c) Funds placed into the account shall be used by the office to
35 repay the loans of program participants pursuant to agreements
36 made under the program.

37 (1) Funds paid out for loan repayment may have a funding match
38 from foundation or other private sources.

39 (2) Loan repayments shall not exceed thirty thousand dollars
40 (\$30,000) per program participant.

1 (3) Loan repayments shall not exceed the amount of the
2 educational loans incurred by the program participant.

3 (d) Notwithstanding Section 11005 of the Government Code,
4 the office may seek and receive matching funds from foundations
5 and private sources to be placed into the account. The office also
6 may contract with an exempt foundation for the receipt of matching
7 funds to be transferred to the account for use by this program.

8 128310.5. The terms of loan repayment granted under this
9 article shall be as follows:

10 (a) After a program participant has completed one year of
11 providing services as a licensed marriage and family therapist or
12 a licensed or associate clinical social worker in a geriatric setting,
13 the office shall provide up to seven thousand five hundred dollars
14 (\$7,500) for loan repayment.

15 (b) After a program participant has completed two consecutive
16 years of providing services as a licensed marriage and family
17 therapist or a licensed or associate clinical social worker in a
18 geriatric setting, the office shall provide up to an additional ten
19 thousand dollars (\$10,000) of loan repayment, for a total loan
20 repayment of up to seventeen thousand five hundred dollars
21 (\$17,500).

22 (c) After a program participant has completed three consecutive
23 years of providing services as a licensed marriage and family
24 therapist or a licensed or associate clinical social worker in a
25 geriatric setting, the office shall provide up to a maximum of an
26 additional twelve thousand five hundred dollars (\$12,500) of loan
27 repayment, for a total loan repayment of up to thirty thousand
28 dollars (\$30,000).

29 128310.6. (a) On and after January 1, 2010, applications from
30 marriage and family therapists, registered associate social workers,
31 and licensed social workers for program participation may be
32 submitted.

33 (b) The office may work in conjunction with the Health
34 Professions Education Fund in the implementation and
35 administration of this program.

36 (c) The office may promulgate emergency regulations to
37 implement the program.

38 *SEC. 8. Section 128552 of the Health and Safety Code is*
39 *amended to read:*

1 128552. For purposes of this article, the following definitions
2 shall apply:

3 (a) “Account” means the Medically Underserved Account for
4 Physicians established within the Health Professions Education
5 Fund pursuant to this article.

6 (b) “Foundation” means the Health Professions Education
7 Foundation.

8 (c) “Fund” means the Health Professions Education Fund.

9 (d) “Medi-Cal threshold languages” means primary languages
10 spoken by limited-English-proficient (LEP) population groups
11 meeting a numeric threshold of 3,000, eligible LEP Medi-Cal
12 beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP
13 beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal
14 beneficiaries residing in two contiguous ZIP Codes.

15 (e) “Medically underserved area” means an area defined as a
16 health professional shortage area in Part 5 of Subchapter A of
17 Chapter 1 of Title 42 of the Code of Federal Regulations or an
18 area of the state where unmet priority needs for physicians exist
19 as determined by the California Healthcare Workforce Policy
20 Commission pursuant to Section 128225.

21 (f) “Medically underserved population” means the Medi-Cal
22 program, Healthy Families Program, and uninsured populations.

23 (g) “Office” means the Office of Statewide Health Planning and
24 Development (OSHPD).

25 (h) “Physician Volunteer Program” means the Physician
26 Volunteer Registry Program established by the Medical Board of
27 California.

28 (i) “Practice setting” means either of the following:

29 (1) A community clinic as defined in subdivision (a) of Section
30 1204 and subdivision (c) of Section 1206, a clinic owned or
31 operated by a public hospital and health system, or a clinic owned
32 and operated by a hospital that maintains the primary contract with
33 a county government to fulfill the county’s role pursuant to Section
34 17000 of the Welfare and Institutions Code, which is located in a
35 medically underserved area and at least 50 percent of whose
36 patients are from a medically underserved population.

37 (2) A medical practice located in a medically underserved area
38 and at least 50 percent of whose patients are from a medically
39 underserved population.

1 (j) “Primary specialty” means family practice, internal medicine,
2 pediatrics, *geriatrics*, or obstetrics/gynecology.

3 (k) “Program” means the Steven M. Thompson Physician Corps
4 Loan Repayment Program.

5 (l) “Selection committee” means a minimum three-member
6 committee of the board, that includes a member that was appointed
7 by the Medical Board of California.

8 *SEC. 9. Section 128553 of the Health and Safety Code is*
9 *amended to read:*

10 128553. (a) Program applicants shall possess a current valid
11 license to practice medicine in this state issued pursuant to Section
12 2050 of the Business and Professions Code.

13 (b) The foundation, in consultation with those identified in
14 subdivision (b) of Section 123551, shall use guidelines developed
15 by the Medical Board of California for selection and placement
16 of applicants until the office adopts other guidelines by regulation.

17 (c) The guidelines shall meet all of the following criteria:

18 (1) Provide priority consideration to applicants that are best
19 suited to meet the cultural and linguistic needs and demands of
20 patients from medically underserved populations and who meet
21 one or more of the following criteria:

22 (A) Speak a Medi-Cal threshold language.

23 (B) Come from an economically disadvantaged background.

24 (C) Have received significant training in cultural and
25 linguistically appropriate service delivery.

26 (D) Have three years of experience working in medically
27 underserved areas or with medically underserved populations.

28 (E) Have recently obtained a license to practice medicine.

29 (2) Include a process for determining the needs for physician
30 services identified by the practice setting and for ensuring that the
31 practice setting meets the definition specified in subdivision (h)
32 of Section 128552.

33 (3) Give preference to applicants who have completed a
34 three-year residency in a primary specialty.

35 (4) Seek to place the most qualified applicants under this section
36 in the areas with the greatest need.

37 (5) Include a factor ensuring geographic distribution of
38 placements.

39 (d) (1) The foundation may appoint a selection committee that
40 provides policy direction and guidance over the program and that

1 complies with the requirements of subdivision (l) of Section
2 128552.

3 (2) The selection committee may fill up to 20 percent of the
4 available positions with program applicants from specialties outside
5 of the primary care specialties.

6 (3) *The selection committee shall fill 15 percent of the available*
7 *positions with program applicants that agree to practice in a*
8 *geriatric care setting. Priority consideration shall be given to*
9 *applicants who are trained in, and practice, geriatrics, and who*
10 *can meet the cultural and linguistic needs and demands of diverse*
11 *populations of older Californians.*

12 (e) Program participants shall meet all of the following
13 requirements:

14 (1) Shall be working in or have a signed agreement with an
15 eligible practice setting.

16 (2) Shall have full-time status at the practice setting. Full-time
17 status shall be defined by the board and the selection committee
18 may establish exemptions from this requirement on a case-by-case
19 basis.

20 (3) Shall commit to a minimum of three years of service in a
21 medically underserved area. Leaves of absence shall be permitted
22 for serious illness, pregnancy, or other natural causes. The selection
23 committee shall develop the process for determining the maximum
24 permissible length of an absence and the process for reinstatement.
25 Loan repayment shall be deferred until the physician is back to
26 full-time status.

27 (f) The office shall adopt a process that applies if a physician
28 is unable to complete his or her three-year obligation.

29 (g) The foundation, in consultation with those identified in
30 subdivision (b) of Section 128551, shall develop a process for
31 outreach to potentially eligible applicants.

32 (h) The foundation may recommend to the office any other
33 standards of eligibility, placement, and termination appropriate to
34 achieve the aim of providing competent health care services in
35 approved practice settings.

36 SEC. 10. Chapter 6 (commencing with Section 128559) is
37 added to Part 3 of Division 107 of the Health and Safety Code, to
38 read:

1 CHAPTER 6. CALIFORNIA GERIATRIC AND GERONTOLOGY
2 STUDENT LOAN ASSISTANCE PROGRAM OF 2008

3
4 128559. This chapter shall be known and may be cited as the
5 California Geriatric and Gerontology Student Loan Assistance
6 Program of 2008.

7 128559.1. It is the intent of this chapter that the Office of
8 Statewide Health Planning and Development, in consultation with
9 the Medical Board of California, state allied health professional
10 and behavioral sciences licensing boards, postsecondary schools
11 of health sciences and social work, health advocates representing
12 diverse ethnic communities, primary care clinics, public hospitals
13 and health care systems, statewide agencies administering state
14 and federally funded programs targeting treatment and services
15 for older adults, and members of the public with health care
16 issue-area expertise, shall develop and implement the program.

17 128559.2. (a) There is hereby established in the Office of
18 Statewide Health Planning and Development, the California
19 Geriatric and Gerontology Student Loan Assistance Program of
20 2008.

21 (b) The Office of Statewide Health Planning and Development
22 shall operate the program in accordance with, but not limited to,
23 the following:

24 (1) Increased efforts in educating students trained in geriatrics
25 and gerontology of the need for health care and social work
26 professionals to meet the demands of the exponential increase in
27 the older adult population, and of programs that are available that
28 provide incentives, financial and otherwise, to practice in settings
29 and areas in need.

30 (2) Strategic collaboration with California postsecondary schools
31 of health sciences and social work to better prepare health care
32 professionals and social workers to meet the distinctive cultural
33 and medical needs of California's older adult populations.

34 (3) Establish, encourage, and expand programs for students of
35 the health care and social work professions for mentoring at
36 primary and secondary schools, and college levels to increase the
37 number of students entering the studies of health professions and
38 social work with a concentration in geriatrics or gerontology.

1 (4) Administer financial or other incentives to encourage new
2 or experienced health care professionals and social workers to
3 practice in the fields of geriatrics and gerontology.

4 128559.3. For purposes of this chapter:

5 (a) “Office” means the Office of Statewide Health Planning and
6 Development.

7 (b) “Program” means the California Geriatric and Gerontology
8 Student Loan Assistance Program of 2008.

9 128559.4. (a) The office shall administer the program. Any
10 individual enrolled in an institution of postsecondary education
11 participating in the programs set forth in this chapter may be
12 eligible to receive a conditional warrant for loan repayment, to be
13 redeemed upon becoming employed as a licensed health
14 professional, marriage and family therapist, or social worker or
15 registered associate social worker in a setting serving primarily
16 older adult populations. In order to be eligible to receive a
17 conditional loan repayment warrant, an applicant shall satisfy all
18 of the following conditions:

19 (1) The applicant has been judged by his or her postsecondary
20 institution to have outstanding ability on the basis of criteria that
21 may include, but not be limited to, any of the following:

22 (A) Grade point average.

23 (B) Test scores.

24 (C) Faculty evaluations.

25 (D) Interviews.

26 (E) Other recommendations.

27 (2) In order to meet the costs associated with obtaining a health
28 professional or social work degree, the applicant has received, or
29 is approved to receive, a loan under one or more of the following
30 designated loan programs:

31 (A) The Federal Family Education Loan Program (10 U.S.C.
32 Sec. 1071 et seq.).

33 (B) Any loan program approved by the Student Aid
34 Commission.

35 (3) The applicant has agreed to provide services as a licensed
36 health professional, marriage and family therapist, or social worker,
37 or to be registered as an associate clinical social worker with
38 satisfactory progress toward licensure, for up to three consecutive
39 years, after obtaining a license or associate registration from the
40 applicable state health professional or behavioral science licensing

1 board, in a setting providing health or social services primarily to
2 older adults.

3 (4) The applicant has agreed that he or she shall not discriminate
4 against any patient or client who cannot pay for services or those
5 who are funded, in part or in whole, by Medicare or Medi-Cal.

6 (b) The office shall ensure that priority consideration be given
7 to applicants who are best suited to meet the cultural and linguistic
8 needs and demands of geriatric populations and who meet one or
9 more of the following criteria:

10 (1) Have received significant training in cultural and
11 linguistically appropriate service delivery.

12 (2) Have done a clinical rotation or social work internship, of
13 at least two semesters, serving older adult populations.

14 (c) A person participating in the program pursuant to this chapter
15 shall not receive more than one warrant.

16 (d) The office shall adopt rules and regulations regarding the
17 reallocation of warrants if a participating institution is unable to
18 utilize its allocated warrants or is unable to distribute them within
19 a reasonable time period.

20 128559.5. (a) The office shall develop the process to redeem
21 an applicant's warrant and commence loan repayment.

22 (b) The office shall distribute student applications to participate
23 in the program to postsecondary institutions eligible to participate
24 in the state and federal financial aid programs and that have a
25 program of professional preparation for health care professionals,
26 social workers, or marriage and family therapists.

27 (c) Each participating institution shall sign an institutional
28 agreement with the office, certifying its intent to administer the
29 program according to all applicable published rules, regulations,
30 and guidelines, and shall make special efforts to notify students
31 regarding the availability of the program particularly to
32 economically disadvantaged students.

33 (d) To the extent feasible, the office and each participating
34 institution shall coordinate this program with other existing
35 programs designed to recruit or encourage students to enter the
36 health care, social work, or marriage and family therapy profession.
37 These programs shall include, but not be limited to, the following:

38 (1) The Song-Brown Family Physician Training Act (Article 1
39 commencing with Section 128200) of Chapter 4).

1 (2) The Health Education and Academic Loan Act (Article 2
2 (commencing with Section 128250) of Chapter 4).

3 (3) The National Health Service Corps.

4 128559.6. (a) The office shall administer the program and
5 shall adopt rules and regulations for that purpose. The rules and
6 regulations shall include, but not be limited to, provisions regarding
7 the period of time for which a warrant shall remain valid, the
8 reallocation of warrants that are not utilized, and the development
9 of projections for funding purposes.

10 (b) The office shall work in conjunction with lenders
11 participating in federal or similar loan programs to develop a
12 streamlined application process for participation in the program.

13 128559.7. (a) The office shall establish a fund to utilize for
14 the purposes of this chapter.

15 (b) The office may seek matching funds from foundations and
16 private sources. The office may also contract with an exempt
17 foundation for the receipt of matching funds to be transferred to
18 the fund for use by this program.

19 (c) The provisions of this chapter shall not become operative
20 unless appropriate funding, as determined by the office, is made
21 available.

22 128559.8. (a) On or before January 31 of each year, the office
23 shall provide an annual report to the Legislature regarding the
24 program that includes all of the following:

25 (1) The number of program participants by profession.

26 (2) Practice locations.

27 (3) The amount expended for the program.

28 (4) Information on annual performance reviews by the practice
29 setting and program participants.

30 (5) An evaluation of the program's effectiveness in improving
31 access to health and social services for older adults.

32 (6) Recommendations for maintaining or expanding the program.

33 (b) This section shall become operative on January 1, 2010.

34 *SEC. 11. Sections 8 and 9 of this act shall become operative*
35 *only if Assembly Bill 2439 of the 2007–08 Regular Session is*
36 *enacted and becomes effective on or before January 1, 2009.*

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2652 **VERSION:** INTRODUCED FEBRUARY 22, 2008

AUTHOR: ANDERSON **SPONSOR:** CAMFT

RECOMMENDED POSITION: SUPPORT

SUBJECT: MARRIAGE AND FAMILY THERAPIST INTERN EXPERIENCE

Existing Law:

- 1) Requires any person employed or under contract to provide diagnostic, treatment, or other mental health services in the state or to supervise or provide consultation on these services in the state correctional system to be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state, with specified exemptions. (PC §5068.5(a))
- 2) Exempts from the licensure requirement for mental health practitioners employed with the state correctional system, persons employed as psychologists or persons employed to supervise or provide consultation on the diagnostic or treatment services, as of specified dates, as long as they continue in employment in the same class and in the same department. (PC §5068.5(b))
- 3) Allows licensure requirements for mental health practitioners employed with the state correctional system to be waived for a person to gain qualifying experience for licensure as a psychologist or clinical social worker. (PC §5068.5(c))

This Bill: Allows licensure requirements for mental health practitioners employed with the state correctional system to be waived for a person to gain qualifying experience for licensure as a marriage and family therapist. (PC §5068.5(c))

Comment:

- 1) **Author's Intent.** Marriage and family therapists currently provide mental health services in state facilities. While the current law governing correctional facilities allows a waiver of the licensure requirements for trainees in psychology and clinic social work, the waiver does not currently extend to MFT trainees. According to the author's office, this waiver should also apply to MFTs, "whose training and education are comparable to LCSWs."
- 2) **Background.** The California Department of Corrections and Rehabilitation is suffering from a severe shortage of mental health programs throughout the State. According to the author, the Division of Correctional Health Care Services recommends proposing a new classification for MFTs within Corrections to allow MFTs to apply and be considered in the hiring process, thereby increasing the candidate pool, ultimately decreasing vacancies in this classification.
- 3) **Support and Opposition.**

*Support: CAMFT
AAMFT*

Opposition: None on file

4) History

2008

Mar. 13	Referred to Com. on B. & P.
Feb. 25	Read first time.
Feb. 24	From printer. May be heard in committee March 25.
Feb. 22	Introduced. To print.

ASSEMBLY BILL

No. 2652

Introduced by Assembly Member Anderson

February 22, 2008

An act to amend Section 5068.5 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 2652, as introduced, Anderson. Prisoners: professional mental health providers: marriage and family therapists.

Existing law requires any person employed or under contract to provide mental health diagnostic, treatment, or other mental health services in the state correctional system to be a physician and surgeon, psychologist, or other health professional, licensed to practice in this state, except as specified. This licensure requirement may be waived in order for a person to gain qualifying experience for licensure as a psychologist or clinical social worker in this state.

This bill would also authorize the waiver for a person to gain qualifying experience for licensure as a marriage and family therapist.

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 5068.5 of the Penal Code is amended to
2 read:
3 5068.5. (a) Notwithstanding any other provision of law, except
4 as provided in subdivision (b), any person employed or under
5 contract to provide diagnostic, treatment, or other mental health

1 services in the state or to supervise or provide consultation on these
2 services in the state correctional system shall be a physician and
3 surgeon, a psychologist, or other health professional, licensed to
4 practice in this state.

5 (b) Notwithstanding Section 5068 or Section 704 of the Welfare
6 and Institutions Code, the following persons are exempt from the
7 requirements of subdivision (a), so long as they continue in
8 employment in the same class and in the same department:

9 (1) Persons employed on January 1, 1985, as psychologists to
10 provide diagnostic or treatment services including those persons
11 on authorized leave but not including intermittent personnel.

12 (2) Persons employed on January 1, 1989, to supervise or
13 provide consultation on the diagnostic or treatment services
14 including persons on authorized leave but not including intermittent
15 personnel.

16 (c) The requirements of subdivision (a) may be waived in order
17 for a person to gain qualifying experience for licensure as a
18 psychologist~~or~~, clinical social worker, *or marriage and family*
19 *therapist* in this state in accordance with Section 1277 of the Health
20 and Safety Code.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1402 **VERSION:** INTRODUCED FEBRUARY 21, 2008

AUTHOR: CORBETT **SPONSOR:** AUTHOR

RECOMMENDED POSITION: OPPOSE UNLESS AMENDED

SUBJECT: REPORTING REQUIREMENTS

Existing Law:

- 1) Requires the following entities under the Department of Consumer Affairs (DCA) to disclose the suspension and revocation of licenses issued by the entity and other related enforcement action taken by the entity relative to persons businesses, or facilities subject to licensure or regulation by the entity: (BPC §27(a) and(b))
 - a) Acupuncture Board
 - b) Board of Behavioral Sciences
 - c) Dental Board of California
 - d) State Board of Optometry
 - e) Board for Professional Engineers and and Surveyors
 - f) Structural Pest Control Board
 - g) Bureau of Automotive Repair
 - h) Bureau of Electronic and Appliance Repair
 - i) Cemetery and Funeral Bureau
 - j) Contractor State License Board
 - k) Board of Psychology
- 2) Requires all entities required to provide public information relating to licensees do so in accordance with the California Public Records Act, the Information Practice Act of 1977 and the DCA Guidelines for Access to Public Records. (BPC §27(a))
- 3) Prohibits information disclosed on the internet about licensees by respective regulatory entities from including personal information such as home telephone number, date of birth or social security number. It does allow the disclosure of licensee address of record. (BPC §27(a))

- 4) Makes it a misdemeanor for a person authorized under law to receive a summary criminal history record or information obtained from that record to knowingly furnishes the record or information to a person who is not authorized by law to receive the record or information. (PC §11142)
- 5) Requires every insurer providing professional liability insurance to a person who holds a license under the specified entities with DCA, to send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or his or her rendering of unauthorized professional services, except for the following: (BPC §801(a))
 - a) The BBS
 - b) The Dental Board of California
 - c) Veterinary Medical Board
- 6) Requires every insurer providing professional liability insurance to an MFT and LCSW to send a complete report to BBS as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or his or her rendering of unauthorized professional services. (BPC §801(b))
- 7) Requires every insurer providing professional liability insurance to a licensee of the Dental Board of California to send a complete report to the Dental Board as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or his or her rendering of unauthorized professional services. (BPC §801(c))
- 8) Requires every insurer providing professional liability insurance to a veterinarian to send a complete report to the Veterinary Medical Board as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or his or her rendering of unauthorized professional services. (BPC §801(d))
- 9) Requires a physician and surgeon, an osteopathic physician and surgeon and a doctor of podiatric medicine to report to the regulatory entity that issued the license the bringing of an indictment of information charging a felony or the conviction of any felony or misdemeanor of the licensee within 30 days. (BPC §802.1(a))

This Bill:

- 1) Requires entities under DCA currently mandated to post information on the internet relating to enforcement action taken against its licensees to also post information on misdemeanor and felony convictions of licensees. (BPC §27(a))
- 2) Makes the above internet reporting requirements relating to licensee information apply to the Board of Chiropractic Examiners. (BPC §27(a)(13))
- 3) Requires every insurer providing professional liability insurance to a chiropractor to send a complete report to the Board of Chiropractic Examiners as to any settlement or arbitration award over two thousand dollars (\$2,000) of a claim or action for damages for death or

personal injury caused by that person's negligence, error, or omission in practice, or his or her rendering of unauthorized professional services. (BPC §801(e))

- 4) Adds chiropractors to the provisions requiring a practitioner to report to the regulatory entity that issued the license the bringing of an indictment of information charging a felony or the conviction of any felony or misdemeanor of the licensee within 30 days. (BPC §802.1(a))
- 5) Deletes obsolete language in a provision relating to written consent of an insured to settlement agreements entered into by the insurer providing professional liability insurance. (BPC §801(g))
- 6) Makes conforming and technical changes to provisions relating to the Chiropractic Board of Examiners. (BPC §1005)

Comment:

- 1) **Author's Intent.** According to the author this bill is a consumer protection measure that will require the Board of Chiropractic Examiners to make public, convictions of misdemeanors and felonies by its licensees and inform consumers of malpractice settlements that meet certain requirements.
- 2) **Purpose of provisions relating to disclosure of criminal convictions is unclear.** BPC section 27(a) as amended by this bill would require the board to post on its website "...convictions of licensees of the entity of a misdemeanor or felony...." However, background provided by the author's office does not specifically address this provision of the bill, except in relation to the Board of Chiropractic Examiners. The intended goal of this provision as it relates to BBS is unclear to board staff.
- 3) **Disclosure of convictions is overly broad.** This requires the board to post information of felony and misdemeanor convictions of licensees and does not limit the disclosure to convictions that have resulted in disciplinary action or an accusation being filed by the Board. This requirement seems over reaching and may pose an undue invasion of privacy for BBS licensed professional. This provision would require the board to disclose convictions, regardless of the amount of time that has passed since the conviction, any subsequent rehabilitation, or relevancy to the qualifications, duties or functions of the license the individual holds.
- 4) **Conviction disclosure undermines board disciplinary process.** Existing law outlines the procedures that the board must abide by in determining appropriate disciplinary action for licensees. The board has the authority to deny, suspend or revoke a license of an individual who commits a crime or act in such a way that demonstrates that they are not fit to perform the duties associated with that license. If a conviction does not rise to a level that requires board action, the relevance of that conviction is questionable and the release of such information lacks policy justification. Additionally, by disclosing the convictions of licensees currently in good standing, regardless of relevancy or age of the offense, consumers may unduly stigmatize that licensee and question the board's decision to allow the licensee to continue to practice.
- 5) **Board liability if disclosed information is not accurate.** This bill does not provide procedures for obtaining the information to be disclosed on the board website. If the information is provided by the licensees themselves, the accuracy of the information disclosed may be unreliable. However, because the board is posting the information on its website, the board would be responsible for the information contained therein. If the

information is provided by the Department of Justice (DOJ) it is unclear if the Board can lawfully post this information under the applicable provisions of law relating to confidentiality of criminal records received by DOJ. Staff has been in contact with several individuals from DOJ, legislative staff, the National Employment Law Project and the American Civil Liberties Union seeking clarification on the laws relating to disclosing criminal conviction information of licensees. At this time, a direct answer has not been provided to staff.

Additionally, offenses that are subject to deferred judgment, or “diversion programs,” may pose another issue with disclosure of convictions. A defendant may plead guilty to an offense but then be deemed never to have been convicted after the deferral. Another similar complication in disclosing a conviction is determining when a conviction is “final.” Typically a criminal defendant has a right to appeal to the Courts of Appeal within 60 days. The case then may go through a protracted set of appeals, depending of the case, and final judgment may not be made for some time. This bill does not provide a timeline for disclosing the conviction information, nor does it define what is considered a conviction for the purposes of the bill.

6) Suggested Amendments. Staff recommends deleting the provision relating to posting criminal convictions on board website.

Page two, line 11, strike “convictions of licenses of the entity of a”

Page two, line 12, strike “misdemeanor or felony, and shall include information in “

7) Support and Opposition.

Unknown

8) History

2008

Mar. 19	Set, first hearing. Hearing canceled at the request of author. Set for hearing April 7.
Mar. 11	Set for hearing March 24.
Feb. 28	To Com. on B., P. & E.D.
Feb. 22	From print. May be acted upon on or after March 23.
Feb. 21 print.	Introduced. Read first time. To Com. on RLS. for assignment. To

AMENDED IN SENATE APRIL 1, 2008

SENATE BILL

No. 1402

Introduced by Senator Corbett

February 21, 2008

An act to amend Sections 27, 801, 802.1, and 1005 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1402, as amended, Corbett. ~~Reporting~~ *Reporting* requirements.

Existing law provides for the licensure, registration, and regulation of healing arts practitioners by various boards and bureaus, including, but not limited to, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Veterinary Medical Board, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology Board, the Respiratory Care Board of California, the California Board of Occupational Therapy, and the Bureau of Naturopathic Medicine. Existing law, the Chiropractic Act, a statute enacted by initiative, creates the State Board of Chiropractic Examiners, which licenses and regulates the practice of chiropractic. Existing law requires certain entities within the Department of Consumer Affairs and the Department of Real Estate to provide information, excluding personal information, on the Internet relative to the status of every license issued by the entity, as specified. Existing law requires certain health care providers to report to their licensing boards the bringing of an indictment or information charging a felony against them or their conviction of a felony or misdemeanor. Existing law requires insurers providing professional liability insurance to certain health care professionals to send a complete report to the

applicable licensing entity as to any settlement or arbitration award meeting certain criteria.

This bill would expand the information that the specified licensing entities are required to disclose to the public on the Internet ~~information~~ to include information regarding ~~licensees~~ *licensee's* convictions of a ~~misdemeanor or felony~~ *specified misdemeanors or felonies*, and would add the Board of Chiropractic Examiners *and specified other healing arts boards and bureaus* to the entities required to provide the licensing status information. The bill would require a chiropractor to report to the Board of Chiropractic Examiners the bringing of an indictment or information charging a felony against them or their conviction of any felony or misdemeanor. The bill would also require an insurer providing professional liability insurance to a chiropractor to send a complete report to the Chiropractic Examiners Board, as specified, of any settlement or arbitration award of over \$2,000 of a claim or action for damages meeting certain criteria.

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 27 of the Business and Professions Code
2 is amended to read:
3 27. (a) Every entity specified in subdivision (b) shall provide
4 on the Internet information regarding the status of every license
5 issued by that entity in accordance with the California Public
6 Records Act (Chapter 3.5 (commencing with Section 6250) of
7 Division 7 of Title 1 of the Government Code) and the Information
8 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
9 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public
10 information to be provided on the Internet shall ~~include information~~
11 ~~on convictions of licensees of the entity of a misdemeanor or felony,~~
12 ~~and shall include information on~~ *include information on a*
13 *misdemeanor conviction that results in a disciplinary action or an*
14 *accusation that is not subsequently withdrawn or dismissed, or a*
15 *felony conviction that is reported to the entity by the courts*
16 *pursuant to Section 803, unless otherwise provided by law, and*
17 *shall include information on* suspensions and revocations of
18 licenses issued by the entity and other related enforcement action
19 taken by the entity relative to persons, businesses, or facilities

1 subject to licensure or regulation by the entity. In providing
2 information on the Internet, each entity shall comply with the
3 Department of Consumer Affairs Guidelines for Access to Public
4 Records. The information may not include personal information,
5 including home telephone number, date of birth, or social security
6 number. Each entity shall disclose a licensee's address of record.
7 However, each entity shall allow a licensee to provide a post office
8 box number or other alternate address, instead of his or her home
9 address, as the address of record. This section shall not preclude
10 an entity from also requiring a licensee, who has provided a post
11 office box number or other alternative mailing address as his or
12 her address of record, to provide a physical business address or
13 residence address only for the entity's internal administrative use
14 and not for disclosure as the licensee's address of record or
15 disclosure on the Internet.

16 (b) Each of the following entities within the Department of
17 Consumer Affairs shall comply with the requirements of this
18 section:

19 (1) The Acupuncture Board shall disclose information on its
20 licensees.

21 (2) The Board of Behavioral Sciences shall disclose information
22 on its licensees, including marriage and family therapists, licensed
23 clinical social workers, and licensed educational psychologists.

24 (3) The Dental Board of California shall disclose information
25 on its licensees.

26 (4) The State Board of Optometry shall disclose information
27 regarding certificates of registration to practice optometry,
28 statements of licensure, optometric corporation registrations, branch
29 office licenses, and fictitious name permits of its licensees.

30 (5) The Board for Professional Engineers and Land Surveyors
31 shall disclose information on its registrants and licensees.

32 (6) The Structural Pest Control Board shall disclose information
33 on its licensees, including applicators, field representatives, and
34 operators in the areas of fumigation, general pest and wood
35 destroying pests and organisms, and wood roof cleaning and
36 treatment.

37 (7) The Bureau of Automotive Repair shall disclose information
38 on its licensees, including auto repair dealers, smog stations, lamp
39 and brake stations, smog check technicians, and smog inspection
40 certification stations.

1 (8) The Bureau of Electronic and Appliance Repair shall disclose
2 information on its licensees, including major appliance repair
3 dealers, combination dealers (electronic and appliance), electronic
4 repair dealers, service contract sellers, and service contract
5 administrators.

6 (9) The Cemetery and Funeral Bureau shall disclose information
7 on its licensees, including cemetery brokers, cemetery salespersons,
8 crematories, and cremated remains disposers.

9 (10) The Cemetery and ~~Funeral~~ *Funeral* Bureau shall disclose
10 information on its licensees, including embalmers, funeral
11 establishments, and funeral directors.

12 (11) The Contractors' State License Board shall disclose
13 information on its licensees in accordance with Chapter 9
14 (commencing with Section 7000) of Division 3. In addition to
15 information related to licenses as specified in subdivision (a), the
16 board shall also disclose information provided to the board by the
17 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

18 (12) The Board of Psychology shall disclose information on its
19 licensees, including psychologists, psychological assistants, and
20 registered psychologists.

21 (13) The Board of Chiropractic Examiners shall disclose
22 information on its licensees.

23 (14) *The Board of Registered Nursing shall disclose information*
24 *on its licensees.*

25 (15) *The Board of Vocational Nursing and Psychiatric*
26 *Technicians of the State of California shall disclose information*
27 *on its licensees.*

28 (16) *The Veterinary Medical Board shall disclose information*
29 *on its licensees and registrants.*

30 (17) *The Physical Therapy Board of California shall disclose*
31 *information on its licensees.*

32 (18) *The California State Board of Pharmacy shall disclose*
33 *information on its licensees.*

34 (19) *The Speech-Language Pathology and Audiology Board*
35 *shall disclose information on its licensees.*

36 (20) *The Respiratory Care Board of California shall disclose*
37 *information on its licensees.*

38 (21) *The California Board of Occupational Therapy shall*
39 *disclose information on its licensees.*

1 (22) *The Bureau of Naturopathic Medicine shall disclose*
2 *information on its licensees.*

3 (c) “Internet” for the purposes of this section has the meaning
4 set forth in paragraph (6) of subdivision (e) of Section 17538.

5 SEC. 2. Section 801 of the Business and Professions Code is
6 amended to read:

7 801. (a) Except as provided in Section 801.01 and subdivisions
8 (b), (c), (d), and (e) of this section, every insurer providing
9 professional liability insurance to a person who holds a license,
10 certificate, or similar authority from or under any agency mentioned
11 in subdivision (a) of Section 800 shall send a complete report to
12 that agency as to any settlement or arbitration award over three
13 thousand dollars (\$3,000) of a claim or action for damages for
14 death or personal injury caused by that person’s negligence, error,
15 or omission in practice, or by his or her rendering of unauthorized
16 professional services. The report shall be sent within 30 days after
17 the written settlement agreement has been reduced to writing and
18 signed by all parties thereto or within 30 days after service of the
19 arbitration award on the parties.

20 (b) Every insurer providing professional liability insurance to
21 a person licensed pursuant to Chapter 13 (commencing with
22 Section 4980) or Chapter 14 (commencing with Section 4990)
23 shall send a complete report to the Board of Behavioral Science
24 Examiners as to any settlement or arbitration award over ten
25 thousand dollars (\$10,000) of a claim or action for damages for
26 death or personal injury caused by that person’s negligence, error,
27 or omission in practice, or by his or her rendering of unauthorized
28 professional services. The report shall be sent within 30 days after
29 the written settlement agreement has been reduced to writing and
30 signed by all parties thereto or within 30 days after service of the
31 arbitration award on the parties.

32 (c) Every insurer providing professional liability insurance to
33 a dentist licensed pursuant to Chapter 4 (commencing with Section
34 1600) shall send a complete report to the Dental Board of
35 California as to any settlement or arbitration award over ten
36 thousand dollars (\$10,000) of a claim or action for damages for
37 death or personal injury caused by that person’s negligence, error,
38 or omission in practice, or rendering of unauthorized professional
39 services. The report shall be sent within 30 days after the written
40 settlement agreement has been reduced to writing and signed by

1 all parties thereto or within 30 days after service of the arbitration
2 award on the parties.

3 (d) Every insurer providing liability insurance to a veterinarian
4 licensed pursuant to Chapter 11 (commencing with Section 4800)
5 shall send a complete report to the Veterinary Medical Board of
6 any settlement or arbitration award over ten thousand dollars
7 (\$10,000) of a claim or action for damages for death or injury
8 caused by that person’s negligence, error, or omission in practice,
9 or rendering of unauthorized professional service. The report shall
10 be sent within 30 days after the written settlement agreement has
11 been reduced to writing and signed by all parties thereto or within
12 30 days after service of the arbitration award on the parties.

13 (e) Every insurer providing liability insurance to a chiropractor
14 licensed pursuant to the Chiropractic Act shall send a complete
15 report to the Board of Chiropractic Examiners of any settlement
16 or arbitration award over two thousand dollars (\$2,000) of a claim
17 or action for damages for death or injury caused by that person’s
18 negligence, error, or omission in practice, or rendering of
19 unauthorized professional service. The report shall be sent within
20 30 days after the written settlement agreement has been reduced
21 to writing and signed by all parties thereto or within 30 days after
22 service of the arbitration award on the parties.

23 (f) The insurer shall notify the claimant, or if the claimant is
24 represented by counsel, the insurer shall notify the claimant’s
25 attorney, that the report required by this section has been sent to
26 the agency. If the attorney has not received this notice within 45
27 days after the settlement was reduced to writing and signed by all
28 of the parties, the arbitration award was served on the parties, or
29 the date of entry of the civil judgment, the attorney shall make the
30 report to the agency.

31 (g) Notwithstanding any other provision of law, no insurer shall
32 enter into a settlement without the written consent of the insured,
33 except that this prohibition shall not void any settlement entered
34 into without that written consent. The requirement of written
35 consent shall only be waived by both the insured and the insurer.

36 SEC. 3. Section 802.1 of the Business and Professions Code
37 is amended to read:

38 802.1. (a) (1) A physician and surgeon, an osteopathic
39 physician and surgeon, a doctor of podiatric medicine, and a

1 chiropractor shall report either of the following to the entity that
2 issued his or her license:

3 (A) The bringing of an indictment or information charging a
4 felony against the licensee.

5 (B) The conviction of the licensee, including any verdict of
6 guilty, or plea of guilty or no contest, of any felony or
7 misdemeanor.

8 (2) The report required by this subdivision shall be made in
9 writing within 30 days of the date of the bringing of the indictment
10 or information or of the conviction.

11 (b) Failure to make a report required by this section shall be a
12 public offense punishable by a fine not to exceed five thousand
13 dollars (\$5,000).

14 SEC. 4. Section 1005 of the Business and Professions Code is
15 amended to read:

16 1005. The provisions of Sections 12.5, 23.9, 27, 29.5, 30, 31,
17 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,
18 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5,
19 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,
20 710, 716, 730.5, 731, 801, 802.1, and 851 are applicable to persons
21 licensed by the State Board of Chiropractic Examiners under the
22 Chiropractic Act.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1415 **VERSION:** INTRODUCED FEBRUARY 21, 2008

AUTHOR: KUEHL **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: PATIENT RECORDS: MAINTENANCE AND STORAGE

Existing Law:

- 1) Defines "health care provider" to include a marriage and family therapist (MFTs) and a clinical social worker (LCSWs). (HSC § 123105 (a)(10) and (11))
- 2) Defines "patient records" as records, in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. (HSC § 123105(d))
- 3) Stipulates that a patient record does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying. (HSC §123105(d))
- 4) Permits a patient or patient representative to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. (HSC §123110(a))
- 5) Entitles a patient or patient's representative to copies of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, as specified. The health care provider shall ensure copies are transmitted within 15 days after receiving the written request. (HSC §123110(b))
- 6) Requires a health care provider who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical records to do so in a manner that preserves the confidentiality of the information contained therein. (CC §56.101)
- 7) Establishes a seven year record retention period for patient's' records in licensed clinics, nursing facilities, intermediate care facilities, adult day health day care and skilled nursing homes. (HSC §123145)
- 8) Stipulates that any health care provider, including MFTs, who willingly violates the procedures for providing access to health care records established in Chapter 1 (Commencing with Section 123100), of Part 1, of Division 106 of the Health and Safety Code is guilty of unprofessional conduct. (HSC §123110(i))

- 9) Defines unprofessional conduct pursuant to the provisions of the Clinical Social Worker Act, the Marriage and Family Therapy Act and the Educational Psychologist Practice Act to include willful violation of Chapter 1 (Commencing with Section 123100), of Part 1, of Division 106 of the Health and Safety Code and failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered. (BPC §4992.3(v) and(s), §4982(y) and (v), §(x) and (y))

This Bill:

- 1) Requires health care providers, as defined, to retain patient records for a minimum of 10 years from the date of their most recent use. (HSC § 123106(a))
- 2) Defines a health care provider for the provisions of this bill as the following: (HSC §123105)
 - a) A licensed health facility as defined in HSC section 1250;
 - b) A licensed clinic as defined in HSC section 1200;
 - c) A licensed home health agency as described in HSC section 1725;
 - d) A licensed physician and surgeon or osteopath;
 - e) A podiatrist;
 - f) A dentist;
 - g) A psychologist;
 - h) An optometrist;
 - i) A chiropractor; and,
 - j) A MFT.
- 3) Allows a health care provider to destroy patient records after 10 years if both of the following conditions are met: (HSC § 123106(b))
 - a) The health care provider obtains, at the time the initial patient record is created a signed statement from the patient that indicates whether the patient elects to provide for the archiving, or elects to have his or her records archived.
 - b) The health care provider notifies the patient at least 60 days in advance of destroying the patient's records, and the patient is informed at that time of his or her rights to archive the records.
- 4) Allows a health care provider to charge a patient for the actual costs incurred by the health care provider for archiving the patient's records. (HCS § 123106(d))

Comment:

- 1) **Author's Intent.** According to the author, current law regarding the retention of medical records lacks any broad requirements that records be kept for a set length of time. Additionally, though a physician is required by law to reply to a patient's request for his or her records, the physician is under no obligation to inform patients prior to the destruction of

their medical records. The author asserts that this results in the destruction of valuable records without the knowledge or consent of the patient.

- 2) **Current Law Lacks Specific Record Retention Standard for Board Licensees.** Existing law contains a seven year record retention requirement for patients' records in health facilities, as defined, but does not provide for specific record retention standards in private practice.

Retention of patient records is important to track continuity of care, document patient treatments, and reference future treatments. Creating a standard for the profession would benefit both consumers and clinicians.

- 3) **Professional Associations.** The California Association Marriage and Family Therapist (CAMFT) recommends a minimum 7-year retention period for MFTs. The National Association of Social Workers (NASW) Code of Ethics section 3.04(d) states, "Social workers should store records following the termination of services to ensure reasonable future access. Records should be maintained for the number of years required by state statutes or relevant contracts." The National Association of School Psychologists has not published any recommendations pertaining to a time frame for records retention.
- 4) **Record Retention Requirement for Psychologists.** AB 2257 (Committee on Business and Professions), Chapter 89, Statutes of 2006, created a requirement for psychologists to maintain a patient's records for seven years from the patient's discharge date, or in the case of a minor, seven years after the minor reached 18 years of age (BPC §2919).
- 5) **Medical Records versus Psychotherapy Records.** The Confidentiality of Medical Information Act (CMIA) (commencing with Civil Code §56) provides for the maintenance and disclosure of medical information. And although CMIA defines psychotherapists as licensed health care providers within the general provisions of the act, other provisions of CMIA also recognizes the unique and sensitive nature of records maintained by those performing psychotherapy. Civil Code (CC) section 56.1007(c) has additional requirements for the disclosure of medical information when the health care provider is a psychotherapist. Moreover, CC section 56.104 specifies additional requirements to release medical information if the requested information specifically relates to the patient's participation in outpatient treatment with a psychotherapist. The Board may want to consider if information contained in the records of psychotherapists, recognized in CMIA to be unique and separate from conventional medical records, should have the same retention and disclosure requirements as other medical information, or if these records warrant different treatment due to the sensitive content therein.
- 6) **Implementation Concerns.** In addition to the record retention requirement, this bill contains provisions outlining procedures for record archival and patient notification of rights and responsibilities pertaining to that record archival. Provisions relating to record archival may create implementation issues for consumers and healthcare providers. The following concerns may pose possible implementation issues:

- a. Language in Health and Safety Code (HSC) section 123106(b) states that at the time the record is created the patient must decide if they wish to have the record archived after the ten year retention period (that begins from most recent "use"). The meaning of "use" in this provision is unclear. Without a definition of the word "use" this provision may invite varying interpretations of what is required of health providers. For example, this provision could be interpreted to mean that a record

is destroyed 10 years from the last visit or 10 years from the last time the record was accessed by a health care professional.

- b. In the language referenced above, the patient must make a decision upon their first interaction with the clinician if they would like to have their medical record retained after 10 years. Specifically in the case of a client seeking psychotherapeutic services the client may not know if they would like to retain the records, unsure what information may be in that record from the course of treatment with the psychotherapist. Additionally, this bill does not provide for a subsequent opportunity to sign the archival request or withdrawal an archival request.
 - c. HSC section 123106(b) states that the patient has the option to request that his or her records be archived or to provide for archiving the records, however, in the same subdivision, the signed statement only allows the patient to elect to provide for the archiving. It is unclear if the intent is to allow the patient to only choose to archive the records themselves or to select that the health care provider provide the archival.
 - d. HSC section 123106(c) states that 60 days before the destruction of patient records that healthcare provider must notify the patient that the records are scheduled to be destroyed, and that the patient has the right to have the records archived. However, it is unclear if this provision applies to all patients, patients that did not sign the archival request or patients that did sign the archival request. It seems reasonable that if an archival request was signed, subsequently the records would not be set for destruction and therefore those particular clients would not receive a notification of pending record destruction.
 - e. HSC section 123106(d) provides that a patient may be charged for the actual cost incurred by the health care provider for archiving the patient's records, at the patient's request. However, if the request was signed over ten years prior, and no notification was given to the patient that the archival was going to happen (as in the above scenario), this may unintentionally make the patient liable for costs they did not intend to incur.
- 7) Lack of Consistency for Board Licensees.** This bill as currently drafted applies only to MFTs. Having different standards for licensees under the Board creates confusion for both consumers and practitioners. It is important that consumers know exactly what to expect from their health care provider in terms of record retention, storage and disclosure rights under the law. It is also important that board licensees are clear on their responsibilities relating to record retention. Because all licensees of the Board maintain the same type of patient records it stands to reason that consumers should have the same rights in terms of retention, maintenance and access regardless of the practitioner that provides the psychotherapy services.
- 8) Suggested Amendments.** Staff suggests that the bill either be expanded to include both LCSWs and LEPs or narrowed by striking the current reference to MFTs in order to create consistent requirements for all Board licensees.

Additionally, Health and Safety Code section 123110(i), not currently included in the text of this bill, stipulates that health care providers as defined who willfully violates the procedures for providing access to health care records set forth in the Health and Safety Code are guilty of unprofessional conduct. However, this section again does not include LCSWs or LEPs.

Staff suggests that Health and Safety code section 123110(i) also be amended to apply to LCSWs and LEPs.

9) Support and Opposition.

Unknown at this time.

10) History

2008

Mar. 13 Set for hearing April 2.

Mar. 6 To Coms. on HEALTH and JUD.

Feb. 23 From print. May be acted upon on or after March 24.

Feb. 21 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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Introduced by Senator KuehlFebruary 21, 2008

An act to add Section 123106 to the Health and Safety Code, relating to patient records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1415, as introduced, Kuehl. Patient records: maintenance and storage.

Existing law establishes procedures for providing access to various types of health care records, including patient records, as defined, by patients and persons having responsibility for decisions respecting the health care of others. Existing law gives health care providers, as defined, various responsibilities in connection with providing access to these records.

This bill would require certain health care providers who create patient records to maintain those records for a minimum of 10 years, and would allow a patient to elect to have his or her records archived, as specified, once the required maintenance period has expired. The bill would authorize a health care provider to charge a patient for the actual costs incurred in archiving the records at the patient's request. The bill would require the health care provider to inform the patient of his or her rights under the bill, as specified, both at the time the initial patient record is created, and at least 60 days before the patient's records are destroyed.

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 123106 is added to the Health and Safety
2 Code, to read:

3 123106. (a) A health care provider described in paragraphs
4 (4) to (10), inclusive, of Section 123105, who creates patient
5 records, as defined in subdivision (d) of Section 123105, shall
6 retain the patient records for a minimum of 10 years from the date
7 of their most recent use. Subject to subdivisions (b) and (c), the
8 health care provider may destroy patient records after 10 years.

9 (b) At the time the initial patient record is created, the patient
10 may elect to have his or her records archived, or to provide for the
11 archiving of the records, electronically, via paper, or at a storage
12 facility, once the maintenance period provided for under this
13 section has expired. At this time, the health care provider shall
14 obtain a signed statement from the patient, or the patient's
15 representative, that sets forth the patient's rights under this section,
16 and indicates whether the patient elects to provide for the archiving
17 of his or her records as provided in this subdivision.

18 (c) No fewer than 60 days before a patient's records are
19 destroyed, the health care provider shall notify the patient, via
20 certified mail, electronic mail, or both, to the patient's last known
21 mailing or electronic mail address, or both. The notification shall
22 inform the patient that his or her records are scheduled to be
23 destroyed, and shall inform the patient of his or her rights under
24 this section.

25 (d) A health care provider may charge a patient for the actual
26 costs incurred by the health care provider for archiving the patient's
27 records at the patient's request under this section. However, nothing
28 in this section shall be construed to authorize a health care provider
29 to charge a patient for maintenance of any patient records that the
30 health care provider is obligated by law to maintain.

O

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To: Policy and Advocacy Committee

Date: April 7, 2008

From: Mona Maggio
Assistant Executive Officer

Telephone: (916) 574-7841

**Subject: Review and Possible Action to Recommend Revisions to the Board's
Disciplinary Guidelines**

Overview

The Board of Behavioral Sciences is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. One of the Board's highest priorities is to protect consumers by employing its authority to investigate complaints and take disciplinary action against licensees, registrants and applicants for licensure who endanger the health and safety of the consumer.

Business and Professions Code Sections 4982, 4989.54, and 4992.3 specify the grounds for which the Board may discipline a Marriage and Family Therapist, Licensed Clinical Social Worker, Licensed Educational Psychologist, Marriage and Family Therapist Intern, and Associate Clinical Social Worker.

The Board's Disciplinary Guidelines are utilized by Board staff, Deputy Attorneys General, Administrative Law Judges, licensees and attorneys to assist in determining the penalties in the disciplinary process against Marriage and Family Therapists, Licensed Clinical Social Workers, Licensed Educational Psychologists, Marriage and Family Therapist Interns, and Associate Clinical Social Workers.

The Disciplinary Guidelines indicate the minimum and maximum discipline that may be imposed for each violation of the Board's statutes and regulations. The Disciplinary Guidelines also contain standard and optional terms and conditions that may be imposed if the respondent is placed on probation. "Standard" terms and conditions of probation are applied in all settlements where a period of probation is granted. The "optional" terms and conditions of probation are incorporated in the settlement based on the circumstances specific to the case.

The Board's Disciplinary Guidelines are incorporated by reference in the California Code of Regulations, Division 18, Title 16, Section 1888. The Board adopted Disciplinary Guidelines in 1997. The most recent revision was in May 2004.

At the July 2007 Consumer Protection Committee Meeting, Judy Johnson and Victor Perez volunteered to review the current Disciplinary Guidelines and determine if the recommended penalties are appropriate for

the violations and to suggest revisions where necessary. At today's meeting they will share their findings with the committee.

Suggested revisions from the Enforcement Analysts are noted in the attached Disciplinary Guidelines. Proposed additions are provided in blue underlined text and suggested deletions are identified in red strikeout text.

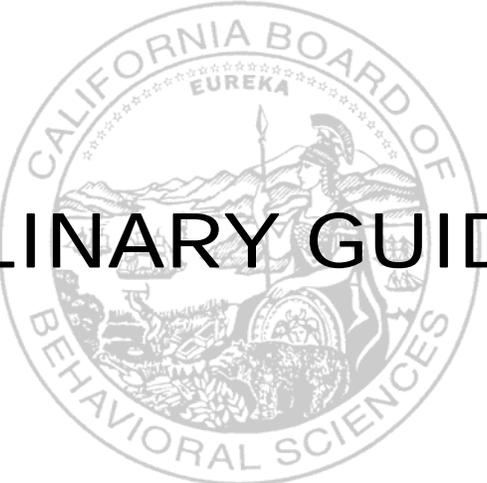
Requested Action

Please provide comments and suggestions on this issue, direct staff to finalize revisions and make a recommendation to the Board to begin the regulatory process to amend California Code of Regulations, Division 18, Title 16, Section 1888.

Attachment:

Disciplinary Guidelines (revised May 21, 2004)

State of California
Department of Consumer Affairs
Board of Behavioral Sciences

The seal of the California Board of Behavioral Sciences is a circular emblem. It features a central figure, likely a personification of Justice or a similar allegorical figure, holding a scale and a sword. The figure is set against a background of a landscape with mountains and a body of water. The words "CALIFORNIA BOARD OF" are inscribed along the top inner edge of the circle, and "BEHAVIORAL SCIENCES" along the bottom inner edge. The word "EUREKA" is written in the center of the seal, above the figure.

DISCIPLINARY GUIDELINES

Revised: May 21, 2004

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INTRODUCTION

The Board of Behavioral Sciences (hereinafter “the Board”) is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. In keeping with its mandate, the Board has adopted the following recommended guidelines for the intended use of those involved in the disciplinary process: Administrative Law Judges, ~~licensees~~ respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

These guidelines consist of two parts: an identification of the types of violations and range of penalties, for which discipline may be imposed (Penalty Guidelines); and model language for proposed terms and conditions of probation (Model Disciplinary Orders).

The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation.

These penalty guidelines apply only to the formal disciplinary process and do not apply to other alternatives available to the Board, such as citations and fines. See Business and Professions Code Section 125.9 and Title 16 California Code of Regulations Section 1886.

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PENALTY GUIDELINES

The following is an attempt to provide information regarding violations of [laws](#) [statutes and regulations](#) under the jurisdiction of the Board of Behavioral Sciences and the appropriate range of penalties for each violation. Each penalty listed is followed in parenthesis by a number, which corresponds with a number under the chapter “Model Disciplinary Orders.” Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations. Optional conditions listed are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be imposed where appropriate. The Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

<p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p align="center">Violation Category</p>	<p align="center">Minimum Penalty</p>	<p align="center">Maximum Penalty</p>
MFT: B&P § 4982.26 LCSW: B&P § 4992.33 LEP: B&P § 4986.74 B&P § 4989.58 GP: B&P § 729	Engaging in Sexual Contact with Client / Former Client The Board considers this reprehensible offense to warrant revocation/denial.	<ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery. 	<ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery. <p>The Board considers this reprehensible offense to warrant revocation.</p>
MFT: B&P § 4982(k), 4982.26 LCSW: B&P § 4992.3(k), 4992.33 CCR § 1881(f) LEP: B&P § 4986.74 CCR § 1858(h) LEP B&P § 4989.58 B&P § 4989.54(n) GP: B&P § 480, 726	Sexual Misconduct (Anything other than as defined in B&P Section 729) The Board considers this reprehensible offense to warrant revocation/denial.	<ul style="list-style-type: none"> Revocation stayed 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation successful completion the required Take and pass licensure examinations as a condition precedent to resumption of practice 7 years probation Standard terms and conditions Psychological/psychiatric evaluation as a condition precedent to resumption of practice Supervised practice Psychotherapy Education Take and pass licensure examination Reimbursement of probation program <p>And if warranted, enter and complete a rehabilitation program approved by the Board; abstain from controlled substances/use of alcohol, submit to biological fluid testing and samples; restricted practice, reimbursement of probation program costs.</p>	<ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery. <p>(See B&P 4982.26, 4986.74, 4989.58 4992.33)</p> <p>The Board considers this reprehensible offense to warrant revocation.</p>

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(k) LCSW: B&P § 4992.3(k) CCR § 1881(f) LEP: B&P § 4989.54(n) CCR § 1858(h) GP: B&P § 480	Commission of an Act Punishable as a Sexually Related Crime	<ul style="list-style-type: none"> • Revocation stayed • 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation • Psychotherapy • 5 years probation; standard terms and conditions • Psychological/psychiatric evaluation as a condition precedent to the resumption of practice • Supervised practice • Education • Cost recovery • Reimbursement of probation program costs And if warranted, restricted practice.	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.
MFT: B&P § 4982(c), 4982.1 LCSW: B&P § 4992.3(c), 4992.35 LEP: B&P § 4986.70(c) , 4989.26 4986.75 GP: B&P § 480, 820	Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation • 5 years probation; standard terms and conditions • Supervised practice • Cost recovery • Reimbursement of probation program costs. <u>In addition:</u> <ul style="list-style-type: none"> • MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy. • PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice • 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.

		<ul style="list-style-type: none">• CHEMICAL DEPENDENCY Psychological/psychiatric evaluation; therapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to biological fluid tests and samples; and if warranted: restricted practice.	
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<p><u>Statutes and Regulations</u> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p>Violation Category</p>	<p>Minimum Penalty</p>	<p>Maximum Penalty</p>
<p>MFT: B&P § 4982(c), 4982.1 LCSW: B&P § 4992.3(c), 4992.35 LEP: B&P § 4986.70(c), 4986.75 4989.54(c), 4989.56 GP: B&P § 480</p>	<p>Chemical Dependency / Use of Drugs With Client While Performing Services</p>	<ul style="list-style-type: none"> • Revocation stayed • 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation • 5 years probation • Standard terms and conditions • Psychological/psychiatric evaluation • Supervised practice • Education • Supervised practice • Education • Rehabilitation program • Abstain from controlled substances • Submit to biological fluid test and samples • Cost recovery • Reimbursement of probation program costs <p>And if warranted, psychotherapy; restricted practice</p>	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.
<p>MFT: B&P § 4982(i) LCSW: B&P § 4992.3(i) CCR § 1881(d) LEP: B&P § 4989.54(m) CCR § 1858(d) GP: B&P § 480</p>	<p>Intentionally / Recklessly Causing Physical or Emotional Harm to Client</p>	<ul style="list-style-type: none"> • Revocation stayed • 90-120 days actual suspension • 5 years probation • Standard terms and conditions • Supervised practice • Education • Take and pass licensure examinations • Cost recovery • Reimbursement of probation program costs <p>And if warranted, psychological/psychiatric evaluation; psychotherapy, restricted practice.</p>	<ul style="list-style-type: none"> • Revocation / Denial of license or registration application • Cost recovery

<u>Statutes and Regulations</u> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(d) LCSW: B&P § 4992.3(d) CCR § 1881(m) LEP: B&P § 4989.54(k) GP: B&P § 480	Gross Negligence / Incompetence	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension; 5 years probation • Standard terms and conditions; supervised practice • Education • Take and pass licensure examinations • Cost recovery • Reimbursement of probation program costs; And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to biological fluid testing; restricted practice. 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.
MFT: B&P § 4982 CCR § 1845 LCSW: B&P § 4992.3 CCR § 1881 LEP: B&P § 4986.70 , B&P § 4989.54 CCR § 1858 GP: B&P § 125.6 480, 821	General Unprofessional Conduct	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension • 3-5 years probation • Standard terms and conditions • Supervised practice • Education • Cost recovery; reimbursement of probation program And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to biological fluid testing; restricted practice, law and ethics course.	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.

<p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p align="center">Violation Category</p>	<p align="center">Minimum Penalty</p>	<p align="center">Maximum Penalty</p>
<p>MFT: B&P § 4980.40(h), 4982(a) LCSW: B&P § 4992.3(a), 4996.2(d), 4996.18(a) LEP: B&P § 4986.20(c), 4986.70(a) B&P § 4989.20(a)(3), 4989.54(a) GP: B&P § 480, 490, 493</p>	<p>Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee / Registrant</p>	<ul style="list-style-type: none"> • Revocation stayed • 60 days actual suspension • 5 years probation • Standard terms and conditions • Supervised practice • Education • Cost recovery • Reimbursement of probation program costs (Costs and conditions of probation depend on the nature of the criminal offense). <p>CRIMES AGAINST PEOPLE: Add: Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation program; restricted practice.</p> <p>DRUGS AND ALCOHOL: Add: Psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to biological fluid testing; and if warranted: restricted practice.</p> <p>FISCAL AND PROPERTY CRIMES: Add: Restitution, and if warranted: psychotherapy; take and pass licensure exams; rehabilitation program; restricted practice.</p>	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(j) LCSW: B&P § 4992.3(j) CCR § 1881(e) LEP: B&P § 4986.70(f) 4989.54(g) CCR § 1858(e) GP: B&P § 480, 650, 810	Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License	<ul style="list-style-type: none"> • Revocation stayed • 30-60 days actual suspension • 3-5 years probation • Standard terms and conditions • Education • Cost recovery • Law and ethics course • Reimbursement of probation program costs And if warranted. psychological/psychiatric evaluation; supervised practice; psychotherapy; take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.
MFT: B&P § 4980.02, 4982(l), 4982(s), 4982(t) CCR § 1845(a), 1845(b) LCSW: B&P § 4992.3(l) 4996.9 CCR § 1881(g), 1881(h) LEP: B&P § 4986.10 , 4989.14 4989.54(r) CCR § 1858(i) , 1858(b) 1858(j) GP: B&P § 480	Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	<ul style="list-style-type: none"> • Revocation stayed • 30-60 days actual suspension • 3-5 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs And if warranted, psychological/psychiatric evaluation; supervised practice; psychotherapy, take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.
MFT: B&P § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4986.70 4989.54(h) , 4989.54(i) GP: B&P § 141, 480	Discipline by Another State or Governmental Agency	<ul style="list-style-type: none"> • Determine the appropriate penalty by comparing the violation under the other state with California law. And if warranted: take and pass licensure examinations as a condition precedent to practice; reimbursement of probation program costs.	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.
MFT: B&P § 4982(b) LCSW: B&P § 4992.3(b), B&P § 4992.7 LEP: B&P § 4986.70(b) 4989.54(b) GP: B&P § 480, 498, 499	Securing or Attempting to Secure a License by Fraud	<ul style="list-style-type: none"> • Revocation / Denial of license or registration application; • Cost recovery. 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.

<p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p align="center">Violation Category</p>	<p align="center">Minimum Penalty</p>	<p align="center">Maximum Penalty</p>
MFT: B&P § 4980, 4982(f) CCR § 1845(a), 1845(b) LCSW: B&P § 4992.3(f), 4996 CCR § 1881(a) LEP: B&P § 4986.50 4989.54(l) CCR § 1858(a), 1858(g) GP: B&P § 480	Misrepresentation of License / Qualifications	<ul style="list-style-type: none"> • Revocation stayed • 60 days actual suspension • 3-5 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs And if warranted: take and pass licensure examinations.	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.
MFT: B&P § 4982(q) LCSW: B&P § 4992.3(q) CCR § 1881(l) LEP: CCR § 1858(n) GP: B&P § 123, 480, 496	Violates Exam Security / Subversion of Licensing Exam	<ul style="list-style-type: none"> • Revocation stayed • 5 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery
MFT: B&P § 4982(g) LCSW: B&P § 4992.3(g), 4992.7 CCR § 1881(b) LEP: CCR § 1858(b), 1858(g) 1858(a) GP: B&P § 119, 480	Impersonating Licensee / Allowing Impersonation	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension • 5 years probation • Supervised practice • Standard terms and conditions • Psychological/psychiatric evaluation • Psychotherapy • Cost recovery • Reimbursement of probation costs 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery
MFT: B&P § 4982(h) LCSW: B&P § 4992.3(h) CCR § 1881(c) LEP: CCR § 1858(e) B&P § 4989.54 (t) GP: B&P § 125, 480	Aiding and Abetting Unlicensed / Unregistered Activity	<ul style="list-style-type: none"> • Revocation stayed • 30-90 days actual suspension • 3-5 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs And if warranted: supervised practice.	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(m) LCSW: B&P § 4992.3(m) CCR § 1881(i) LEP: CCR § 1858(k) B&P § 4989.54 (q) GP: B&P § 480	Failure to Maintain Confidentiality	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension • 3-5 years probation • Standard terms and conditions • Education • Take and pass licensure exams • Cost recovery • Reimbursement of probation program costs 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery
MFT: B&P § 728 LCSW: B&P § 728 LEP: GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	<ul style="list-style-type: none"> • Revocation stayed • 1-3 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs. 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery
MFT: B&P § 4982(r), 4982(t), 4982(u) CCR § 1833.1, 1845(b) LCSW: B&P § 4992.3(r) CCR § 1881(h) LEP: CCR § 1858(j)	Improper Supervision of Trainee / Intern / Associate / Supervisee	<ul style="list-style-type: none"> • Revocation stayed • 30-90 days actual suspension • 2 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs And if warranted: supervised practice. 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery
MFT: B&P § 4982(e), 4982(u) LCSW: B&P § 4992.3(e), 4992.3(r) LEP: B&P § 4986.70(e) 4989.54(f) GP: B&P § 480	Violations of the Chapter or Regulations by licensees or Registrants / Violations Involving Acquisition and Supervision of Required Hours of Experience	<ul style="list-style-type: none"> • Revocation stayed • Registration on probation until exams are passed and license issued • License issued on probation for one year • Rejection of all illegally acquired hours • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs. 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(o) LCSW: B&P § 4992.3(o) CCR § 1881(n) LEP: B&P § 4989.54(p) GP: B&P § 650	Pay, Accept, Solicit Fee for Referrals	<ul style="list-style-type: none"> • Revocation stayed • 3-5 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs • Law and Ethics course 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery
MFT: B&P § 4982(n) LCSW: B&P § 4992.3(n) CCR § 1881(j) LEP: CCR § 1858(l) B&P § 4989.54(0)	Failure to Disclose Fees in Advance	<ul style="list-style-type: none"> • Revocation stayed • 1 year probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program 	<ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 2 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program
MFT: B&P § 4980.46, 4982(p) LCSW: B&P § 4992.3(p) CCR § 1881(k) LEP: B&P § 4986.70(d) CCR § 1858(m) B&P § 4989.54(e) ALL: CCR § 1811 GP: B&P § 480, 651, 17500	False / Misleading / Deceptive / Improper Advertising	<ul style="list-style-type: none"> • Revocation stayed • 1 year probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program 	<ul style="list-style-type: none"> • Revocation stayed • 30-60 days actual suspension • 5 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs
MFT: B&P § 4982(v) LCSW: B&P § 4992.3(s) LEP: B&P § 4986.70(i) 4989.54(l)	Failure to Keep Records Consistent with Sound Clinical Judgment	<ul style="list-style-type: none"> • Revocation stayed • 1 year probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program 	<ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 1-3 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs

<u>Statutes and Regulations</u> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(y) LCSW: B&P § 4992.3(v) LEP: B&P § 4989.54(x)	Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code	<ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 1-3 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs 	<ul style="list-style-type: none"> • Revocation stayed • 1 year probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs
MFT: B&P § 4982(z) LCSW: B&P § 4992.3(w)	Failure To Comply With Section 2290.5 (Telemedicine)	<ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 1-3 years probation • Standard terms and conditions • Education • Cost recovery • Reimbursement of probation program costs 	<ul style="list-style-type: none"> • Revocation stayed • 1 year probation • Standard terms and conditions • Education • Cost recovery; • Reimbursement of probation program costs.

MODEL DISCIPLINARY ORDERS

Model Disciplinary Orders are divided into two categories. The first category consists of **Optional Terms and Conditions of Probation** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the **Standard Terms and Conditions of Probation** which must appear in all Proposed Decisions and proposed stipulated agreements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-16) that are being imposed be listed first in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (17- 32).

OPTIONAL TERMS AND CONDITIONS OF PROBATION

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

1. Actual suspension
2. Psychological / Psychiatric evaluation
3. Psychotherapy
4. Supervised Practice
5. Education
6. Take and Pass licensure examinations
7. Rehabilitation Program
8. Abstain from Controlled Substances/Submit to Biological Fluid Testing and Samples
9. Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples
10. Restricted Practice
11. Restitution
12. Reimbursement of Probation Program
13. Physical Evaluation
14. Monitor Billing System
15. Monitor Billing System Audit
16. Law and Ethics Course

1. Actual Suspension

A. Commencing from the effective date of this decision, respondent shall be suspended from the practice of _____ for a period of ____ days.

OR

B. Commencing from the effective date of this decision, respondent shall be suspended from the practice of _____ for a period of ____ days, and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation, to implement any recommendations from that evaluation, and to successfully complete the required licensure examinations as a condition precedent to resumption of practice as outlined in condition # _____ (Take and pass licensure examinations).

2. Psychological / Psychiatric Evaluation

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a psychological or psychiatric evaluation by such licensed psychologists or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

Note: If supervised practice is not part of the order, and the evaluator finds the need for supervised practice, then the following term shall be added to the disciplinary order. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the respondent's practice will be supervised.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

(FYI: The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation).

3. Psychotherapy

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with respondent, nor shall the psychotherapist be the respondent's supervisor. Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

(FYI: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation).

4. Supervised Practice

Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor. The supervisor shall be a current California licensed practitioner in respondent's field of practice, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with respondent. Failure to file the required reports in a timely fashion shall be a violation of probation. Respondent shall give the supervisor access to respondent's fiscal and client records. [Supervision obtained from a probation supervisor shall not be used as experience gained toward licensure.](#)

If the supervisor is no longer available, respondent shall notify the Board within 15 days and shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per

week in individual face to face meetings. The supervisor shall not be the respondent's therapist.

[Optional - Respondent shall not practice until he/she has received notification that the Board has approved respondent's supervisor.]

5. Education

Respondent shall take and successfully complete the equivalency of ____ semester units in each of the following areas _____. All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, licensed clinical social worker or clinical psychologist. Classroom attendance must be specifically required; workshops are not acceptable. Course content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the decision respondent shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by the respondent. Units obtained for an approved course shall not be used for continuing education units required for renewal of licensure.

(FYI: This term is appropriate when the violation is related to record keeping, which includes but is not limited to: recordkeeping, documentation, treatment planning, progress notes, security of records, billing, and reporting requirements.)

6. Take and Pass Licensure Examinations

Respondent shall take and pass the licensure exam(s) currently required of new applicants for the license possessed by respondent. Respondent shall not practice until such time as respondent has taken and passed these examinations. Respondent shall pay the established examination fees. If respondent has not taken and passed the examination within twelve months from the effective date of this decision, respondent shall be considered to be in violation of probation.

7. Rehabilitation Program

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more rehabilitation program(s). Respondent shall enter a rehabilitation and monitoring program within fifteen (15) days after notification of the board's approval of such program. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant. Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random biological fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency

rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the respondent.

8. Abstain from Controlled Substances / Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to respondent's current employer and shall be a violation of probation.

9. Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. The respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the respondent's current employer and shall be a violation of probation.

10. Restricted Practice

Respondent's practice shall be limited to _____. Within 30 days from the effective date of the decision, respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify their supervisor of the restrictions imposed on their practice.

11. Restitution

Within 90 days of the effective date of this decision, respondent shall provide proof to the Board or its designee of restitution in the amount of \$_____ paid to _____.

12. Reimbursement of Probation Program

Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. [Reimbursement costs shall be \\$1200 per year/\\$100 per month.](#)

13. Physical Evaluation

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a physical evaluation by such licensed physicians as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such physician shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a therapist and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the physician to release all information to the Board. Respondent shall comply with the recommendations of the physician.

If a physical evaluation indicates a need for medical treatment, within 30 days of notification by the Board, respondent shall submit to the Board or its designee the name and qualifications of the medical provider, and a treatment plan by the medical provider by which the respondent's physical treatment will be provided.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

14. Monitor Billing System

Within 30 days of the effective date of this decision, respondent shall obtain the services of an independent billing system to monitor and document the dates and times of client visits. Clients are to sign documentation stating the dates and time of services rendered by respondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system service shall submit quarterly written reports concerning respondent's cooperation with this system. The cost of the service shall be borne by respondent.

15. Monitor Billing System Audit

Within 60 days of the effective date of this decision, respondent shall provide to the Board or its designee the names and qualifications of three auditors. The Board or its designee shall select one of the three auditors to annually audit respondent's billings for compliance with the Billing System condition of probation. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices. The cost of the audits shall be borne by respondent. Failure to pay for the audits in a timely fashion shall constitute a violation of probation.

16. Law and Ethics Course

Respondent shall take and successfully complete the equivalency of two semester units in law and ethics. Course work shall be taken at the graduate level at an accredited [or approved](#) educational institution [that offers a qualifying degree for licensure as a marriage and family therapist, licensed clinical social worker or clinical psychologist](#) as defined in Sections 4980.40 and 4996.18 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations. Classroom attendance must be specifically required; workshops are not acceptable. Within 90 days of the effective date of this Decision, respondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course must be taken and completed within one year from the effective date of this Decision. The costs associated with the law and ethics course shall be paid by the respondent. Units obtained for an approved course in law and ethics shall not be used for continuing education units required for renewal of licensure.

(FYI: This term is appropriate when the licensee fails to keep informed about or comprehend the legal obligations and/or ethical responsibilities applicable to their actions. Examples include violations involving boundary issues, transference/countertransference, breach of confidentiality and reporting requirements.)

STANDARD TERMS AND CONDITIONS OF PROBATION

The sixteen standard terms and conditions generally appearing in every probation case are as follows:

17. Obey All Laws
18. File Quarterly Reports
19. Comply with Probation Program
20. Interviews with the Board
21. Residing or Practicing Out-of-State
22. Failure to Practice- California Resident
23. Change of Place of Employment or Place of Residence
24. Supervision of Unlicensed Persons
25. Notification to Clients
26. Notification to Employer
27. Violation of Probation
28. Maintain Valid License
29. License Surrender
30. Instruction of Coursework Qualifying for Continuing Education
31. Notification to Referral Services
32. Cost Recovery

Specific Language for Standard Terms and Conditions of Probation

(To be included in all Decisions)

17. Obey All Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

18. File Quarterly Reports

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether he/she has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.

19. Comply with Probation Program

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

20. Interviews with the Board

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

21. Residing or Practicing Out-of-State

In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, ~~4986.10~~ [4989.14](#) or 4996.9 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in practice within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California total two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

(OPTIONAL)

Any respondent disciplined under Business and Professions Code Sections 141(a), 4982.25, 4992.36 or ~~4986.70~~ [4989.54\(h\)](#), [4989.54\(i\)](#) (another state discipline) may petition for modification or termination of penalty: 1) if the other state's discipline terms are modified, terminated or reduced; and 2) if at least one year has elapsed from the effective date of the California discipline.

22. Failure to Practice- California Resident

In the event respondent resides in the State of California and for any reason respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30

calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, 4986.10 or ~~4996.9~~ [4989.14](#) of the Business and Professions Code.

23. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

24. Supervision of Unlicensed Persons

While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision.

25. Notification to Clients

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).

26. Notification to Employer

Respondent shall provide each of his or her current or future employers, when performing services that fall within the scope of practice of his or her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

27. Violation of Probation

If respondent violates the conditions of his/her probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation/suspension) of respondent 's license [or registration] provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's license [or registration] or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's license [or registration] shall be fully restored.

28. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.

29. License Surrender

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure, respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants.

30. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

31. Notification to Referral Services

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

32. Cost Recovery

Respondent shall pay the Board \$_____ as and for the reasonable costs of the investigation and prosecution of Case No. _____. Respondent shall make such payments as follows: [Outline payment schedule.] Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the cost recovery payment for Case No. _____. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, respondent shall be considered to be in violation of probation. A period of non-practice by respondent shall not relieve respondent of his or her obligation to reimburse the board for its costs.

[Cost recovery must be completed six months prior to the termination of probation.](#)

BOARD POLICIES AND GUIDELINES

ACCUSATIONS

The Board of Behavioral Sciences (Board) has the authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. The Board requests that this fact be included in the pleading and made part of the accusation.

STATEMENT OF ISSUES

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee would be cause for license discipline.

STIPULATED SETTLEMENTS

The Board will consider entering into stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. The respondent should be informed that in order to stipulate to settlement with the Board, he or she may be required to admit to the violations set forth in the Accusation. The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

RECOMMENDED LANGUAGE FOR LICENSE SURRENDERS

~~"Admission(s) made in the stipulation are made solely for the purpose of resolving the charges in the pending accusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation."~~

~~The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its decision and order.~~

Contingency

This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his/her counsel. By signing the stipulation, Respondent understands and agrees that he/she may not withdraw his/her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

Respondent fully understands that when the Board adopts the license surrender of respondent's license, respondent will no longer be permitted to practice as a _____ in California. Respondent further understands that the license surrender of his or her license, upon adoption, shall be considered to be a disciplinary action and shall become a part of respondent 's license history with the Board.

The respondent further agrees that with the adoption by the Board of his or her license surrender,

respondent may not petition the Board for reinstatement of the surrendered license.

Should respondent at any time after this surrender ever reapply to the Board for licensure, respondent must meet all current requirements for licensure including, but not limited, to filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants.

Respondent understands that should he or she ever reapply for licensure as a _____ or should he or she ever apply for any other registration or licensure issued by the Board, or by the Board of Psychology, all of the charges contained in Accusation No. _____ shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication."

RECOMMENDED LANGUAGE FOR REGISTRATION APPLICANTS

IT IS HEREBY ORDERED THAT Respondent _____ be issued a Registration as a _____ . Said Registration shall be revoked. The revocation will be stayed and Respondent placed on _____ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is issued a subsequent registration or becomes licensed during the probationary period.

RECOMMENDED LANGUAGE FOR REGISTRANTS

IT IS HEREBY ORDERED THAT _____ Registration Number _____ issued to Respondent _____ is revoked. The revocation will be stayed and respondent placed on _____ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is issued a subsequent registration or becomes licensed during the probationary period.

Proposed Decisions

The Board requests that proposed decisions include the following if applicable:

- A. Names and addresses of all parties to the action.
- B. Specific Code section violated with the definition of the code in the Determination of Issues.
- C. Clear description of the acts or omissions that constitute a violation.
- D. Respondent's explanation of the violation in the Findings of fact if he or she is present at the hearing.
- E. Explanation for deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the Order first list the Optional Terms and Conditions (1-16) followed by the Standard Terms and Conditions [\(17-22\)](#) as they may pertain to the particular case. If the respondent fails to appear for his or her scheduled hearing or does not submit a notice of defense, such inaction shall result in a default decision to revoke licensure or deny application.

REINSTATEMENT / REDUCTION OF PENALTY HEARINGS

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Suspensions or Revocations identified in Title 16, California Code of Regulations Section 1814, and (2) the evidence presented by the petitioner of his or her rehabilitation. The Board is not interested in retrying the original revocation or probation case. The Board shall consider, pursuant to Section 1814, the following criteria of rehabilitation:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any acts committed subsequent to the acts or crimes under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the acts or crimes giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent, or immaterial.
- (7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.
- (8) Evidence, if any, of rehabilitation submitted by the licensee.

In the Petition Decision the Board requires a summary of the offense and the specific codes violated which resulted in the revocation, surrender, or probation of the license.

In petitioning for Reinstatement or Reduction of Penalty under Business and Professions Code Section 4982.2, the petitioner has the burden of demonstrating that he or she has the necessary and current qualifications and skills to safely engage in the practice of marriage and family therapy, clinical social work, or educational psychology within the scope of current law, and accepted standards of practice. In reaching its determination, the Board considers various factors including the following:

- A. The original violations for which action was taken against the petitioner's license;
- B. Prior disciplinary and criminal actions taken against the petitioner by the Board, any State, local, or Federal agency or court;
- C. The petitioner's attitude toward his or her commission of the original violations and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts;
- D. The petitioner's documented rehabilitative efforts;
- E. Assessment of the petitioner's rehabilitative and corrective efforts;
- F. In addition, the Board may consider other appropriate and relevant matters not reflected above.

If the Board should deny a request for reinstatement of a revoked license or reduction of penalty

(modification or termination of probation), the Board requests the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial.

If a petitioner fails to appear for his or her scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the petitioner's presence and the Board will issue a decision based on the written evidence and oral presentations submitted.

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To: Policy and Advocacy Committee Members

Date: April 7, 2008

From: Tracy Rhine
Legislation Analyst

Telephone: (916) 574-7847

Subject: Clarifying Unprofessional Conduct Statutes

In reviewing the statutes and regulations relating to unprofessional conduct of board licensees, staff has discovered several provisions that the board may want to consider amending to add clarity for both consumers and licensees.

Unprofessional conduct for subversion of licensing exam

Background: Business and Professions Code (BPC) section 123 makes it is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination. The text of BPC section 123 in full is attached.

BPC section 4982 defines unprofessional conduct as it relates to the practice of Marriage and Family Therapist (MFTs). Similarly, BPC section 4989.54 defines unprofessional conduct for individuals practicing as Licensed Educational Psychologists (LEPs) and BPC section 4992.3 outlines unprofessional conduct for Licensed Clinical Social Workers (LCSWs). The text of all three unprofessional conduct statutes is attached. Unprofessional conduct contained in the licensing acts of board licensees does not currently stipulate that subversion of the exam process, as defined in BPC section 123, is an act of unprofessional conduct.

Problem: Although BPC section 123 provides that subversion of the examination process is a misdemeanor, the unprofessional conduct statutes currently in place do not expressly provide that this act is unprofessional conduct, and thereby, cause for disciplinary action by the board, including denial of a license or suspension or revocation of a license.

It could be argued that the board may take disciplinary action against an applicant or licensee under the current unprofessional conduct statute that provides that any conviction of a crime substantially related to the qualification, functions or duties of a licensee of registrant in considered unprofessional conduct. However, in order for the board to take action against an applicant or licensee under this authority, the individual would have to be convicted of the crime contained in BPC section 123. With the burgeoning workload of the criminal justice system it is doubtful that many, if any, misdemeanors are brought against individuals for subversion of the examination process.

Recommendation: Staff recommends adding a provision to the unprofessional conduct statutes of each of the practice acts specifying that the acts contained in BPC section 123 represent unprofessional conduct, and are cause for disciplinary action by the Board. The following is suggested language to add to BPC sections 4982, 4989.54 and 4992.3:

“Engaging in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination as defined in Section 123.”

Inconsistent provisions relating to convictions

Background: The unprofessional conduct statutes for all three licensing categories under the jurisdiction of the board contain provisions stipulating that the board may deny a license or may suspend or revoke a license of a licensee if he or she has been guilty of unprofessional conduct, as defined. Included in the provisions describing unprofessional conduct is the following:

- *Conviction of a crime substantially related to the qualifications, functions and duties of the licensee or registrant.*
- *Administering to himself or herself a controlled substance or using any of the dangerous drug specified in BPC section 4022 or an alcoholic beverage to the extent, or in a manner injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his in her ability to safely perform the functions authorized by the license.*

(Attached are the unprofessional conduct statutes of all three practice acts, in their entirety)

Another provision of unprofessional conduct contained in the practice acts of MFTs LCSWs and LEPs (in varying language) allows the board to deny licensure or to revoke or suspend licensure if a licensee has a conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of controlled substance, dangerous drug, as defined, or alcoholic beverage.

MFT and LCSW licensing law provisions outlining unprofessional conduct combine the above language and the provision relating to self administering of a controlled substance into one provision. The language is as follows: (BPC §4992.3(c) and BPC §4982(c))

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

Problem: The first issue is that the language contained in BPC sections 4992.3(c) and 4982(c) is confusing. Statute defining unprofessional conduct for LEPs in BPC section 4989.54 breaks up this one subdivision into two separate subdivisions as follows:

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person, or to the public, or, to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.

(d) Conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in subdivision (c) or any combination thereof.

The above language contained in the LEP unprofessional conduct statute is not verbatim the language contained in the MFT and LCSW unprofessional conduct statute relating to the same conduct, however, the meaning and interpretation is the same, which brings us to the second problem of inconsistency within the unprofessional conduct provisions of all Board licensees.

Current law allows the Board to deny a license or suspend or revoke a license of an individual if he or she has administered to himself or herself a controlled substance or used alcohol in a manner as to be dangerous or injurious to himself or herself or to any other person or to the public. The provision of unprofessional conduct (in all the licensing acts) that allows the board to deny, revoke or suspend a license for *more than one* substance use misdemeanor is in direct conflict with this provision. If it must be more than one conviction to be recognized as unprofessional conduct, a single substance use misdemeanor is therefore not unprofessional conduct. Taken in isolation, this provision would mean that the board cannot deny, suspend or revoke a license based on that misdemeanor conviction. However, this is contradictory to the provision outlined above relating to the self administration of controlled substances and injurious use of alcoholic beverages. A conviction for use of a dangerous drug or an alcoholic beverage, whether misdemeanor or felony, in itself means that the person convicted is administering in a manner or to the extent dangerous or injurious to himself or the public (in the case of a DUI) or is self-administering a controlled substance, and therefore should meet the threshold for unprofessional conduct.

Recommendation: Staff recommends that the unprofessional conduct provisions for all licensing categories be amended to make them comprehensible and consistent. Suggested revisions are as follows:

- Strike BPC section 4989.54(d) from the LEP unprofessional conduct provisions which reads *“Conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any substances referred to in subdivision (c) or any combination thereof.”*
- Recast MFT and LCSW unprofessional conduct statute to mirror language in the LEP practice act as follows:
 - Strike current BPC section 4982(c) and insert:
“ (c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.”
 - Strike current BPC section 4992.3(c) and insert:
“ (c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be

dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.”

Unprofessional conduct for failure to comply with statutes relating to Telemedicine

Background: BPC section 4992.3(w) and BPC section 4982(z) provide that it is unprofessional conduct for individuals licensed as LCSWs and MFTs, respectively, to fail to comply with BPC section 2290.5. The text of BPC section 2290.5 is attached.

Problem: The Educational Psychologist Practice Act does not include failure to comply with BPC section 2290.5 as unprofessional conduct for LEPs.

Recommendation: Staff recommends that the BPC section 4989.54 be amended to include the following language to create consistency with all Board licensees:

(y) Failure to comply with Section 2290.5.

ATTACHMENT

BPC 123

BPC 2295

BPC 4982

BPC 4989.54

BPC 4992.3

Business and Professions Code section 123.

It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

(a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.

In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

(c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

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Business and Professions Code section 2290.5.

(a) (1) For the purposes of this section, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient constitutes "telemedicine" for purposes of this section.

(2) For purposes of this section, "interactive" means an audio, video, or data communication involving a real time (synchronous) or near real time (asynchronous) two-way transfer of medical data and information.

(b) For the purposes of this section, "health care practitioner" has the same meaning as "licentiate" as defined in paragraph (2) of subdivision (a) of Section 805 and also includes a person licensed as an optometrist pursuant to Chapter 7 (commencing with Section 3000).

(c) Prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient or the patient's legal representative. The informed consent procedure shall ensure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing:

(1) The patient or the patient's legal representative retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the patient or the patient's legal representative would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telemedicine.

(3) All existing confidentiality protections apply.

(4) All existing laws regarding patient access to medical information and copies of medical records apply.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient or the patient's legal representative shall sign a written statement prior to the delivery of health care via telemedicine, indicating that the patient or the patient's legal representative understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient or the patient's legal representative shall become part of the patient's medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) All existing laws regarding surrogate decisionmaking shall

apply. For purposes of this section, "surrogate decisionmaking" means any decision made in the practice of medicine by a parent or legal representative for a minor or an incapacitated or incompetent individual.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the telemedicine interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available in a timely manner.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections or any other correctional facility.

(k) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

§4982. UNPROFESSIONAL CONDUCT

The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may 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 to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, 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.

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

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

(d) Gross negligence or incompetence in the performance of marriage and family therapy.

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

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

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

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

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

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

(k) 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 sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage and family therapist.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

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

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

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

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

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

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

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or

experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

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

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

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

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

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

(y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(z) Failure to comply with Section 2290.5.

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4989.54. UNPROFESSIONAL CONDUCT

The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may 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 to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or 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.

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

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.

(d) Conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in subdivision (c) or any combination thereof.

(e) Advertising in a manner that is false, misleading, or deceptive.

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

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker or marriage and family therapist.

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

(k) Gross negligence or incompetence in the practice of educational psychology.

(l) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(m) Intentionally or recklessly causing physical or emotional harm to any client.

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

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

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

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

(x) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

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§4992.3. UNPROFESSIONAL CONDUCT; EFFECT ON LICENSEE OR REGISTRANT

4992.3. The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may 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 to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, 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.

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

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Gross negligence or incompetence in the performance of clinical social work.

(e) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the

person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

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

(h) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

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

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

(k) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(l) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

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

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

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

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

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

test or device.

(r) Any conduct in the supervision of any registered associate clinical social worker or intern by any licensee that violates this chapter or any rules or regulations adopted by the board.

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

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

(u) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(v) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(w) Failure to comply with Section 2290.5.

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To: Policy and Advocacy Committee

Date: April 7, 2008

From: Sean O'Connor
Board of Behavioral Sciences

Telephone: (916) 574-7863

Subject: Draft Study Guides

Background

Board staff has prepared two draft study guides for future MFTs and LCSWs. The study guides include general tips and information, sample questions, and examination content outlines. These study guides will provide information in addition to what is currently offered in the Examination Candidate Handbooks.

MFT and LCSW subject matter experts reviewed and commented on prior versions of these draft study guides. The Office of Examination Resources provided the sample questions included in the study guides.

NOTE: An LEP version of the study guide will also be available in the future. In recent months, LEP subject matter experts have not held any workshops; thus, the study guide is yet to be reviewed. LEP subject matter experts will begin meeting in July 2008. Board staff anticipates the LEP final draft will be completed in Summer 2008.

Requested Action

Please review the drafts and provide comment.

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LCSW Examination Study Guide

Introduction

The Board of Behavioral Sciences developed this study guide to assist candidates, Interns, and students in preparing for the Licensed Clinical Social Worker (LCSW) Standard and Written Clinical Vignette Examinations. This study guide is a starting point and should by no means be the only study resource for an examination candidate. Use the information in this handbook to help you focus and effectively prepare for the examination.

When Should I Begin to Prepare for the Examinations? An Overview

By reading this study guide, you have taken the first step in preparing yourself for the LCSW licensing examinations. Because these examinations relate to your profession and your career, it is within reason for you to feel a certain degree of anxiety. However, you can reduce this anxiety through practical examination preparation. These examinations measure your skills as a clinician to meet minimum competency standards. They contain no “trick questions.”

The examinations draw on both your academic knowledge and your professional experience (Pull Quote).

Preparation for the licensing examination begins once you take the first class in your qualifying degree program. Your education serves as the foundation from which you will build your clinical experience.

For some, thinking about a licensing examination that is years away while still in graduate school may seem premature. However, examination preparation evolves as you complete your licensing requirements. Your supervised work experience will offer you the opportunity to apply the knowledge gained in graduate school and strengthen your skills as a clinician. While working under the supervision of a licensed mental health professional, take advantage of the relationship with your supervisor and his or her experience in the field.

Identifying Personal Strengths and Areas Needing Improvement

The LCSW examinations test a broad spectrum of minimum competencies. Ideally, your clinical experience provides you with a broad base of knowledge working with different populations and in a variety of settings, but in reality, depending on where you are working while gaining your required experience, you may very well end up specializing within particular theoretical frameworks or with particular demographics. Developing a specialization does not reflect poorly on a candidate; however, in order to succeed, you will need to acknowledge that the examinations test a general scope. If you do not have professional experience working with particular theoretical frameworks, disorders, or populations, extra preparation time on your part may be necessary.

Test Preparation Strategy

Every candidate will develop a unique strategy for examination preparation. However, the Board would like to offer some insight on strategies for preparing yourself for the examinations. Have a proactive approach towards developing your clinical skills. If you develop your skills and knowledge through your education and experience, you can succeed on these examinations.

Start by Developing a Plan

In order to put together a useful plan, you will need to focus on the tested tasks and knowledge. This information is available to you in the “LCSW Standard Written Examination Plan” and “LCSW Clinical Vignette Examination Plan.”

The examination plans can seem intimidating upon first review, but the material is valuable to you as you begin to develop a plan to prepare yourself for the examination. Try breaking the examination plans down to their different content areas. The examination plans reflect the broad base of knowledge tested on each examination. Approaching the outlines one content area at a time will make the outline more manageable. Also, while the “LCSW Standard Written Examination Plan” and “LCSW Clinical Vignette Examination Plan” may differ, they do share many common tasks and required knowledge.

Use Your Supervisor as a Resource

The goal of supervision is to assist you in becoming a better and more well rounded clinician. Since your supervisor will be aware of your clients and work, he or she can give you objective feedback on any area needing improvement. Consider bringing the examination plans to your supervision meeting and discussing how your workload/caseload is preparing you for the examinations.

Additionally, unless your supervisor is relatively new, he or she has most likely supervised other examination candidates. Ask for feedback on how other candidates prepared for the examinations. Discuss what worked and what did not work for previous candidates.

Framing Your Education and Experience

Remember, you are not approaching this examination with a blank slate. Your graduate program and supervised experience will provide you with a significant amount of information that you can use for examination preparation purposes. Take time to correlate how your education and experience apply to the subject matter of this examination.

Framing your experience and asking questions relating to your practice will assist you in identifying the tasks and knowledge tested on the examinations that you naturally encounter everyday. It will identify those tasks or knowledge with which you do not have a high degree of familiarity as well. You can do this with the help of your supervisor. If you work in several different settings, you may find the duties at each setting are unique in how they fit with the examination content outline.

Studying Vignettes

The LCSW Clinical Vignette Examination differs from a traditional multiple-choice examination. This examination will provide you with a vignette, and four to seven multiple-choice questions relating to the vignette. The answers are often longer and more complex, listing a sequence of actions or describing a process of applying knowledge.

Especially in the case of the Clinical Vignette Examination, reviewing past cases and your assessments, diagnosis, and treatment plan development in those cases will be valuable to you. **You can make your own “vignettes” out of past cases and analyze your work on that case. (pull quote)** What factors assisted you in arriving at a diagnosis? How did you work to development a treatment plan? How might you have approached this case from a theoretical orientation other than your own? What legal or ethical issues are raised? These are questions you might ask of yourself when reviewing your cases.

Peer Study Groups

Some candidates find studying with peers to be an effective way to prepare for the examinations. Consider discussing the sample examination items and the examination content outlines. Peer study groups offer the opportunity to share experiences and draw on the knowledge of your colleagues to better prepare you for your examinations. For example, you may not have much experience working with older adults, but studying with someone who has a familiarity with that population will benefit you.

How do you find/organize a peer study group? Start by inquiring at your agency to see if any co-workers are interested in forming a study group. If this does not help, try contacting the local chapter of your professional association. Typically, local chapters have monthly meetings and are excellent opportunities to meet and network with fellow professionals in your area.

Sample Examination Items

To follow are examples of the format and structure of items you may encounter during the examination. Each multiple-choice item requires the candidate to select the correct answer from the four options provided. The 'incorrect' answers are typically common errors and misconceptions, true but not relevant statements, or incorrect statements. There are no 'trick' questions on the examination.(Pull Quote)

Sample LCSW Standard Written Examination Questions

Biopsychosocial Assessment

1. A couple reports increased marital conflicts. The husband notes that his wife has become irritable, isolative, and lethargic since she was laid off from her job three months ago. The wife states she is tired of her husband's constant nagging for her to be more helpful around the house. Both report a lack of physical and emotional intimacy but express a desire to resolve their problems. Which of the following areas should the therapist assess first to identify the degree to which current stressors are impacting the relationship?

- A. The wife's work history and her prognosis for reemployment
- B. The couple's styles of coping and their degree of effectiveness
- C. The effect of socioeconomic factors on the couple's problems
- D. The effect of dysfunctional patterns in the couple's communication

2. Which of the following elements should be included in a biopsychosocial assessment of a new client?

- A. Baseline functioning, social support systems, information from adjunctive resources
- B. Baseline functioning, social support systems, assessment of risk
- C. Client history, mental status examination, information from adjunctive resources
- D. Client history, mental status examination, assessment of risk

Diagnostic Formulation

3. A 55-year-old man presents for treatment six weeks after the death of his dog. Prior to this incident, he worked full time and enjoyed many hobbies. Since then, he has stayed at home and isolated himself, stating that he feels hopeless and cannot sleep. What initial diagnosis should the therapist make?

- A. Bereavement
- B. Depressive Disorder NOS
- C. Major Depressive Disorder
- D. Adjustment Disorder with Depressed Mood, Severe

4. A couple brings their 11-year-old child to therapy stating the child is withdrawn and has trouble sleeping. The child has had several recurring health problems. The mother states she had a difficult pregnancy and delivered early. In addition, the family has moved five times since the child was born. Which of the following diagnostic conclusions should the therapist make based on this assessment information?

- A. The symptoms are a sign of anxiety resulting from internal family conflicts.
- B. The symptoms are a sign of anxiety resulting from environmental influences.
- C. The symptoms are a sign of depression resulting from a genetic predisposition.
- D. The symptoms are a sign of depression resulting from intergenerational family dynamics

Treatment Plan Development

5. A 42-year-old woman has been in therapy for two years for depression. She has met the mutually-agreed upon goals. She requests ongoing therapy because she does not want her life to go back to the way it was. What course of treatment is most indicated at this point?

- A. Discuss termination issues and maintain regularly scheduled sessions
- B. Discuss termination issues and gradually decrease the frequency of contact
- C. Reformulate goals and address anxiety inhibiting client autonomy

D. Reformulate goals and normalize client's fears of independent living

6. A young man enters an outpatient clinic complaining of noises in his head. Which of the following treatment plans should be implemented to provide safe and effective care at the least restrictive level?

- A. Outpatient treatment with medication evaluation
- B. Brief inpatient treatment with medication evaluation
- C. Board and care placement without medication evaluation
- D. Intensive outpatient treatment without medication evaluation

Therapeutic Interventions

7. A 20-year-old student presents for therapy to address feelings of anxiety and confusion. He indicates that he is in an intimate relationship with another male student, and his parents are coming to visit this weekend. He states, "I don't know what to do. They will disown me if they find out." What interventions are indicated to treat this client?

- A. Present a nonjudgmental stance regarding the student's sexual orientation and encourage the student to be open with his parents
- B. Assist the student to problem-solve the immediate concern and work over the longer term to explore issues of sexual identity
- C. Normalize the student's internal conflict regarding sexual dysphoria and develop a plan to safely meet with his parents
- D. Schedule a family therapy session and allow disclosure of sexual orientation in a safe and supportive environment

8. A 39-year-old, professional woman presents for treatment due to work stress and anger. She states that she is an exemplary employee and has received numerous commendations. After telling her supervisor that she will be adopting a child, she was passed over for a promotion. How should the therapist begin treatment?

- A. Explore the client's alternative career options
- B. Help the client to process her feelings regarding the loss
- C. Validate the client's experience that this action feels discriminatory
- D. Explain to the client the difficulty of raising a child while working full time

Resource Coordination

9. A client diagnosed with a bipolar disorder who is currently stabilized on medication seeks therapy for relationship issues. The client's managed care company considers treatment for this diagnosis medically unnecessary and denies the claim. The therapist disagrees with the company's decision. Which of the following actions should the therapist take in this situation?

- A. Modify the diagnosis and plan
- B. Terminate treatment for the denied services
- C. Appeal the managed care company's decision
- D. Advise the client to sue the managed care company

10. A 58-year-old woman is referred for clinical case management by the staff at the hotel where the woman resides. The client has a history of chronic alcoholism and a diagnosis of bipolar disorder. She is often found intoxicated and asleep in the hotel hallways. In addition, she can be very demanding and critical toward staff. The hotel service providers are frustrated and are considering eviction. How should the therapist approach this case?

- A. Develop a care plan with both the client and hotel staff
- B. Refer the client to intensive adjunctive health care services
- C. Meet with the hotel staff to provide them support in their work with this client
- D. Provide the client with alternative living arrangements in the event she loses her housing

Legal Mandates

11. What action should a therapist take when a client reports intentions to steal from a store?

- A. Maintain the client's confidentiality
- B. Notify the store manager of the client's intent
- C. Request that the client's family monitor the client
- D. Report the client to a local law enforcement agency

12. In which of the following situations does a licensed clinical social worker have a duty to warn?

- A. A depressed adult client discusses taking revenge on a sibling who lives next door for abuse that occurred during childhood
- B. A client with bipolar disorder describes feeling out of control during manic episodes and fears hurting a family member
- C. A client with HIV discusses having unprotected sexual relations with a partner without disclosure
- D. A client with a history of physical violence describes a plan to use force to get an ex-spouse back

Ethical Standards

13. A 53-year-old female, married for twenty-five years, self-refers to therapy as she has been losing weight and not sleeping. She states that her husband screams and yells when he gets very angry and has hit her in the past. How should the therapist initially respond to the client's disclosure?

- A. Assist the client in locating appropriate shelters and contact the police
- B. Refer the client to a doctor for a medical evaluation and contact the police
- C. Assist the client in developing a safety plan and file a report with an adult protective services agency
- D. Refer the client to a doctor for a medical evaluation and assist the client in developing a safety plan

14. A former client, who owns a travel agency, offers a therapist a free trip for successful treatment and assistance in negotiations with his insurance company. How should the therapist respond to the client's offer?

- A. Refuse the trip as a conflict of interest
- B. Refuse the trip as an illegal barter for services
- C. Accept the trip as an expression of a gratitude
- D. Accept the trip as a payment for losses from the insurance

Sample LCSW Written Clinical Vignette Examination Questions

Vignette

Lois, a 59-year-old woman referred by her physician, recently had a below-the-knee amputation due to complications from diabetes. Her doctor indicates that Lois has elevated blood sugars and inconsistently follows her diet plan and insulin prescription. Initially, Lois is very animated, speaking rapidly and using expansive gestures. She becomes irritable when asked how she is feeling but admits that she has lost her appetite and is having difficulty sleeping. Upon further discussion of her medical condition, Lois becomes tearful and states, "I won't go through another surgery; it's just too much!"

Biopsychosocial Assessment

15. Which of the following issues presented in this case require immediate assessment?

- A. Lois' noncompliance with medical treatment
Socioeconomic stressors affecting Lois
Lois' social isolation
Lois' mental status
- B. Lois' noncompliance with medical treatment
Lois' understanding of her medical issues
Suicide potential for Lois
Lois' mental status
- C. Lois' preoccupation with physical challenges and limitations
Lois' understanding of her medical issues
Socioeconomic stressors affecting Lois
Lois' mental status
- D. Lois' preoccupation with physical challenges and limitations
Lois' noncompliance with medical treatment
Suicide potential for Lois
Lois' social isolation

Diagnostic Formulation

16. What diagnoses should be considered based on Lois' presenting symptoms?

- A. Major Depressive Disorder
V Code Noncompliance with Treatment
Adjustment Disorder with Depressed Mood
Mood Disorder due to a General Medical Condition
- B. Bipolar Disorder
Major Depressive Disorder
Generalized Anxiety Disorder
Adjustment Disorder with Depressed Mood
- C. Acute Stress Disorder
V Code Noncompliance with Treatment
Adjustment Disorder with Depressed Mood
Mood Disorder due to a General Medical Condition
- D. Bipolar Disorder
Major Depressive Disorder
Posttraumatic Stress Disorder
Mood Disorder due to a General Medical Condition

Treatment Plan Development

17. What factors require primary consideration by the therapist in formulating the initial treatment plan?

- A. Premorbid coping skills
Lois' psychiatric history
Lois' dependency issues
Accessibility of social support system
- B. Lois' feelings of self-blame
Severity of Lois' depression
Lois' motivation for treatment
Accessibility of social support system
- C. Premorbid coping skills
Severity of Lois' depression
Lois' motivation for treatment
Lois' understanding of the relationship between diabetes and her emotional state
- D. Lois' dependency issues
Severity of Lois' depression
Lois' adaptation with activities of daily living
Lois' understanding of the relationship between diabetes and her emotional state

Therapeutic Interventions

18. The initial interventions should focus on which of the following areas?

- A. Grief and loss
Crisis stabilization
Symptom stabilization
Diabetes education and support
- B. Grief and loss
Crisis stabilization
Increasing social supports
Diabetes education and support
- C. Stress management
Self-defeating cognitions
Increasing social supports
Diabetes education and support
- D. Stress management
Anger management
Self-defeating cognitions
Diabetes education and support

Resource Coordination

19. Which of the following initial resources should the therapist consider presenting to Lois?

- A. Referral to psychiatrist for medication evaluation
Evaluation for durable medical equipment
Referral to therapy group for depression
Options for home health care
- B. Referral to support group for diabetes education
Evaluation for durable medical equipment
Referral to support group for amputees
Options for home health care
- C. Collaboration with physician regarding treatment plan
Community-based options for socialization
Referral to nutritionist for dietary support
Referral to therapy group for depression
- D. Collaboration with physician regarding treatment plan
Referral to psychiatrist for medication evaluation
Referral to support group for diabetes education
Referral to support group for amputees

Legal Mandates and Obligations

20. What legal obligations are presented by this case?

- A. Assess Lois' potential for self-harm
Communicate limits of confidentiality
Disclose fees for professional services
Obtain written consent to collaborate with medical providers
- B. Assess Lois' potential for self-harm
Communicate limits of confidentiality
Consult with physician regarding in-home support needs
Obtain written consent to collaborate with medical providers
- C. Explore transference issues with Lois
Disclose fees for professional services
Obtain client's informed consent for treatment
Review need for durable power of attorney for health care
- D. Initiate a "No Harm" contract
Manage issues of confidentiality
Maintain privacy and security of client records
Obtain written consent to collaborate with medical providers

Ethical Standards

21. What ethical responsibilities does the therapist have in this case?

- A. Consultation with physician regarding physical rehabilitation and prognosis
Consultation with colleague if problematic countertransference issues arise
Maintenance of therapeutic boundaries to avoid rescuing behaviors
Promotion of client's self-reliance
- B. Consultation with colleague if countertransference issues arise
Limitation of services to permissible scope of practice
Discussion of phase of life issues with client
Management of fees
- C. Reinforcement of client's responsibility to adhere to diabetic dietary restrictions
Consultation with physician regarding physical rehabilitation and prognosis
Establishment of therapeutic boundaries
Management of fees
- D. Reinforcement of client's responsibility to adhere to diabetic dietary restrictions
Maintenance of therapeutic boundaries to avoid rescuing behaviors
Limitation of services to permissible scope of practice
Promotion of client's self-reliance

Answer Key

1. C	13. D
2. D	14. A
3. A	15. B
4. B	16. A
5. B	17. C
6. A	18. A
7. B	19. D
8. C	20. A
9. C	21. A
10. A	
11. A	
12. D	

Examination Results

Passing Notices

You will need to pass the Standard Written Examination before you can apply to take the Clinical Vignette Examination using the *LCSW Request for Examination/Re-Examination* form.

Passing both examinations means you are ready to receive your license.

Congratulations, and remember to submit your *Request for LCSW Initial License Issuance* form and appropriate fee to the Board. You should receive the *Request for LCSW Initial License Issuance* form at the testing center once you pass the Clinical Vignette Examination.

Failure Notices

Failing will undoubtedly disappoint any examination candidate; however, if you do fail, treat it as an opportunity to improve.

Failure notices provide the candidate with a breakdown of how well he or she performed within each of the content areas. This information will assist you in preparing to re-take the examination. You must wait six months before you will be eligible to retake an examination. The Board must receive a *LCSW Request for Examination/Re-Examination* application in order to make a candidate re-eligible for testing.

Conclusion

Meeting educational and experience requirements and passing the examinations are challenging experiences. The entire process takes years of dedication. The purpose of the licensing examinations is to protect consumers and ensure that LCSWs are minimally competent to provide independent psychotherapy in the State of California. While it seems self-evident that well rounded clinicians will perform well on the examination, many candidates will begin studying two to four months in advance of the examination, take a preparation course, and expect to pass both examinations on the first attempt. This may work for some, but two to four months of studying is no compensation for polished clinical skills and knowledge.

Use this study guide to become the best therapist that you can be. Doing so results not only in success on the licensing examination, but success in your career.

Appendix A

LCSW Standard Written Examination Plan Content Outline

- I. Bio-psychosocial Assessment**
 - a. Assessing for Risk
 - b. Assessment of Client Readiness and Appropriateness for Treatment
 - c. In depth Assessment
 - i. Comprehensive exploration of symptoms
 1. Psychological factors
 2. Cultural/Personal factors
 - ii. Comprehensive Evaluation of Problem
 1. Social-environment history
 2. Medical and developmental history
 3. History of substance use/abuse
 - iii. Comprehensive Evaluation of Inter- and Intra-personal resources
- II. Diagnostic Formulation**
- III. Treatment Plan Development**
 - a. Identify Identify/Prioritize Objectives, Goals and Methods of Treatment
 - b. Integrate/Coordinate Concurrent Treatment Modalities and Adjunctive Resources
 - c. Monitoring, Evaluation and Revision of Treatment Plan
- IV. Resource Coordination**
 - a. Service Identification and Coordination
 - b. Client Advocacy and Support
- V. Therapeutic Interventions**
 - a. Crisis Intervention
 - b. Short-Term Therapy
 - c. Therapy for Children and Adolescents
 - d. Therapy for Adults (Individual and Group)
 - e. Therapy for Couples
 - f. Therapy for Families
 - g. Managing the Therapeutic Process
- VI. Legal Mandates**
 - a. Protective Issues/Mandated Reporting
 - b. Professional Conduct
- VII. Ethical Standards**

The following pages contain detailed information regarding examination content. A description of each content area, sub area and the associated task and knowledge statements are provided. It is important for candidates to use this section as a study guide because each item in the Standard Written examination is linked to this content. To help ensure success on the examination, candidates are also encouraged to use this section as a checklist by considering their own strengths and weaknesses in each area.

I. BIOPSYCHOSOCIAL ASSESSMENT

This area assesses the candidate's ability to identify and assess the biopsychosocial aspects of the presenting problem.

A. ASSESSING FOR RISK

Tasks

- Evaluate client's level of distress to assess the impact of the presenting problem on the person in the situation.

- Assess for suicide potential by evaluating client's intent, means, and history to determine need for immediate intervention.
- Evaluate level of danger client presents to self and others to determine need for immediate intervention.
- Evaluate client for grave disability to determine need for immediate intervention.
- Evaluate degree of risk of abuse or neglect of a child to determine need for referral to a child protective services agency.
- Evaluate degree of risk of abuse or neglect of dependent adult or elderly client to determine need for referral to an adult protective services agency or ombudsman.
- Evaluate degree of risk by identifying the client's immediate support systems and the client's ability to access them.
- Identify precipitating events to determine the need for crisis intervention.
- Identify presenting complaint to determine client's understanding of the problem.

Knowledge of

- Psychological, physical, and behavioral indicators of abuse and neglect.
- Socio-cultural factors that affect the assessment of client risk.
- Risk factors that indicate a high potential for suicide within age, gender, and cultural groups.
- Legal criteria for identifying clients who require involuntary treatment or detention.
- Methods for assessing the risk of decompensation and hospitalization.
- Criteria for evaluating the safety of a child's environment.
- Physical, behavioral, and psychological indicators of suicidal and/or self-injurious behavior.
- Knowledge of criteria for determining whether client's living situation constitutes high risk for abuse.
- Knowledge of methods and techniques for eliciting client's perception of presenting complaint.
- risk factors that indicate a client's potential for causing harm to others.
- criteria for assessing the risk of abuse, neglect, or exploitation of elder and dependent adults.
- risk factors associated with diagnostic categories and clinical populations that indicate a high potential for suicidal and/or self-injurious behavior.

B. ASSESSMENT OF CLIENT READINESS AND APPROPRIATENESS OF TREATMENT

Tasks

- Assess for language barriers that will impede the therapeutic process to determine whether treatment can be provided or referral is indicated.
- Assess for cultural factors that will influence or impact the therapeutic process to determine whether treatment can be provided or referral is indicated.
- Identify client's presenting problem and goals for therapy to determine whether treatment can be provided or referral is indicated.

Knowledge of

- The effect of language differences on the therapeutic process.
- The role of client motivation in therapeutic change.
- Cultural beliefs regarding therapy and mental health.
- Developmentally appropriate techniques for eliciting information about the client's thoughts and feelings during the interview process.
- Methods and techniques for facilitating the client's ability to communicate thoughts and feelings during the interview process.
- Techniques for evaluating the congruence between the client's nonverbal and verbal communications.
- How cultural factors impact the ways a client seeks assistance for psychosocial problems.

C. IN-DEPTH ASSESSMENT

1. Comprehensive Exploration of Symptoms

a. Psychological Factors

Tasks

- Gather information regarding the mental health history of the client and the client's family to assist in developing a comprehensive assessment.
- Assess client's physical appearance and presentation to evaluate effects of presenting problem on client's functioning.

- Identify psychiatric and physical symptoms or characteristics to determine need for psychiatric or medical referral.
- Evaluate client's ability to care for self by assessing impact of cognitive or physical impairments.
- Evaluate effects of client and family's spiritual beliefs on presenting problem.
- Gather collateral information pertaining to client and client's presenting problem to formulate a differential diagnosis.
- Identify perceptual, cognitive, and personality issues that suggest referral for vocational testing.
- Gather information regarding perception and cognition to identify symptoms of psychopathology.
- Assess client's mood, affective responses, and impulse regulation identify patterns of emotional functioning.
- Identify symptoms of perceptual, cognitive, and learning disorders that require referral for educational testing.
- Identify perceptual and cognitive functions that require referral for psychological testing.

Knowledge of

- The effects of aging on client's independent functioning.
- Methods for assessing the client's degree of acculturation.
- Behavioral, physiological, and psychological indicators of emotional distress in assessing client's psychosocial functioning.
- Behavioral, physiological, and psychological factors that indicate a need for psychiatric or medical evaluation.
- Methods and techniques for assessing the impact of the client's level of acculturation on the presenting problem.
- Methods and techniques for assessing the impact of the mental health history of the client's family on the client's current problems and issues.
- Methods and techniques for assessing the client's ability to provide for self-care needs.
- Types of information available in employment, medical, psychological, and school records to provide assessment and diagnostic information.
- The effects of mood disturbance on psychosocial functioning.
- Strategies for gathering information from adjunctive resources.
- Psychological, cognitive, and behavioral factors that indicate a need for psychological and vocational testing.
- The effect of mental disorders on psychosocial functioning.
- Methods and techniques for assessing the impact of the client's previous mental health treatments on the client's current problems and issues.

b. Cultural/Personal Factors

Tasks

- Assess client's degree of acculturation to determine impact on presenting problem.
- Identify impact of client's experience of life stressors within context of client's race, culture, country of origin, age, gender, religion, sexual orientation, marital status, and level of ability.
- Assess nature of client's familial relationships by evaluating the family structure within the client's cultural identity.
- Gather information regarding role identification within context of client's race, culture, and country of origin, age, gender, religion, sexual orientation, marital status, and level of ability.
- Identify impact of client's culture on client's presentation of psychological or physical problems.

Knowledge of

- Methods and techniques for assessing the impact of other peoples' values, culture, and life experiences on the client's presenting problem.
- Methods and techniques for assessing the client's experience of social and cultural biases and discrimination and their impact on the presenting problem.
- Methods and techniques for assessing how the client's values, personal preferences, and cultural identity impact the presenting problem.

2. Comprehensive Evaluation of Problem

a. Social-Environmental History

Tasks

- Gather information about client's interpersonal relationships to identify patterns of behavior in different life settings.
- Assess history of trauma and abuse to determine impact on current functioning.
- Evaluate impact of psychosocial and environmental stressors on client's symptomatology.
- Identify events precipitating current problem through interviews with client and collateral sources.
- Gather information regarding client's family history to determine the impact of significant relationships and events on current problems.
- Assess impact of familial patterns of interaction on client's current problem through interviews with client and collateral sources.
- Assess client's employment history to evaluate past and present impact of presenting problem in occupational settings.

Knowledge of

- Methods for assessing the impact of family history on client functioning.
- Methods for assessing the effects of the client's physical condition on past and current psychosocial functioning.
- The cycle of abuse that perpetuates intergenerational violence and trauma.
- How cultural influences affect the client's perception of life events as traumatic.
- The effects of family structure and dynamics on the client's development of role identity and patterns of interpersonal interaction.
- The interrelationship between client's behavior in social and work environments and behavior in other areas of client's life.
- How to assess the relationship between life events and the stressors the client experiences.
- The effects of socio-cultural factors on the client's presenting problem.

b. Medical and Developmental History

Tasks

- Gather information regarding the developmental history of the client and client's family members to determine course of developmental progression.
- Identify possible deficits in client's developmental level to determine need for further evaluation.
- Gather information regarding client's use of complementary and alternative treatments to evaluate client's approach to medical problems.
- Gather information regarding client's personal and familial medical history to determine impact of the person in the situation.
- Assess client's perception of the impact of physical limitations on adaptive functioning.
- Assess how client's medical conditions affect past and current adaptive functioning.
- Assess impact of patterns of familial interaction and beliefs on client's physical health and wellness.

Knowledge of

- Theories of aging and development that explain biological and cognitive changes.
- The relationship between medical conditions and psychosocial functioning.
- The relationship between level of functioning and normative developmental stages throughout the life span.
- Symptoms of medical conditions that may impact client psychosocial functioning.
- Common physical conditions, psychological issues, and behavioral patterns associated with specific developmental or life phases.
- The effects of medications and their impact on the client's adaptive functioning.
- Developmental processes of individual growth and change.
- Methods and techniques for assessing the impact of client's family medical history on current problems and issues.
- The effects of social, cultural, and environmental influences on aging and health.
- The effect of biological and environmental influences on specific developmental and life phases.
- Theories of stages of cognitive development.

c. History of Substance Use/Abuse

Tasks

- Assess impact of client's substance abuse on family members and significant others to determine need for concurrent services.
- Assess social and familial factors associated with or contributing to the client's substance use.
- Assess types and patterns of use to determine substance abuse and/or dependence.

Knowledge of

- The impact of substance use or abuse on family and social relationships and role functioning.
- The effect of substance use and abuse on psychosocial functioning.
- Physical and behavioral signs indicating current substance intoxication and/or withdrawal.
- Physical and behavioral indicators associated with substance abuse.
- The impact of social, cultural, and familial factors on substance use and abuse.
- Physical and behavioral indicators associated with substance dependence.

3. Comprehensive Evaluation of Inter- and Intra-personal Resources

Tasks

- Evaluate effectiveness of client's coping strategies and strengths by identifying patterns of reactions and responses to life stressors.
- Identify information regarding client's past and present coping strategies and strengths as they relate to the presenting problem.
- Assess client's ability and willingness to access personal and community resources.
- Gather information regarding family members' coping strategies and strengths to assist in treatment planning.
- Gather information regarding interpersonal relationships to evaluate and assess client's ability to access and utilize support systems.
- Assess current living conditions to determine impact of the environment on the person in the situation.
- Collect information from collateral sources to assist in developing clinical assessment and intervention strategies.
- Assess impact of the client's family and social network on the presenting problem.
- Assess socioeconomic factors to determine the impact of financial stressors on current problem.
- Assess ability and willingness of the client's family and social network to support client's treatment.

Knowledge of

- Methods for assessing adaptive and maladaptive coping mechanisms in dealing with life stressors.
- How to obtain and integrate relevant clinical information from collateral sources to increase an understanding of the client in the environment.
- Affective reactions to life stressors or situations that impact psychosocial functioning.
- The effect of economic factors and stressors on psychosocial functioning.
- Theories of coping and adaptive responses to life events.
- The relationship between social supports and adaptive functioning.
- Methods for assessing client's ability to access personal and community resources.

II. **DIAGNOSTIC FORMULATION**

This area assesses the candidate's ability use assessment information to formulate an accurate differential diagnosis for developing a treatment plan and interventions within the client's socio-cultural context.

Tasks

- Integrate information about the client's premorbid functioning in developing a differential diagnosis problem formulation.
- Compare assessment information with diagnostic criteria in formulating differential diagnoses.
- Incorporate information about the client physiological status in formulating differential diagnoses.
- Integrate information regarding the impact of the client's cultural/ethnic background and beliefs on the experience and presentation symptoms in formulating a differential diagnosis.
- Integrate results of mental status examination in developing a differential diagnosis or problem formulation.
- Integrate collateral information from referral sources in developing a differential diagnosis or problem formulation.
- Identify persistence of symptoms to determine if problem is acute or chronic.

- Develop clinical diagnosis or problem formulation to provide basis for interventions.
- Identify onset or initial presentation of symptoms to determine duration of the problem.
- Identify extent of impairment and its impact on the client's level of functioning to develop a diagnostic impression.
- Integrate assessment information to determine depth and breadth of impairment on adaptive functioning.
- Integrate information about the precipitating events in developing a differential diagnosis or problem formulation.
- Identify psychological and environmental stressors to determine impact on symptomatology.

Knowledge of

- Diagnostic and Statistical Manual of Mental Disorders classifications of symptoms and disorders.
- The clinical process of developing a diagnosis or problem description to clarify therapeutic issues.
- How to evaluate and integrate information about the client's premorbid condition and precipitating events into the formulation of a differential diagnosis.
- Criteria for classifying complex levels of addiction (cross addiction).
- Situations that require consultation with a client-identified expert for clarifying diagnosis or problem formulation within the framework of the client's culture and beliefs.
- The relationship between biochemistry and psychiatric disorders.
- How to evaluate and integrate client's past mental and medical health history to formulate a differential diagnosis.
- Situations that require consultation with other professionals in developing or clarifying a diagnosis or problem formulation.
- Methods for integrating assessment information to identify areas and level of impairment in client's functioning.
- The defining characteristics of symptoms that indicate provisional diagnoses.
- The psychoactive qualities of substances that contribute to dependence, physical addiction, or impairment.
- The social work diagnostic framework for identifying and evaluating presenting symptoms.
- The impact of cultural factors on the formulation of a differential diagnosis.
- The relationship between psychosocial and environmental factors and symptom development.
- The relationship between onset of signs and symptoms and duration of the problem.
- Behavioral, physiological, and psychological indicators of developmental disorders.
- The relationship between persistence of symptoms and the course of the problem.
- Methods for differentiating between disorders that share common symptoms.
- Criteria for classifying substance use, abuse, and dependency.
- The short and long-term side effects of medications and their effect on the client's presenting symptoms.

III. TREATMENT PLAN DEVELOPMENT

This area assesses the candidate's ability to develop a culturally relevant treatment plan based on assessment and diagnostic information. The treatment plan includes a definition of the problem, measurable goals and objectives, and clinical interventions consistent with the client's readiness for, and ability to engage in treatment, and relevant to the phases of therapy.

A. IDENTIFY/PRIORITIZE OBJECTIVES, GOALS AND METHODS OF TREATMENT

Tasks

- Incorporate interventions in to the treatment plan that address the needs associated with client's clinical diagnosis.
- Identify level of intervention required to address the client's areas and degree of impairment in developing the treatment plan.
- Develop mutually agreed upon treatment goals based on assessment and diagnostic information.
- Integrate aspects of client's value and belief systems into the development of the treatment plan.
- Develop measurable objectives to facilitate treatment goals.
- Select therapeutic interventions by evaluating presenting problem in conjunction with treatment goals.
- Identify client and therapist values that impact the therapeutic process to direct the treatment approach.
- Select treatment modalities based on client needs, diagnosis, and assessment.

- Develop preliminary termination plan to provide a structure for treatment.
- Develop preliminary termination plan with client to maintain therapeutic progress after treatment has ended.
- Provide client education about the therapeutic process to promote client's self-determination.
- Prioritize interventions according to applicable phase of treatment and client's preparedness to work with the therapeutic issues involved.

Knowledge of

- Methods and techniques for enhancing client motivation in treatment.
- Methods for engaging mandated, resistant, and noncompliant clients in the therapeutic process.
- Client characteristics that affect client adaptation in different therapeutic modalities or treatment settings.
- Methods and techniques for educating client about the therapeutic process.
- The components of a treatment or service plan for each phase of the therapeutic process.
- Methods for determining service priorities by evaluating level of impairment in areas of client functioning.
- Methods for determining the timing of interventions according to phase of therapy.
- Methods for prioritizing symptoms to determine target areas for improving client functioning.
- Techniques and procedures for engaging the client in the mutual development of treatment goals objectives.
- Culturally competent interventions to provide services to diverse populations.
- Procedures for determining how to manage aspects of the therapist's value system that potentially impacts therapy.
- Strategies for determining therapeutic goals to direct treatment.
- Techniques for integrating client's current experiences, values, and belief systems into the treatment plan.
- The differential use of psychotherapeutic techniques in treating problems or disorders.
- Techniques for determining compatibility of treatment modalities with specific problems or disorders.
- Methods for developing short-and long-term treatment objectives to address therapeutic problems.
- Methods for determining length of therapy based on diagnosis and client's goals for treatment.
- The components of individual treatment plans to provide for clients with special needs.
- Techniques and procedures for engaging client's on-going participation in the therapeutic process.

B. INTEGRATE/COORDINATE CONCURRENT TREATMENT MODALITIES AND ADJUNCTIVE RESOURCES

Tasks

- Collaborate with physician/psychiatrist regarding the effects and contraindications of psychotropic drugs to maximize therapeutic effectiveness with clients.
- Coordinate with other care providers in the development of an individual treatment plan.
- Determine need for referral to adjunctive treatment resources to support the treatment plan.
- Evaluate need for a treatment program based on severity of substance abuse and impairment to client functioning.
- Evaluate efficacy of collateral support systems for inclusion in treatment plan.
- Implement therapeutic techniques congruent with client's racial, cultural, country of origin, gender, sexual orientation, marital status, or level of ability to provide treatment.

Knowledge of

- The dynamics of working across disciplines in developing comprehensive and integrated treatment.
- Methods for accessing and coordinating multiple interventions across disciplines.
- Methods for incorporating collateral support systems in therapy.
- Techniques for combining treatment modalities in treating specific problems or disorders.
- The effect of psychotropic medications on therapeutic interventions.
- Methods for integrating mainstream, complimentary, and alternative treatment modalities that are consistent within the framework of the client's cultural identity, beliefs, and values into treatment.

C. MONITORING, EVALUATION AND REVISION OF TREATMENT PLAN

Tasks

- Determine effectiveness of therapeutic interventions by evaluating progress toward treatment objectives.
- Prepare for termination with client by reviewing progress attained.
- Develop termination plan with client to maintain therapeutic progress after treatment has ended.
- Elicit information from collateral resources to assist in evaluating treatment efficacy.
- Adjust treatment plan and interventions as indicated by client's changing needs and goals.
- Establish collaborative alliance with agencies, caregivers, placement settings, and other community resources to develop support services commensurate with client needs.
- Conduct initial and on-going review of therapeutic alliance to assist client engagement in therapy.
- Determine evaluation criteria to monitor progress toward goals and objectives.

Knowledge of

- Techniques for re-engaging mandated, resistant, and noncompliant clients in treatment.
- Methods and procedures for formulating an after-care plan.
- Methods for assessing qualitative and quantitative therapeutic change.
- Methods for consolidating therapeutic gains to facilitate and maintain client's achievements outside therapy.
- Methods for evaluating and monitoring treatment plan to ensure consistency with changing client goals and needs.
- Methods for formulating behavioral indicators to measure and evaluate therapeutic change.
- Changes in client functioning that indicate readiness to terminate therapy.
- Procedures for evaluating therapeutic change in preparation for termination.
- Methods and procedures for accessing and coordinating interventions across disciplines in an after-care plan.

IV. RESOURCE COORDINATION

This area assesses the candidate's ability to coordinate linkages and provide access to resources, and to evaluate the efficacy of the referrals.

A. SERVICE IDENTIFICATION AND COORDINATION

Tasks

- Coordinate with community sources to facilitate outreach to transient and homeless clients.
- Evaluate suitability of community resources to provide supportive services commensurate with client needs.
- Evaluate suitability of current and prospective caregivers to provide supportive services commensurate with client needs.
- Coordinate with other professionals, service providers, and other community resources to establish linkages for outreach services.
- Gather information regarding cultural community networks to identify resources and sources of support.
- Coordinate access to therapeutic or community programs to facilitate client's transition into the community.
- Evaluate client's current needs and prognosis for change to assist in determining least restrictive placement environment.
- Collaborate with other providers and community specialists to identify resources.
- Determine need for outreach and/or field visits in order to evaluate how health, safety, and welfare issues are affecting treatment.
- Coordinate linkages with support systems and services to facilitate access by client.

Knowledge of

- Criteria for determining least restrictive environment to provide for care and safety of client.
- Methods for identifying and incorporating community support systems and resources that are consistent with client's beliefs and values.
- Types of placements available for the short- and long-term care of clients of differing levels of care.
- Methods for evaluating conditions in the home to determine need for additional services.
- Methods and procedures for facilitating client's transition to a less restrictive setting.

- Methods for identifying community support services that meet client needs.
- Methods for evaluating the suitability of a caregiver and the home or placement for providing services addressing client's current or prospective needs.
- Methods for identifying and incorporating community support systems and resources relevant to the client's culture, background, beliefs, and values.
- The methods involved in establishing a liaison with community resource providers.
- Methods for evaluating client's ability to access support services and treatment sources.
- Federal, state, local, and public and private social services that provide assistance with meeting client's basic needs.
- Methods for identifying and incorporating community support systems and resources for transient and homeless clients.
- Criteria for evaluating the level of care of a prospective or current placement to meet client's needs.
- Methods for incorporating a multidisciplinary team approach to treatment.

B. CLIENT ADVOCACY AND SUPPORT

Tasks

- Advocate within the community for the creation or enhancement of support services to meet client needs.
- Educate community resources about how to best meet client needs within the framework of the individual needs, culture, beliefs, and values of the client.
- Facilitate integration of client back into the community by providing psychoeducation to service providers and community members.
- Advocate with institutions and organizations, including within the legal or judicial system and within medical and healthcare institutions, to improve service delivery and to protect client rights.
- Educate client about how to access support services including access to legal advocacy to support client's rights.
- Implement interventions and referrals that increase the client's ability to more independently access services related to housing, medical care, employment, transportation, and the provision of basic needs.
- Consult with other professionals and referral sources to discuss the client's progress and to evaluate the on-going effectiveness and accessibility of resources.
- Advocate with community resources related to housing, education, and the provision of basic needs to improve service delivery and to protect client rights.
- Engage client in the mutual exploration and identification of future resources as the client's needs change.
- Monitor services provided by agencies, caregivers and placement settings to evaluate whether the needs of the client are being met.
- Advocate for protective placement to assist client with leaving a dangerous or unsafe environment.
- Engage client the mutual evaluation of the on-going effectiveness and accessibility of resources.

Knowledge of

- Methods and procedures for enhancing or developing new services within the community.
- Methods for increasing client's ability for self-advocacy.
- Methods for evaluating the usage and efficacy of referral sources.
- Standards, laws, and regulations regarding housing, accessibility, employment, and equal opportunity to protect client's rights.
- Criteria for evaluating safety of client placement.
- Laws, statutes, and regulations relating to residential placement.
- Advocacy methods for increasing client's access to needed resources.
- Methods for providing psychoeducational services to the client.
- The benefits of psychosocial education to clients and their families about the nature of mental disorders.
- Methods for providing psychoeducational services to community service providers.

V. THERAPEUTIC INTERVENTIONS

This area assesses the candidate's ability to provide a range of therapeutic interventions specific to client needs consistent with the client's socio-cultural context.

A. CRISIS INTERVENTION

Tasks

- Implement techniques to assist client's exploration of options to increase adaptive functioning.
- Assist client to modify environment to promote stabilization.
- Evaluate nature and severity of current crisis to determine intervention strategy.
- Implement techniques to assist client to verbalize source of crisis.
- Assist client to manage emotions associated with traumatic event to facilitate client's resolution of crisis.
- Identify client's level of functioning prior to crisis to establish goals for postcrisis functioning.
- Develop a stabilization plan with client in crisis to prevent further decompensation.

Knowledge of

- Methods for implementing strategies and interventions with clients in emergency situations.
- The effect of crisis on emotional and psychological equilibrium.
- Counseling techniques to assist client in crisis to regain emotional balance.
- Transitional crises created by immigration and acculturation.
- Intervention strategies to reduce self-destructive and/or self-injurious behavior.
- Crisis intervention techniques to provide immediate assistance to client.
- The psychological characteristics and emotional reactions to crisis events or trauma.
- Therapeutic techniques for improving adaptive functioning of client in crisis.

B. SHORT-TERM THERAPY

Tasks

- Apply a problem-solving approach in therapy for treating the problem as it impacts the client's current functioning.
- Instruct client in techniques for increasing rational thought processes to enhance client's problem-solving and decision-making ability.
- Implement interventions for facilitating the client's ability to identify the interrelationship between past events and current behaviors.
- Provide psychoeducation about loss and stages of grieving process to facilitate client's normalization of feelings and experiences.
- Assist client with identifying and expressing feelings to move through the stages of grief and loss.
- Provide psychoeducation about normal reactions to stress to assist client with managing transitional life issues.
- Facilitate client's coping and planning strategies for addressing issues associated with major life events/potentially life-changing events.
- Assist client to identify precursors to relapse to facilitate joint development of a relapse prevention plan.
- Apply a treatment plan for accomplishing symptom reduction using a brief therapy model.

Knowledge of

- Methods and interventions for increasing client's ability to manage stressors resulting from changes in life circumstances.
- The intervention models for Brief Therapy and their indications and contraindications for use.
- Techniques and procedures for implementing interventions using a Brief Therapy model.
- The effect of client's prior coping patterns and life experiences on adjustment to trauma.
- The stages of loss and grief.
- Counseling techniques to assist survivor of trauma work through feelings associated with the experience.
- The effect of patterns of interpersonal relations on ability to maintain social relationships.

C. THERAPY FOR CHILDREN AND ADOLESCENTS

Tasks

- Determine baseline levels of maladaptive behaviors to measure therapeutic change.
- Implement interview techniques consistent with child's cognitive development.

- Select age-appropriate interventions to facilitate child's understanding of the presenting problem.
- Select interventions congruent with child's cultural identity to facilitate child's engaging in therapy.
- Assist child to develop coping strategies to facilitate adjustment to changes in life circumstances.
- Assist adolescent to become aware of shifting emotional states to develop adaptive coping strategies.
- Provide psychoeducation to parents/caregivers to enhance their understanding of the developmental process of the adolescent entering adulthood.
- Provide psychoeducation to adolescents regarding developing healthy, reciprocal peer relationships.
- Assist adolescent to clarify how past traumatic incidents may impact current perceptions, feelings, and behaviors.
- Provide training to children and adolescents in self-initiated strategies for managing the impact of stressors on thoughts and feelings.
- Implement therapy techniques with client to address the issues or emotions underlying aggressive behavior.
- Provide social skills training to modify maladaptive interpersonal behavior in order to improve client's ability to develop and maintain relationships with others.
- Develop child/adolescent client's awareness of the need for emotional and physical boundaries to promote client's sense of self as a separate entity.
- Provide counseling to adolescent client to deal with issues associated with the biological, psychological, and social transition from childhood to adulthood.
- Address adolescent's body image distortions to develop a reality-based perception of the physical self.
- Provide supportive therapy to client experiencing gender identity or sexual orientation issues to facilitate client's psychosocial adjustment.
- Provide assertiveness training to promote client's self-esteem and self-confidence.
- Determine antecedents of client's maladaptive behaviors by identifying the internal and/or external stimuli leading to the undesired responses.
- Provide therapy involving structured task completion to improve child's ability to focus on specific tasks.
- Provide parenting skills training to improve parents/caregivers' ability to care for children.
- Instruct children and adolescents regarding self-control techniques to promote awareness of the consequences of their actions.
- Provide psychoeducation to child/adolescent client about the physical and psychosocial effects of substance use to promote resistance to continued substance usage

Knowledge of

- Methods for preventing relapse with child/adolescent client in recovery.
- Common psychological reactions related to biological changes of adolescence and young adulthood.
- Counseling techniques for dealing with physical, emotional and psychological issues that contribute to substance use and abuse.
- Methods and techniques to identify source of resistance to treatment.
- Methods and techniques for assisting client with achieving goals of individuation associated with age and psychosocial stages of development.
- Counseling techniques to facilitate client's recognition of emotional and psychological sources of anger.
- Counseling techniques for children and adolescents to assist client's psychological adjustment to sexuality issues.
- Behavior management interventions which reduce disruptive behavior in a variety of environments.
- The principles of learning theory to explain the acquisition of behaviors.
- Intervention methods for treating substance dependency.
- Behavioral and emotional responses in children resulting from parental separation or divorce.
- Developmental theories and their application to children and adolescents in a clinical setting.
- Techniques for increasing attention span by modifying child's environment.
- The effect of culture, ethnicity, and socialization on development of role identification and expectations in children and adolescents.
- Factors that affect client adjustment during emancipation process.
- Developmentally appropriate therapeutic techniques for treating children and adolescents.
- Therapeutic techniques to decrease violent or aggressive behavior.
- The effect of gender role expectations and stereotypes on child and adolescent development.

- The developmental stages of defining sexual identity and preference.
- The physical and psychosocial effects of substance use on children and adolescents.
- Methods and techniques for providing psychoeducation to parents and caregivers of children and adolescent clients.
- Types of learning disabilities that impede academic performance.
- Effect of cultural, racial, and ethnic values and beliefs on behavior of children and adolescents.
- The effects of racism and discrimination on development of self-concept.

D. THERAPY FOR ADULTS (INDIVIDUAL AND GROUP)

Tasks

- Facilitate group process so clients can derive the maximum benefit from the experiences of peers.
- Apply nondirective approach to therapy by following the client's lead to permit change to occur at client's pace.
- Apply therapeutic techniques to integrate thoughts, feelings, and actions to assist client to achieve congruence of self.
- Provide psychotherapy to survivor of abuse to reduce the impact of the experience.
- Teach client anger management techniques to increase client's ability to manage aggressive impulses.
- Provide psychotherapy to client with substance abuse problem to facilitate client's ability to address the contributing factors and dynamics of substance abuse.
- Provide supportive therapy to elderly clients and their families to facilitate their ability to address the physical and psychological effects of the aging family member(s).
- Instruct client in environmental modification techniques for limiting stimuli that elicit undesired behaviors and increasing stimuli that elicit desired behaviors.
- Conduct symptom management training with psychiatric client to minimize effect of disorder on functioning.
- Provide psychoeducation for family members to facilitate treatment compliance of client.
- Teach client conflict management skills to increase client's ability to reach suitable resolutions in disputes.
- Implement psychodynamic techniques to assist client with bringing preconscious processes into conscious awareness.
- Provide psychoeducation regarding stages of the life cycle to normalize client's experiences.
- Instruct client in techniques to generate rational thoughts and attitudes to assist development of adaptive behaviors.
- Implement techniques for motivating client to attend substance treatment programs.
- Assist client to identify cognitions that maintain maladaptive behavior.
- Provide supportive therapy to psychiatric client to increase compliance with medical and pharmacological interventions.
- Confront client's inappropriate and/or antisocial behavior to provide opportunities for change.
- Implement techniques for increasing client's awareness of own defense mechanisms to assist client with recognizing problematic thoughts, emotions, and consequences.
- Teach client relaxation skills to increase client's ability to manage symptoms of anxiety.

Knowledge of

- The relationship of the positive effects of physical and cognitive activity on functioning in later adulthood.
- Theories of group dynamics.
- Cognitive restructuring techniques to change maladaptive thought patterns.
- The relationship between interpersonal interactions and social functioning.
- The effect of cognition on interpretation of behavioral responses.
- The biological, social, and psychological aspects of mental illness and emotional functioning.
- Sexual dysfunctions that indicate need for specialized services.
- Methods and techniques for conducting group psychotherapy.
- The biological, social, and psychological aspects of aggression.
- Methods and techniques for providing psychoeducation to individual clients and groups.
- The effect of gender role expectations and stereotypes on adult psychosocial functioning.
- Stress management techniques to reduce anxiety or fearful reactions.

- Interventions and techniques for assisting client with managing own anger and aggression.
- Therapy methods and techniques to assist client with adjusting to the effects of racism and discrimination.
- Psychodynamic techniques for resolving emotional conflict or trauma.
- Methods for implementing desensitization techniques to reduce client symptoms.
- Techniques to assist client to adjust to physical, cognitive, and emotional changes associated with the aging process.
- The effects of unconscious processes on behavior.
- The protective function defense mechanisms against anxiety.
- The application of experiential techniques to assist client to achieve treatment goals.
- Methods and techniques for teaching client self-implemented therapeutic techniques as part of the treatment process.
- The concept of insight in successful resolution of past trauma or conflict.
- Knowledge the biological, social, and psychological aspects of substance use and addiction.
- Therapeutic techniques for increasing client's feelings of self-worth.
- Methods for assessing maladaptive functioning in interpersonal relationships.
- The impact of cultural, racial, and ethnic values and beliefs on adult behavior.
- The effect of events in client's past on current experiences.

E. THERAPY FOR COUPLES

Tasks

- Implement communication techniques with couples to promote mutual disclosure and discussion.
- Identify strategies couples can implement to balance external responsibilities with personal relationship.
- Implement therapeutic techniques to establish or strengthen individual roles and identities within the couple relationship.
- Provide counseling to couples considering separation or divorce to address issues of loss.
- Provide premarital counseling to assist couple's transition to new family system.
- Educate clients about the stages of development of the couple relationship to normalize changes and transitions.
- Provide therapy and psychoeducation to couples to address issues of a blended family.
- Implement strategies to increase the safety the couple feels in the relationship.
- Assist couple to identify the relationship strengths on which effective coping strategies may be based.
- Identify patterns of interaction between the individuals within a couple to determine positive and negative impacts on relationship.
- Teach conflict management skills to the individuals within a couple to increase the ability to reach suitable resolutions in disputes.
- Determine goal of couple's therapy by evaluating each individual's motivation.
- Assist nontraditional couples (same sex, mixed cultures, mixed ethnicity, and age differences) to identify specific needs and develop external support system and coping strategies.
- Implement techniques to increase the individuation of the individuals within a couple by establishing clear and permeable boundaries within systems.
- Assist clients to restructure interactions by reframing the couple's perception of power structure within the system.
- Provide education regarding values identification clarification to develop mutual acceptance, tolerance, and cohesion in relationship.
- Determine impact on the individuals within a couple of multigenerational interactional patterns by evaluating the history of family relationships.

Knowledge of

- The effect of incongruent goals of couples on therapeutic process.
- The effect of culture, ethnicity, and socialization on development of role identification and expectations in couples.
- Techniques to increase intimacy within couple relationships.
- The aspects of relationships that result in problems or conflicts for couples.
- Methods and techniques for facilitating a couple's ability to address maladaptive relationship patterns.
- Techniques to assist client to develop individual roles and identities within the couple relationship.

- The impact of communication and interactional styles on couple relationships.
- Techniques for teaching conflict resolution and problem-solving skills with individuals in a couple.
- Counseling techniques to assist couples with psychological adjustment to sexuality issues.
- Methods and techniques for facilitating a couples' ability to minimize the effects of external pressures on intimacy needs.
- The effect of gender role expectations and stereotypes on communication and partner expectations in couples.
- Methods for identifying and implementing interventions for treating maladaptive functioning in couple relationships.
- Issues resulting from dissolution of couple relationships.
- Therapeutic methods to establish individual and system boundaries.
- The effect of unrealistic role assignments on couple relationships.
- The dynamics of the marriage/partner relationships that shape and change the relationship.
- Methods and techniques for teaching couples how to improve their communication.

F. THERAPY FOR FAMILIES

Tasks

- Provide information to clients regarding developmental stages of the family to facilitate understanding of family change.
- Implement strategies for changing disruptive interaction styles to strengthen family cohesion.
- Identify separation issues in parent-child relationship to promote age-appropriate individuation.
- Identify transitional issues in parent-child relationship to promote age-appropriate differentiation.
- Mediate conflict regarding couple's parenting styles to effect consistency in child's environment.
- Provide information and resources to parents regarding growth and development of children to increase understanding of child's needs and progress.
- Model adaptive methods for relating to peers and siblings to improve child's social functioning.
- Identify differences in multigenerational acculturation to determine source of value conflicts between family members.
- Provide family therapy to achieve reunification goals.
- Apply family treatment strategies to strengthen parent/child relationships to minimize effect of separation or divorce.
- Develop family reunification goals by identifying changes that must be made to improve family functioning.
- Assist clients to clarify family roles to facilitate adjustment to new blended and/or nontraditional family structure.
- Provide psychosocial information to families regarding environmental and biological components that impact development.
- Identify patterns of interaction among family members to determine sources of conflict.
- Identify family of origin influences to understand impact on present family functioning.
- Identify family structure to clarify roles and boundaries of the family unit.

Knowledge of

- Behaviors or reactions that indicate problematic separation or attachment issues.
- How cultural, racial, and ethnic values and beliefs affect behavior and expectations of family on family members.
- The effect of conflicting or inconsistent parenting styles on child's level of functioning.
- Methods for identifying interconnections and interdependence within social systems.
- The impact of the family's communication and interactional styles on the family members interpersonal dynamics and relationships.
- Parenting skills necessary to provide for care of children.
- The effect of culture, ethnicity, and socialization on development of role identification and expectations in family groups.
- The impact of cultural views regarding family structure and values.
- The aspects of interpersonal relationships that result in problems or conflicts within family groups.
- Therapy techniques to strengthen or reestablish family roles.
- Behavioral and emotional responses of family members resulting from parental separation or divorce.

- The effect of differences in multigenerational acculturation on family structure and values.
- Techniques to identify multigenerational transmission of patterns and interactions that impact client functioning.
- Techniques to educate children regarding the relationship between behavior and consequences.
- The implications of family history for understanding its influence on current family functioning.
- Techniques to identify and clarify roles and expectations in blended family structures.
- Different types of supportive services to strengthen family system.
- Therapeutic interventions to improve family transactions.
- Therapeutic techniques to increase individuation within existing system structures.
- The stages of developmental changes that occur within the family system.
- Group process methods for improving patterns of communication between family members.
- The concept of feedback as it relates to the adjustment of a system.
- The family life cycle that results in transitions and changes in status.
- Techniques to identify different power bases within family structure.
- The concept of homeostasis in maintaining system structure and balance of power.

G. MANAGING THE THERAPEUTIC PROCESS

Tasks

- Identify cultural help-seeking behaviors to understand ways by which client presents with psychological or physical problems.
- Provide unconditional positive regard by demonstrating genuine acceptance to assist client to develop a positive sense of self-worth.
- Implement strategies to address language barriers to facilitate client expression and understanding.
- Establish a supportive environment by providing unconditional positive regard toward client.
- Identify client and therapist values that impact the therapeutic process to direct the treatment approach.
- Identify countertransference to modulate impact on the therapeutic process.
- Implement strategies for facilitating client's identification of own strengths to support own ability to achieve treatment goals.
- Implement strategies for incorporating aspects of client's belief system into therapy to minimize barriers.
- Implement strategies for establishing and maintaining the therapeutic alliance during the course of treatment.
- Implement strategies to facilitate client's awareness of the relationship between self-esteem and current functions.
- Establish therapeutic alliance to assist client engagement in therapy.

Knowledge of

- The effect of unconditional positive regard in facilitating therapeutic effectiveness.
- The concept of countertransference as therapist's reactions and feelings response to client's therapeutic issues.
- The concept of transference as an expression of unresolved issues.
- Techniques for conveying empathy, interest, and concern within therapeutic context.
- Methods and techniques for addressing the communication needs of clients with communication-related disabilities and/or English language communication needs.
- The stages of the client/therapist relationship and how it progresses over time.
- Techniques for establishing a therapeutic framework with diverse populations.
- Techniques to promote client engagement in therapeutic process.
- Methods and techniques for increasing client's acceptance of self as the agent of change in therapy.
- The effect of differences between therapist and client's values on therapy process.
- The relationship between client sense of self-worth and client functioning.
- Techniques for incorporating therapeutic use of self to maximize therapeutic alliance.

VI. LEGAL MANDATES

This area assesses the candidate's ability to identify and apply legal mandates to clinical practice.

A. PROTECTIVE ISSUES/MANDATED REPORTING

Tasks

- Report known or suspected abuse of a dependent adult client to initiate investigation by protective authorities.
- Evaluate whether client, if due to mental illness, is a danger to self or others, or is gravely disabled, to initiate protective involuntary hospitalization.
- Evaluate client and the content of therapy to identify holder of privilege.
- Report known or suspected abuse or neglect of a child to initiate investigation by protective authorities.
- Maintain client confidentiality by complying with legal guidelines regarding disclosure of privileged communication.

Knowledge of

- Criteria for determining abuse, neglect, or exploitation of dependent adults.
- Laws regarding privileged communication to protect client's rights and privacy.
- Laws regarding payment or acceptance of money for referral of services.
- Reporting requirements regarding duty to warn when client indicates intent to harm others.
- Components of a child abuse investigation interview.
- Legal criteria for assessing grave disability of client to establish need for food, shelter, or clothing.
- Laws regarding holder of privilege.
- Legal requirements regarding the mandatory and discretionary reporting have suspected or known abuse.
- Legal requirements for disclosing confidential material to other individuals, agencies, or authorities.

B. PROFESSIONAL CONDUCT

Tasks

- Maintain boundaries with client by adhering to legal guidelines regarding sexual relations.
- Implement therapeutic techniques congruent with professional competence to provide services within scope of practice.
- Obtain client's written permission to disclose privileged information to protect client's right to privacy.
- Maintain client records in accordance with state and federal regulations.
- Provide "Professional Therapy Never Involves Sex" brochure to client when client discloses allegations of sexual misconduct in previous therapy.
- Disclose fees or the basis on which fees are computed for services to client prior to starting therapy.

Knowledge of

- Laws, which define the boundaries and scope of clinical practice.
- Laws regarding disclosing fees for professional services.
- Laws regarding advertisement and dissemination of information of professional qualifications, education, and professional affiliations.
- Laws regarding sexual misconduct between therapist and client.

VII. ETHICAL STANDARDS

This area assesses the candidate's ability to identify and apply ethical standards to clinical practice.

Tasks

- Provide client with reasonable notification and resources when treatment must be interrupted or terminated.
- Disclose exceptions to confidentiality to inform client of limitations of privileged communication.
- Provide client with office policies, emergency procedures, and contact information to establish ground rules for the therapeutic relationship.
- Seek consultation before countertransference issues interfere with treatment.
- Collaborate with other professionals when issues arise outside the therapist's expertise.
- Identify clinical issues outside therapist's experience or competence to refer to other professionals for treatment.
- Provide client with information regarding extent and nature of services available to facilitate client's ability to make educated decisions regarding treatment.
- Identify personal issues that interfere with provision of therapy that require consultation with or referral to other professionals.

- Demonstrate professional competence by providing information to client regarding education, professional qualifications, and professional affiliations.
- Implement policies and therapeutic procedures that enhance client's self-determination by providing services regardless of client's race, culture, country of origin, gender, age, socioeconomic marital orientation, or level of ability.
- Maintain awareness of impropriety involving the offer, solicitation, or acceptance of money or other consideration for referral of services to avoid negatively impacting the therapeutic relationship.
- Bill for services within the structure of the "fees for service" communicated to client prior to initiating treatment.
- Identify own physical or cognitive impairments to determine impact on ability to provide professional services.
- Maintain clear and professional boundaries with client to prevent dual/personal relationship that could negatively impact the therapeutic relationship.

Knowledge of

- Methods and conditions for communicating to client about acceptance of money or other payments for referral of services.
- Criteria for determining competency to practice.
- Methods and conditions for disclosing fees for professional services.
- Business, personal, professional, and social relationships that create a conflict of interest within the therapeutic relationship.
- Therapist issues and conflicts that interfere with the therapeutic process.
- Ethical responsibility to provide client with information regarding therapeutic process and services.
- The limits of confidentiality within the therapeutic framework.
- Ethical considerations and conditions for interrupting or terminating treatment.
- Knowledge limitations of professional experience, education, and training to determine issues outside therapeutic competence.
- Methods and conditions for disclosing confidential material to other individuals, agencies, or authorities.
- Ethical standards for providing services congruent with client's race, culture, country of origin, gender, age, religion, socioeconomic status, marital status, sexual orientation, or level of ability.
- Ethical responsibility to disclose limits of confidentiality to inform client of reporting requirements.

LCSW Written Clinical Vignette Examination Content Outline

- I. Bio-psychosocial Assessment**
- II. Diagnostic Formulation**
- III. Treatment Plan Development**
- IV. Resource Coordination**
- V. Therapeutic Interventions**
- VI. Legal Mandates**
- VII. Ethical Standards for Professional Conduct**

The exact number of items devoted to each content area will vary slightly from one examination version to another in accordance with the clinical features and key factors associated with each vignette. The multiple-choice items are divided more or less equally between the content areas being examined. In addition, the items may apply to more than one content area. All multiple-choice items are equally weighted. Human diversity is measured throughout the exam and is not represented as a specific area on the score report. The content areas associated with ethics and legal are merged on the score report.

The following pages contain detailed information regarding examination content. A DEFINITION and DESCRIPTION of each content area, and the associated task and knowledge statements are provided.

The DEFINITION provides a general description of what the questions pertaining to that content area are designed to assess.

The DESCRIPTION provides a summary of the key components that may be presented to the candidate, specific to the vignette.

It is important for candidates to use this section as a study guide because each item in the Written Clinical Vignette examination is linked to this content. To help ensure success on the examination, candidates are also encouraged to use this section as a checklist by considering their own strengths and weaknesses in each area.

I. BIO-PSYCHOSOCIAL ASSESSMENT

Definition: *This area assesses the candidate's ability to evaluate the bio-psychosocial factors relevant to gaining a clinical understanding of the client and the presenting problem.*

Description: *The candidate assesses and evaluates the interactions of psychological symptoms, intrapersonal and interpersonal resources, risk factors, and client readiness, within the context of the client's socio-cultural perspective.*

A. ASSESSING FOR RISK

Tasks

- Assess for suicide potential by evaluating client's intent, means, and history to determine need for immediate intervention.
- Evaluate level of danger client presents to self and/or others to determine need for immediate intervention.
- Evaluate client for grave disability to determine need for immediate intervention.
- Evaluate degree of risk of abuse or neglect of a child to determine need for referral to a child protective services agency.
- Evaluate degree of risk of abuse or neglect of dependent adult or elderly client to determine need for referral to an adult protective services agency or ombudsman.

Knowledge of

- Psychological, physical, and behavioral indicators of abuse and neglect.
- Sociocultural factors that affect the assessment of client risk.
- Risk factors that indicate a high potential for suicide within age, gender, and cultural groups.
- Legal criteria for identifying clients who require involuntary treatment or detention.
- Methods for assessing the risk of decompensation and hospitalization.
- Criteria for evaluating the safety of a child's environment.
- Physical, behavioral, and psychological indicators of suicidal and/or self-injurious behavior.
- Criteria for determining whether client's living situation constitutes high risk for abuse.
- Risk factors that indicate a client's potential for causing harm to others.
- Criteria for assessing the risk of abuse, neglect, or exploitation of elder and dependent adults.
- Risk factors associated with diagnostic categories and clinical populations that indicate a high potential for suicidal and/or self-injurious behavior.

B. IN-DEPTH ASSESSMENT- Comprehensive Exploration of Symptoms (Psychological Factors)

Tasks

- Assess client's physical appearance and presentation to evaluate effects of presenting problem on client's functioning.
- Assess client's mood, affective responses, and impulse regulation to identify patterns of emotional functioning.
- Evaluate client's ability to care for self by assessing impact of cognitive or physical impairments.
- Identify perceptual and cognitive functions that require referral for psychological testing.
- Identify perceptual, cognitive, and personality issues that suggest referral for vocational testing.
- Identify psychiatric and physical symptoms or characteristics to determine need for psychiatric or medical referral.
- Identify symptoms of perceptual, cognitive, and learning disorders that require referral for educational testing.

Knowledge of

- The effects of aging on client's independent functioning.
- Behavioral, physiological, and psychological indicators of emotional distress in assessing client's psychosocial functioning.
- Behavioral, physiological, and psychological factors that indicate a need for psychiatric or medical evaluation.
- Methods and techniques for assessing the client's ability to provide for self-care needs.
- The effects of mood disturbance on psychosocial functioning.
- Types of information available employment, medical, psychological, and school records to provide assessment and diagnostic information.
- Psychological, cognitive, and behavioral factors that indicate a need for a psychological and vocational testing.
- Methods and techniques for assessing the impact of the mental health history of the client's family on the client's current problems and issues.
- the effect of mental disorders psychosocial functioning.
- Methods and techniques for assessing the impact of the client's previous mental health treatments on the client's current problems and issues.

C. IN-DEPTH ASSESSMENT- Comprehensive Exploration of Symptoms (Cultural/Personal Factors)

Tasks

- Evaluate effects of client and family's spiritual beliefs on presenting problem.
- Assess client's degree of acculturation to determine impact on presenting problem.
- Identify impact of client's experience of life stressors within context of client's race, culture, country of origin, age, gender, religion, sexual orientation, marital status, and level of ability.
- Assess nature of client's familial relationships by evaluating the family structure within the client's cultural identity.
- Identify impact of client's culture on client's presentation of psychological or physical problems.

Knowledge of

- Methods for assessing the client's degree of acculturation.
- Methods and techniques for assessing the impact of the client's level of acculturation on the presenting problem.
- Methods and techniques for assessing the impact of other peoples' values, culture, and life experiences on the client's presenting problem.
- Methods and techniques for assessing the client's experience of social and cultural biases and discrimination and their impact on the presenting problem.
- Methods and techniques for assessing how the client's values, personal preferences, and cultural identity impact the presenting problem.

D. IN-DEPTH ASSESSMENT- Comprehensive Evaluation of Problem (Social-Environmental History)

Tasks

- Assess history of trauma and abuse to determine impact on current functioning.
- Evaluate impact of psychosocial and environmental stressors on client's symptomatology.
- Assess client's employment history to evaluate past and present impact of presenting problem in occupational settings.

Knowledge of

- The cycle of abuse that perpetuates intergenerational violence and trauma.
- How cultural influences affect the client's perception of life events as traumatic. .
- The effects of family structure and dynamics on the client's development of role identity and patterns of interpersonal interaction.
- The interrelationship between client's behavior in social and work environments and behavior in other areas of client's life.
- How to assess the relationship between life events and the stressors the client experiences.
- The effects of sociocultural factors on the client's presenting problem.

E. IN-DEPTH ASSESSMENT- Comprehensive Evaluation of Problem (Medical and Developmental History)

Tasks

- Assess client's perception of the impact of physical limitations on adaptive functioning.
- Assess how client's medical conditions affect past and current adaptive functioning.
- Assess impact of patterns of familial interaction and beliefs on client's physical health and wellness.
- Identify possible deficits in client's developmental level to determine need for further evaluation.

Knowledge of

- The relationship between medical conditions and psychosocial functioning.
- Symptoms of medical conditions that may impact client psychosocial functioning.
- The effects of medications and their impact on the client's adaptive functioning.
- Methods and techniques for assessing the impact of client's family medical history on current problems and issues.
- The effects of social, cultural, and environmental influences on aging and health.
- Theories of aging and development that explain biological and cognitive changes.
- The relationship between level functioning and normative developmental stages throughout the life span.
- Common physical conditions, psychological issues, and behavioral patterns associated with specific developmental or life phases.
- Developmental processes of individual growth and change.
- The effect of biological and environmental influences on specific developmental and life phases.
- Theories of stages of cognitive development.

F. IN-DEPTH ASSESSMENT- Comprehensive Evaluation of Problem (History of Substance Use/Abuse)

Tasks

- Assess impact of client's substance abuse on family members and significant others to determine need for concurrent services.
- Assess social and familial factors associated with or contributing to the client's substance use.
- Assess types and patterns of use to determine substance abuse and/or dependence.

Knowledge of

- The effect of substance use and abuse on psychosocial functioning.
- Physical and behavioral indicators associated with substance abuse.
- The impact of substance use or abuse on family and social relationships and role functioning.
- Physical and behavioral indicators associated with substance dependence.
- Physical and behavioral signs indicating current substance intoxication and/or withdrawal.
- The impact of social, cultural, and familial factors on substance use and abuse.

G. IN-DEPTH ASSESSMENT- Comprehensive Evaluation of Inter – and Intra-Personal Resources

Tasks

- Assess current living conditions to determine impact of the environment on the person in the situation.
- Assess impact of the client's family and social network on the presenting problem.
- Assess socioeconomic factors to determine the impact of financial stressors on current problem.
- Identify information regarding client's past and present coping strategies and strengths as they relate to the presenting problem.

Knowledge of

- The effect of economic factors and stressors on psychosocial functioning.
- The relationship between social supports and adaptive functioning.
- Affective reactions to life stressors or situations that impact psychosocial functioning.
- Theories of coping and adaptive responses to life events.

II. DIAGNOSTIC FORMULATION

Definition: *This area assesses the candidate's ability to use assessment information to formulate an accurate differential diagnosis within the client's socio-cultural perspective.*

Description: *The candidate uses assessment information and knowledge of diagnostic criteria to formulate a differential diagnosis to provide a focus for developing a treatment plan and formulating interventions.*

Tasks

- Integrate information about the client's premorbid functioning in developing a differential diagnosis or problem formulation.
- Compare assessment information with diagnostic criteria in formulating differential diagnoses.
- Incorporate information about the client's physiological status in formulating differential diagnoses.
- Integrate information regarding the impact of the client's cultural/ethnic background and beliefs on the experience and presentation of symptoms in formulating a differential diagnosis.
- Integrate collateral information from referral sources in developing a differential diagnosis or problem formulation.
- Identify persistence of symptoms to determine if problem is acute or chronic.
- Develop clinical diagnosis or problem formulation to provide basis for interventions.
- Identify extent of impairment and its impact on the client's level of functioning to develop a diagnostic impression.
- Integrate assessment information to determine depth and breadth of impairment on adaptive functioning.
- Integrate information about the precipitating events in developing a differential diagnosis or problem formulation.
- Identify psychological and environmental stressors to determine impact on symptomatology.

Knowledge of

- Diagnostic and Statistical Manual of Mental Disorders classifications of symptoms and disorders.
- How to evaluate and integrate information about the client's premorbid condition and precipitating events into the formulation of a differential diagnosis.
- Situations that require consultation with a client-identified expert for clarifying diagnosis or problem formulation within the framework of the client's culture and beliefs.
- The relationship between biochemistry and psychiatric disorders.
- How to evaluate and integrate client's past mental and medical health history to formulate a differential diagnosis.
- Situations that require consultation with other professionals in developing or clarifying a diagnosis or problem formulation.
- The defining characteristics of symptoms that indicate provisional diagnoses.
- The psychoactive qualities of substances that contribute to dependence, physical addiction, or impairment.
- The social work diagnostic framework for identifying and evaluating presenting symptoms.
- The impact of cultural factors on the formulation of a differential diagnosis.
- The relationship between psychosocial and environmental factors and symptom development.
- The relationship between onset of signs and symptoms and duration of the problem.
- Behavioral, physiological, and psychological indicators of developmental disorders.
- The relationship between persistence of symptoms and the course of the problem.
- Methods for differentiating between disorders that share common symptoms.
- Criteria for classifying substance use, abuse, and dependency.
- The short- and long-term side effects of medications and their effect on the client's presenting symptoms.

III. TREATMENT PLAN DEVELOPMENT

Definition: *This area assesses the candidate's ability to develop a treatment plan consistent with assessment and diagnostic information.*

Description: *In the treatment plan the candidate identifies and prioritizes objectives, goals and methods of treatment, and integrates and coordinates concurrent treatment modalities and adjunctive resources relevant to the phases of therapy. The candidate's plan develops strategies to monitor the impact of collateral resources and progress toward treatment outcomes, the need for revisions, and includes a plan for termination.*

A. IDENTIFY/PRIORITIZE OBJECTIVES, GOALS, AND METHODS OF TREATMENT

Tasks

- Identify level of intervention required to address the client's areas and degree of impairment in developing the treatment plan.
- Integrate aspects of client's value and belief systems into the development of the treatment plan.
- Develop measurable objectives to facilitate treatment goals.
- Select therapeutic interventions by evaluating presenting problem in conjunction with treatment goals.
- Select treatment modalities based on client needs, diagnosis, and assessment.
- Develop preliminary termination plan to provide a structure for treatment.
- Prioritize interventions according to applicable phase of treatment and client's preparedness to work with the therapeutic issues involved.
- Incorporate interventions into the treatment plan that address the needs associated with client's clinical diagnosis.

Knowledge of

- Methods and techniques for enhancing client motivation in treatment.
- Methods for engaging mandated, resistant, and noncompliant clients in the therapeutic process.
- Client characteristics that affect client adaptation in different therapeutic modalities or treatment settings.
- The components of a treatment or service plan for each phase of the therapeutic process.
- Methods for determining service priorities by evaluating level of impairment in areas of client functioning.
- Methods for determining the timing of interventions according to phase of therapy.
- Methods for prioritizing symptoms to determine target areas for improving client functioning.
- Culturally competent interventions to provide services to diverse populations.
- Strategies for determining therapeutic goals to direct treatment.
- Techniques for integrating client's current experiences, values, and belief systems into the treatment plan.
- The differential use of psychotherapeutic techniques in treating problems or disorders.
- Techniques for determining compatibility of treatment modalities with specific problems or disorders.
- Methods for developing short- and long-term treatment objectives to address therapeutic problems.
- Methods for determining length of therapy based on diagnosis and client's goals for treatment.
- The components of individual treatment plans to provide for clients with special needs.

B. INTEGRATE/COORDINATE CONCURRENT TREATMENT MODALITIES AND ADJUNCTIVE RESOURCES

Tasks

- Determine need for referral to adjunctive treatment resources to support the treatment plan.
- Evaluate need for a treatment program based on severity of substance abuse and impairment to client functioning.
- Evaluate efficacy of collateral support systems for inclusion in treatment plan.
- Implement therapeutic techniques congruent with client's racial, cultural, country of origin, gender, sexual orientation, marital status, or level of ability to provide treatment.

Knowledge of

- The dynamics of working across disciplines in developing comprehensive and integrated treatment.
- Methods for accessing and coordinating multiple interventions across disciplines.
- Methods for incorporating collateral support systems in therapy.
- Techniques for combining treatment modalities in treating specific problems or disorders.
- The effect of psychotropic medications on therapeutic interventions.
- Methods for integrating mainstream, complimentary, and alternative treatment modalities that are consistent within the framework of the client's cultural identity, beliefs, and values into treatment.

C. MONITORING, EVALUATION AND REVISION OF TREATMENT PLAN

Tasks

- Determine effectiveness of therapeutic interventions by evaluating progress toward treatment objectives.

- Adjust treatment plan and interventions as indicated by client's changing needs and goals.
- Determine evaluation criteria to monitor progress toward goals and objectives.

Knowledge of

- Techniques for re-engaging mandated, resistant, and noncompliant clients in treatment.
- Methods and procedures for formulating an after-care plan.
- Methods for assessing qualitative and quantitative therapeutic change.
- Methods for consolidating therapeutic gains to facilitate and maintain client's achievements outside therapy.
- Methods for evaluating and monitoring treatment plan to ensure consistency with changing client goals and needs.
- Methods for formulating behavioral indicators to measure and evaluate therapeutic change.
- Changes in client functioning that indicate readiness to terminate therapy.
- Procedures for evaluating therapeutic change in preparation for termination.
- Methods and procedures for accessing and coordinating interventions across disciplines in an after-care plan.

IV. RESOURCE COORDINATION

Definition: *This area assesses the candidate's ability to coordinate and provide access to resources, and to evaluate the efficacy of the referrals.*

Description *The candidate collaborates with the client and others to increase the client's access to relevant resources, evaluates these resources for meeting the client's needs, and provides psychoeducation to service providers as an advocate for improving client services and supporting client's rights.*

A. SERVICE IDENTIFICATION AND COORDINATION

Tasks

- Evaluate suitability of community resources to provide supportive services commensurate with client needs.
- Evaluate suitability of current and prospective caregivers to provide supportive services commensurate with client needs.
- Evaluate client's current needs and prognosis for change to assist in determining least restrictive placement environment.
- Coordinate linkages with support systems and services to facilitate access by client.

Knowledge of

- Criteria for determining least restrictive environment to provide for care and safety of client.
- Methods for identifying and incorporating community support systems and resources that are consistent with client's beliefs and values.
- Types of placements available for the short- and long-term care of client's of differing levels of care.
- Methods for evaluating conditions in the home to determine need for additional services.
- Methods and procedures for facilitating client's transition to a less restrictive setting.
- Methods for identifying community support services that meet client needs.
- Methods for evaluating the suitability of a caregiver and the home or placement for providing services addressing client's current or prospective needs.
- Methods for identifying and incorporating community support systems and resources relevant to the client's culture, background, beliefs, and values.
- Methods for evaluating client's ability to access support services and treatment sources.
- Federal, state, and local, public, and private social services that provide assistance with meeting client's basic needs.
- Methods for identifying and incorporating community support systems and resources for transient and homeless clients.
- Criteria for evaluating the level of care of a prospective or current placement to meet client's needs.

B. CLIENT ADVOCACY AND SUPPORT

Tasks

- Educate client about how to access support services including access to legal advocacy to support client's rights.

- Implement interventions and referrals that increase the client's ability to more independently access services related to housing, medical care, employment, transportation, and the provision of basic needs.
- Monitor services provided by agencies, caregivers and placement settings to evaluate whether the needs of the client are being met.
- Advocate for protective placement to assist client with leaving a dangerous or unsafe environment.
- Advocate with community resources related to housing, education, and the provision of basic needs to improve service delivery and to protect client rights.

Knowledge of

- Methods for increasing client's ability for self-advocacy.
- Methods for evaluating the usage and efficacy of referral sources.
- Standards, laws, and regulations regarding housing, accessibility, employment, and equal opportunity to protect client's rights.
- Criteria for evaluating safety of client placement.
- Laws, statutes, and regulations relating to residential placement.
- Advocacy methods for increasing client's access to needed resources.
- Methods for providing psychoeducational services to the client.
- The benefits of psychosocial education to clients and their families about the nature of mental disorders.
- Methods for providing psychoeducational services to community service providers.

V. THERAPEUTIC INTERVENTIONS

Definition: *This area assesses the candidate's ability to provide a range of therapeutic interventions specific to client needs and consistent with the client's socio-cultural context.*

Description: *The candidate selects and implements interventions based on assessment, diagnosis, and the treatment plan, and manages the therapeutic process.*

A. CRISIS INTERVENTION

Tasks

- Implement techniques to assist client's exploration of options to increase adaptive functioning.
- Evaluate nature and severity of current crisis to determine intervention strategy.
- Implement techniques to assist client to verbalize source of crisis.
- Identify client's level of functioning prior to crisis to establish goals for postcrisis functioning.
- Develop a stabilization plan with client in crisis to prevent further decompensation.

Knowledge of

- Methods for implementing strategies and interventions with clients in emergency situations.
- The effect of crisis on emotional and psychological equilibrium.
- Counseling techniques to assist client in crisis to regain emotional balance.
- Transitional crises created by immigration and acculturation.
- Intervention strategies to reduce self-destructive and/or self-injurious behavior.
- Crisis intervention techniques to provide immediate assistance to client.
- The psychological characteristics and emotional reactions to crisis events or trauma.
- Therapeutic techniques for improving adaptive functioning of client in crisis.

B. SHORT-TERM THERAPY

Tasks

- Apply a problem-solving approach in therapy for treating the problem as it impacts the client's current functioning.
- Instruct client in techniques for increasing rational thought processes to enhance client's problem-solving and decision-making ability.
- Implement interventions for facilitating the client's ability to identify the interrelationship between past events and current behaviors.
- Provide psychoeducation about loss and stages of grieving process to facilitate client's normalization of feelings and experiences.

- Provide psychoeducation about normal reactions to stress to assist client with managing transitional life issues.
- Facilitate client's coping and planning strategies for addressing issues associated with major life events/ potentially life-changing events.
- Assist client to identify precursors to relapse to facilitate joint development of a relapse prevention plan.
- Apply a treatment plan for accomplishing symptom reduction using a brief therapy model.

Knowledge of

- Methods and interventions for increasing client's ability to manage stressors resulting from changes in life circumstances.
- The intervention models for Brief Therapy and their indications and contraindications for use.
- Techniques and procedures for implementing interventions using a Brief Therapy model.
- The effect of client's prior coping patterns and life experiences on adjustment to trauma.
- The stages of loss and grief.
- Counseling techniques to assist survivor of trauma to work through feelings associated the experience.
- The effect of patterns of interpersonal relations on ability to maintain social relationships.

C. THERAPY FOR CHILDREN AND ADOLESCENTS

Tasks

- Determine baseline levels of maladaptive behaviors to measure therapeutic change.
- Implement interview techniques consistent with child's cognitive development.
- Select age-appropriate interventions to facilitate child's understanding of the presenting problem.
- Select interventions congruent with child's cultural identity to facilitate child's engaging in therapy.
- Assist child to develop coping strategies to facilitate adjustment to changes in life circumstances.
- Assist adolescent to become aware of shifting emotional states to develop adaptive coping strategies.
- Provide psychoeducation to parents/caregivers to enhance their understanding of the developmental process of the adolescent entering adulthood.
- Provide psychoeducation to adolescents regarding developing healthy, reciprocal peer relationships.
- Assist adolescent to clarify how past traumatic incidents may impact current perceptions, feelings, and behaviors.
- Provide training to children and adolescents in self initiated strategies for managing the impact of stressors on thoughts and feelings.
- Implement therapy techniques with client to address the issues or emotions underlying aggressive behavior.
- Provide social skills training to modify maladaptive interpersonal behavior in order to improve client's ability to develop and maintain relationships with others.
- Provide assertiveness training to promote client's self-esteem and self-confidence.
- Determine antecedents of client's maladaptive behaviors by identifying the internal and or external stimuli leading to the undesired responses.
- Provide therapy involving structured task completion to improve child's ability to focus on specific tasks.
- Provide parenting skills training to improve parent's caregivers' ability to care for children.
- Develop child/adolescent client's awareness of the need for emotional and physical boundaries to promote client's sense of self as a separate entity.
- Provide counseling to adolescent client to deal with issues associated with the biological, psychological, and social transition from childhood to adulthood.
- Address adolescent's body image distortions to develop a reality-based perception of the physical self.
- Provide supportive therapy to client experiencing gender identity or sexual orientation issues.
- Instruct children and adolescents regarding self-control techniques to promote awareness of the consequences of their actions.
- Provide psychoeducation to child/adolescent client about the physical and psychosocial effects of substance use to promote resistance to continued substance usage.

Knowledge of

- Methods for preventing relapse with child adolescent client in recovery.
- Common psychological reactions related to biological changes of adolescence and young adulthood.
- Counseling techniques for dealing with physical, emotional and psychological issues that contribute to substance use and abuse.

- Methods and techniques to identify source of resistance to treatment
- Methods and techniques for assisting client with achieving goals of individuation associated with age and psychosocial stages of development.
- Counseling techniques to facilitate client's recognition of emotional and psychological sources of anger.
- Counseling techniques for children and adolescents to assist client's psychological adjustment to sexuality issues.
- Behavior management interventions that reduce disruptive behavior in a variety of environments.
- The principles of learning theory to explain the acquisition of behaviors intervention methods for treating substance dependency.
- Behavioral and emotional responses in children resulting from parental separation or divorce.
- Developmental theories and their application to children and adolescents in a clinical setting.
- Techniques for increasing attention span by modifying child's environment.
- The effect of culture, ethnicity, and socialization on development of role identification and expectations in children and adolescents.
- Developmentally appropriate therapeutic techniques for treating children and adolescents.
- Therapeutic techniques to decrease violent or aggressive behavior.
- The effect of gender role expectations and stereotypes on child and adolescent development.
- The developmental stages of defining sexual identity and preference.
- The physical and psychosocial effects of substance use on children and adolescents.
- Methods and techniques for providing psychoeducation to parents and caregivers of children and adolescent clients.
- Types of learning disabilities that impede academic performance.
- Effect of cultural, racial, and ethnic values and beliefs on behavior of children and adolescents.
- The effects of racism and discrimination on development of self-concept.
- Factors that affect client adjustment during emancipation process.

D. THERAPY FOR ADULTS (INDIVIDUAL AND GROUP)

Tasks

- Apply therapeutic techniques to integrate thoughts, feelings, and actions to client to achieve congruence of self.
- Provide psychotherapy to survivor of abuse to reduce the impact of the experience.
- Teach client anger management techniques to increase client's ability to manage aggressive impulses.
- Provide psychotherapy to client with substance abuse problem to facilitate client's ability to address the contributing factors and dynamics of substance abuse.
- Provide supportive therapy to elderly clients and their families to facilitate their ability to address the physical and psychological effects of the aging family member(s).
- Instruct client in environmental modification techniques for limiting stimuli that elicit undesired behaviors and increasing stimuli that elicit desired behaviors.
- Conduct symptom management training with psychiatric client to minimize effect of disorder on functioning.
- Provide psychoeducation for family members to facilitate treatment compliance of client.
- Teach client conflict management skills to increase client's ability to reach suitable resolutions in disputes.
- Implement psychodynamic techniques to assist client with bringing preconscious processes into conscious awareness.
- Provide psychoeducation regarding stages of the life cycle to normalize client's experiences.
- Instruct client in techniques to generate rational thoughts and attitudes to assist development of adaptive behaviors.
- Implement techniques for motivating client to attend substance treatment programs.
- Assist client to identify cognitions that maintain maladaptive behavior.
- Provide supportive therapy to psychiatric client increase compliance with medical and pharmacological interventions.
- Conduct psychoeducational groups for medication education and compliance to facilitate symptom stabilization.

- Implement techniques to assist client to generalize successful behaviors to new situations.
- Implement techniques for increasing client's awareness of how past experiences have influenced present life patterns.
- Apply systems approach in therapy to determine impact of interactions between the person and the environment.
- Confront client's inappropriate and/or antisocial behavior to provide opportunities for change.
- Implement techniques for increasing client's awareness of own defense mechanisms to assist client with recognizing problematic thoughts, emotions, and consequences.
- Teach client relaxation skills to increase client's ability to manage symptoms of anxiety.

Knowledge of

- The relationship of the positive effects of physical and cognitive activity on functioning in later adulthood.
- Theories of group dynamics.
- Cognitive restructuring techniques to change maladaptive thought patterns.
- The relationship between interpersonal interactions and social functioning.
- The effect of cognition on interpretation of behavioral responses.
- The biological, social, and psychological aspects of mental illness and emotional functioning.
- Sexual dysfunctions that indicate need for specialized services.
- Methods and techniques for conducting group psychotherapy.
- The biological, social, and psychological aspects of aggression.
- Methods and techniques for providing psychoeducation to individual clients and groups.
- The effect of gender role expectations and stereotypes on adult psychosocial functioning.
- Stress management techniques to reduce anxiety or fearful reactions.
- Interventions and techniques for assisting client with managing own anger and aggression.
- Therapy methods and techniques to assist client with adjusting to the effects of racism and discrimination.
- Psychodynamic techniques for resolving emotional conflict or trauma.
- Methods for implementing desensitization techniques to reduce client symptoms.
- Techniques to assist client to adjust to physical, cognitive, and emotional changes associated with the aging process.
- The effects of unconscious processes on behavior.
- The protective function of defense mechanisms against anxiety.
- The application of experiential techniques to assist client to achieve treatment goals.
- Methods and techniques for teaching client self-implemented therapeutic techniques as part of the treatment process.
- The concept of insight in successful resolution of past trauma or conflict.
- The biological, social, and psychological aspects of substance use and addiction.
- Therapeutic techniques for increasing client's feelings of self-worth.
- Methods for assessing maladaptive functioning in interpersonal relationships.
- The impact of cultural, racial, and ethnic values and beliefs on adult behavior.
- The effect of events in client's past on current experiences.

E. THERAPY FOR COUPLES

Tasks

- Implement communication techniques with couples to promote mutual disclosure and discussion.
- Identify strategies couples can implement to balance external responsibilities with personal relationship.
- Implement therapeutic techniques to establish or strengthen individual roles and identities within the couple relationship.
- Provide counseling to couples considering separation or divorce to address issues of loss.
- Provide premarital counseling to assist couple's transition to new family system.
- Educate clients about the stages of development of the couple relationship to normalize changes and transitions.
- Provide therapy and psychoeducation to couples to address issues of a blended family.
- Implement strategies to increase the safety the couple feels in the relationship.
- Assist couple to identify the relationship strengths from which effective coping strategies may be based.

- Identify patterns of interaction between the individuals within a couple to determine positive and negative impacts on the relationship.
- Teach conflict management skills to the individuals within a couple to increase the ability to reach suitable resolutions in disputes.
- Determine goal of couple's therapy by evaluating each individual's motivation.
- Assist nontraditional couples (same sex, mixed cultures, mixed ethnicity, and age differences) to identify specific needs and develop external support system and coping strategies.
- Implement techniques to increase the individuation of the individuals within a couple by establishing clear and permeable boundaries within systems.
- Provide education regarding values identification and clarification to develop mutual acceptance, tolerance, and cohesion in relationship.
- Determine impact on the individuals within a couple of multigenerational interactional patterns by evaluating the history of family relationships.

Knowledge of

- The effect of incongruent goals of couples on therapeutic process.
- The effect of culture, ethnicity, and socialization on development of role identification and expectations in couples.
- Techniques to increase intimacy within couple relationships.
- The aspects of relationships that result in problems or conflicts for couples.
- Methods and techniques for facilitating a couple's ability to address maladaptive relationship patterns.
- Techniques to assist client to develop individual roles and identities within the couple relationship.
- The impact of communication and interactional styles on couple relationships.
- Techniques for teaching conflict resolution and problem-solving skills with individuals in a couple.
- Counseling techniques to assist couples with psychological adjustment to sexuality issues.
- Methods and techniques for facilitating a couples' ability to minimize the effects of external pressures on intimacy needs.
- The effect of gender role expectations and stereotypes on communication and partner expectations in couples.
- Issues resulting from dissolution of couple relationships.
- Therapeutic methods to establish individual and system boundaries.
- The effect of unrealistic role assignments on couple relationships.
- The dynamics of the marriage/partner relationships that shape and change the relationship.
- Methods and techniques for teaching couples how to improve their communication.

F. THERAPY FOR FAMILIES

Tasks

- Provide information to clients regarding developmental stages of the family to facilitate understanding of family change.
- Implement strategies for changing disruptive interaction styles to strengthen family cohesion.
- Identify separation issues in parent-child relationship to promote age-appropriate individuation.
- Identify transitional issues in parent-child relationship to promote age-appropriate differentiation.
- Mediate conflict regarding couple's parenting styles to effect consistency in child's environment.
- Provide information and resources to parents regarding growth and development of children to increase understanding of child's needs and progress.
- Identify differences in multigenerational acculturation to determine source of value conflicts between family members.
- Provide family therapy to achieve reunification goals.
- Apply family treatment strategies to strengthen parent child relationships to minimize effect of separation or divorce.
- Develop family reunification goals by identifying changes that must be made to improve family functioning.
- Assist clients to clarify family roles to facilitate adjustment to new blended and/or nontraditional family structure.
- Provide psychosocial information to families regarding environmental and biological components that impact development.

- Identify patterns of interaction among family members to determine sources of conflict.
- Identify family of origin influences to understand impact on present family functioning.
- Identify family structure to clarify roles and boundaries of the family unit.

Knowledge of

- Behaviors or reactions that indicate problematic separation or attachment issues.
- How cultural, racial, and ethnic values and beliefs affect behavior and expectations of family on family members.
- The effect of conflicting or inconsistent parenting styles on child's level of functioning.
- The impact of the family's communication and interactional styles on the family members interpersonal dynamics and relationships.
- Parenting skills necessary to provide for care of children.
- The effect of culture, ethnicity, and socialization on development of role identification and expectations in family groups.
- The impact of cultural views regarding family structure and values.
- The aspects of interpersonal relationships that result in problems or conflicts within family groups.
- Therapy techniques to strengthen or reestablish family roles.
- Behavioral and emotional responses in family members resulting from parental separation or divorce.
- The effect of differences in multigenerational acculturation on family structure and values.
- Techniques to identify multigenerational transmission of patterns and interactions that impact client functioning.
- Techniques to educate children regarding the relationship between behavior and consequences.
- The implications of family history for understanding its influence on current family functioning.
- Different types of supportive services to strengthen family system.
- Therapeutic interventions improve family transactions.
- Therapeutic techniques to increase individuation within existing system structures.
- The stages of developmental changes that occur within the family system.
- Group process methods for improving patterns of communication between family members.
- The family life cycle that results in transitions and changes in status.
- Techniques to identify different power bases within family structure.

G. MANAGING THE THERAPEUTIC PROCESS

Tasks

- Identify cultural help-seeking behaviors to understand ways by which client presents with psychological or physical problems.
- Implement strategies to address language barriers to facilitate client expression and understanding.
- Implement strategies for facilitating client's identification of own strengths to support own ability to achieve treatment goals.
- Implement strategies for incorporating aspects of client's belief system into therapy to minimize barriers.
- Implement strategies for establishing and maintaining the therapeutic alliance during the course of treatment.

Knowledge of

- Methods and techniques for addressing the communication needs of clients with communication-related disabilities and/or English language communication needs.
- The stages of the client/therapist relationship and how it progresses over time.
- Techniques for establishing a therapeutic framework with diverse populations.
- Techniques to promote client engagement in therapeutic process.
- The relationship between client sense of self-worth and client functioning.

VI. LEGAL MANDATES

Definition: This area assesses the candidate's ability to identify and apply legal mandates to clinical practice.

Description The candidate applies knowledge of legal mandates such as scope of practice, privileged communication, confidentiality, reporting requirements, involuntary hospitalization, professional conduct, and other legal mandates.

A. PROTECTIVE ISSUES/MANDATED REPORTING

Tasks

- Report known or suspected abuse of a dependent adult client to initiate investigation by protective authorities.
- Evaluate whether client, if due to mental illness, is a danger to self or others, or is gravely disabled to initiate protective involuntary hospitalization.
- Evaluate client and the content of therapy to identify holder of privilege.
- Report known or suspected abuse or neglect of a child to initiate investigation by protective authorities.
- Maintain client confidentiality by complying with legal guidelines regarding disclosure of privileged communication.

Knowledge of

- Criteria for determining abuse, neglect, or exploitation of dependent adults.
- Laws regarding privileged communication to protect client's rights and privacy.
- Laws regarding payment or acceptance of money for referral of services.
- Reporting requirements regarding duty to warn when client indicates intent to harm others.
- Legal criteria for assessing grave disability of client to establish need for food, shelter, or clothing.
- Knowledge of laws regarding holder of privilege.
- Legal requirements regarding the mandatory and discretionary reporting have suspected or known abuse.
- Legal requirements for disclosing confidential material to other individuals, agencies, or authorities

B. PROFESSIONAL CONDUCT

Tasks

- Maintain boundaries with client by adhering to legal guidelines regarding sexual relations.
- Implement therapeutic techniques congruent with professional competence to provide services within scope of practice.
- Obtain client's written permission to disclose privileged information to protect client's right to privacy.
- Maintain client records in accordance with state and federal regulations.
- Provide "Professional Therapy Never Involves Sex" brochure to client when client discloses allegations of sexual misconduct in previous therapy.
- Disclose fees or the basis on which fees are computed for services to client prior to starting therapy.

Knowledge of

- Laws, which define the boundaries and scope of clinical practice.
- Laws regarding disclosing fees for professional services.
- Laws regarding advertisement and dissemination of information of professional qualifications, education, and professional affiliations.
- Laws regarding sexual misconduct between therapist and client.

VII. ETHICAL STANDARDS FOR PROFESSIONAL CONDUCT

Definition: *This area assesses the candidate's ability to identify and apply ethical standards relevant to clinical practice.*

Description *The candidate applies knowledge of ethical responsibilities that include conflict of interest, therapeutic boundaries, dual relationships, confidentiality and scope of competence. The candidate also recognizes when to obtain consultation from other professionals.*

Tasks

- Provide client with reasonable notification and referral resources when treatment must be interrupted or terminated.
- Disclose exceptions to confidentiality to inform client of limitations of privileged communication.
- Seek consultation before countertransference issues interfere with treatment.
- Collaborate with other professionals when issues arise outside the therapist's expertise.
- Maintain awareness of impropriety involving the offer, solicitation, or acceptance of money or other consideration for referral of services to avoid negatively impacting the therapeutic relationship.

- Bill for services within the structure of the “fees for service” communicated to client prior to initiating treatment.
- Maintain clear and professional boundaries with client to prevent dual personal relationship that could negatively impact the therapeutic relationship.
- Provide client office policies, emergency procedures, and contact information to establish ground rules for the therapeutic relationship.
- Provide client with information regarding extent and nature of services available to facilitate client’s ability to make educated decisions regarding treatment.

Knowledge of

- Methods and conditions for communicating to client about acceptance of money or other payments for referral of services.
- Criteria for determining competency to practice.
- Methods and conditions for disclosing fees for professional services.
- Business, personal, professional, and social relationships that create a conflict of interest within the therapeutic relationship.
- Therapist issues and conflicts that interfere with the therapeutic process. the limits of confidentiality within the therapeutic framework.
- Ethical considerations and conditions for interrupting or terminating treatment.
- Limitations of professional experience, education, and training to determine issues outside therapeutic competence. Knowledge of methods and conditions for disclosing confidential material to other individuals, agencies, or authorities.
- Ethical standards for providing services congruent with client’s race, culture, country of origin, gender, age, religion, socioeconomic status, marital status, sexual orientation or level of ability.
- Ethical responsibility to disclose limits of confidentiality to inform client of reporting requirements.
- Ethical responsibility to provide client with information regarding the therapeutic process and services.

Appendix B

How is an Examination Created?

The development of an examination program begins with an occupational analysis. An occupational analysis is a method for surveying and identifying the tasks performed in a profession or on a job and the knowledge, skills, and abilities required to perform that job. The Board uses a questionnaire sent to LCSWs practicing in California to assist in determining what skills, tasks, and knowledge are currently used in the field. LCSWs serving as subject matter experts (SME) then analyze the results of the questionnaire. The results of an occupational analysis form an examination plan.

An examination plan consists of content areas. In each content area, the examination plan describes examination content in terms of the task statements and knowledge gathered during the occupational analysis.

LCSW examinations, both the Standard Written and the Written Clinical Vignette, are developed and maintained by the Office of Examination Resources (OER). Test validation and development specialists at OER work with LCSW SMEs to develop test questions and licensure examinations that are valid and legally defensible.

To establish pass and fail standards for each examination version, a criterion-referenced passing score methodology is used. The passing score is based on a minimum competence criterion that is defined in terms of the actual behavior that qualified LCSWs would perform if they possessed the knowledge necessary to perform job duties. The intent of this methodology is to differentiate between a qualified and unqualified licensure candidate.

MFT Examination Study Guide

Introduction

The Board of Behavioral Sciences developed this study guide to assist candidates, Interns, and students in preparing for the Marriage and Family Therapist (MFT) Standard and Written Clinical Vignette Examinations. This study guide is a starting point and should by no means be the only study resource for an examination candidate. Use the information in this handbook to help you focus and effectively prepare for the examination.

When Should I Begin to Prepare for the Examinations? An Overview

By reading this study guide, you have taken the first step in preparing yourself for the MFT licensing examinations. Because these examinations relate to your profession and your career, it is within reason for you to feel a certain degree of anxiety. However, you can reduce this anxiety through practical examination preparation. These examinations measure your skills as a clinician to meet minimum competency standards. They contain no “trick questions.”

The examinations draw on both your academic knowledge and your professional experience (Pull Quote). Preparation for the licensing examination begins once you take the first class in your qualifying degree program. Your education serves as the foundation from which you will build your clinical experience.

For some, thinking about a licensing examination that is years away while still in graduate school may seem premature. However, examination preparation evolves as you complete your licensing requirements. Your supervised work experience will offer you the opportunity to apply the knowledge gained in graduate school and strengthen your skills as a clinician. While working under the supervision of a licensed mental health professional, take advantage of the relationship with your supervisor and his or her experience in the field.

Identifying Personal Strengths and Areas Needing Improvement

The MFT examinations test a broad spectrum of minimum competencies. Ideally, your clinical experience provides you with a broad base of knowledge working with different populations and in a variety of settings, but in reality, depending on where you are working while gaining your required experience, you may very well end up specializing within particular theoretical frameworks or with particular demographics. Developing a specialization does not reflect poorly on a candidate; however, in order to succeed, you will need to acknowledge that the examinations test a general scope. If you do not have professional experience working with particular theoretical frameworks, disorders, or populations, extra preparation time on your part may be necessary.

Test Preparation Strategy

Every candidate will develop a unique strategy for examination preparation. However, the Board would like to offer some insight on strategies for preparing yourself for the examinations. Have a proactive approach towards developing your clinical skills. If you develop your skills and knowledge through your education and experience, you can succeed on these examinations.

Start by Developing a Plan

In order to put together a useful plan, you will need to focus on the tested tasks and knowledge. This information is available to you in the “MFT Standard Written Examination Plan” and “MFT Clinical Vignette Examination Plan.”

The examination plans can seem intimidating upon first review, but the material is valuable to you as you begin to develop a plan to prepare yourself for the examination. Try breaking the examination plans down to their different content areas. The examination plans reflect the broad base of knowledge tested on each examination. Approaching the outlines one content area at a time will make the outline more manageable. Also, while the “MFT Standard Written Examination Plan” and “MFT Clinical Vignette Examination Plan” may differ, they do share many common tasks and required knowledge.

Use Your Supervisor as a Resource

The goal of supervision is to assist you in becoming a better and more well rounded clinician. Since your supervisor will be aware of your clients and work, he or she can give you objective feedback on any area needing improvement. Consider bringing the examination plans to your supervision meeting and discussing how your workload/caseload is preparing you for the examinations.

Additionally, unless your supervisor is relatively new, he or she has most likely supervised other examination candidates. Ask for feedback on how other candidates prepared for the examinations. Discuss what worked and what did not work for previous candidates.

Framing Your Education and Experience

Remember, you are not approaching this examination with a blank slate. Your graduate program and supervised experience will provide you with a significant amount of information that you can use for examination preparation purposes. Take time to correlate how your education and experience apply to the subject matter of this examination.

Framing your experience and asking questions relating to your practice will assist you in identifying the tasks and knowledge tested on the examinations that you naturally encounter everyday. It will identify those tasks or knowledge with which you do not have a high degree of familiarity as well. You can do this with the help of your supervisor. If you work in several different settings, you may find the duties at each setting are unique in how they fit with the examination content outline.

Studying Vignettes

The MFT Clinical Vignette Examination differs from a traditional multiple-choice examination. This examination will provide you with a vignette, and four to seven multiple-choice questions relating to the vignette. The answers are often longer and more complex, listing a sequence of actions or describing a process of applying knowledge.

Especially in the case of the Clinical Vignette Examination, reviewing past cases and your assessments, diagnosis, and treatment plan development in those cases will be valuable to you. **You can make your own “vignettes” out of past cases and analyze your work on that case. (pull**

quote) What factors assisted you in arriving at a diagnosis? How did you work to development a treatment plan? How might you have approached this case from a theoretical orientation other than your own? What legal or ethical issues are raised? These are questions you might ask of yourself when reviewing your cases.

Peer Study Groups

Some candidates find studying with peers to be an effective way to prepare for the examinations. Consider discussing the sample examination items and the examination content outlines. Peer study groups offer the opportunity to share experiences and draw on the knowledge of your colleagues to better prepare you for your examinations. For example, you may not have much experience working with older adults, but studying with someone who has a familiarity with that population will benefit you.

How do you find/organize a peer study group? Start by inquiring at your agency to see if any co-workers are interested in forming a study group. If this does not help, try contacting the local chapter of your professional association. Typically, local chapters have monthly meetings and are excellent opportunities to meet and network with fellow professionals in your area.

Sample Examination Items

To follow are examples of the format and structure of items you may encounter during the examination. Each multiple-choice item requires the candidate to select the correct answer from the four options provided. The 'incorrect' answers are typically common errors and misconceptions, true but not relevant statements, or incorrect statements. There are no 'trick' questions on the examination.(Pull Quote)

Sample MFT Standard Written Examination Questions

Clinical Evaluation

1. A client who has recently immigrated to the United States seeks therapy to adjust to the client's culturally different spouse. To assess the client's level of acculturation, which of the following concerns should the therapist take into consideration?

- A. Newly immigrated individuals are often hesitant to challenge cultural traditions in their marital relationships.
- B. Newly immigrated individuals are resistant to learning the rules of a new country.
- C. Gender differences cause more discomfort than acculturation issues.
- D. The pace of acculturation may vary from group to group.

2. An unemployed 18-year-old client who has a history of fighting, running away from home, and stealing cars while in high school is court ordered to therapy. At present, the client deals in marijuana, has a reckless driving charge, owes the therapist money, and reports not caring. Which of the following diagnoses should the therapist make?

- A. Attention-deficit/hyperactivity disorder
- B. Antisocial personality disorder
- C. Substance abuse disorder
- D. Conduct disorder

Crisis Management

3. During the early phase of family therapy, a single mother and her 14-year-old daughter are in crisis because the adolescent recently attempted suicide. How should a structural family therapist initially proceed?

- A. Unbalance the family so that the mother is put in charge
- B. Restructure the family so that the family system is balanced
- C. Join with the family so that they can later lead themselves out of the crisis
- D. Reframe the suicide attempt so that the therapist can lead the family out of the crisis

4. In their session, a couple talks about their "bad physical fight" last weekend. The therapist notices bruises and abrasions on the wife's legs. How should the therapist proceed to stop the violence?

- A. Refer the husband to a batterers' group; ask the wife to describe what he does to her; and work with the couple conjointly
- B. Refer the husband to a batterers' group; work with them conjointly to own their individual responsibility; and increase their understanding of the choices
- C. Refer each to individual therapy to give them a safe place to explore their feelings and continue couples therapy
- D. Refer the husband to a batterers' group and individual therapy and refer the wife to the local women's shelter and individual therapy

Ethics

5. A client diagnosed with schizophrenia has been given a prescription for medication by a psychiatrist. The client has stopped the medication, complaining of unpleasant side effects. The therapist does not notice any improvement in the client's affect, mood, or cognitions. Which of the following actions should the therapist take?

- A. Refer the client back to the psychiatrist
- B. Contact the client's psychiatrist to report client's noncompliance with medication
- C. Explain that the client cannot be seen unless the client is taking the prescribed medication
- D. Continue to work with the client since the absence of medication appears not to have had a negative effect

6. A client diagnosed with an aggressive and painful cancer discloses his wish to end his life because of his terminal illness. How should a therapist with strong beliefs and opinions on this issue manage ethical responsibilities toward this client?

- A. Refer the client to a therapist who has expertise working with terminal illness
- B. Encourage the client to discover a new commitment to living with illness
- C. Discuss the different moral values between the therapist and the client
- D. Seek consultation to provide treatment within the client's value system

Law

7. A 12-year-old child is brought to therapy by a single father who claims that the child has been acting differently since he and the child's mother divorced. He tells the therapist that his former wife has full legal custody because he had been wrongfully accused of mistreating the child, but that the child called him and wanted to see him. Upon meeting the child at an agreed upon time and place, the child tells his father that he is very sad and does not want to live any more. What responsibility does the therapist have in this situation?

- A. Agree to treat the child because of the severity of the symptoms
- B. Agree to treat the child only after the father agrees to get permission from the mother
- C. Refuse to treat the child because the law requires that both parents sign consent before treatment begins
- D. Refuse to treat the child because only the parent with legal custody can consent to the child's treatment

8. An 84-year-old client calls her therapist because she cannot make it to the session. She has been financially and physically dependent upon her daughter who moved out last week. The client does not know where her daughter has gone and has not heard from her. Which of the following actions must the therapist take to assist the client?

- A. Determine alternative support person(s)
- B. Refer the client to a social services support agency
- C. Report possible elder abuse to the appropriate authorities
- D. Offer to see the client in her home

Treatment Planning

9. A 53-year-old military veteran is experiencing a great deal of frustration and anger in his relationship with his 12-year-old son. He complains, "My son doesn't listen to me. I know my wife is turning him against me." How would a solution-focused therapist intervene to assist this client?

- A. Directly realign the executive subsystems with expectations for change
- B. Devise strategies to eliminate symptoms, thereby leading to change
- C. Collaboratively design a situation with expectations for change
- D. Rewrite the problem for the client, thereby leading to change

10. A client is referred for treatment by her obstetrician following the birth of her third child. According to the doctor, the client has a history of postpartum depression. The doctor started her on antidepressants. In the past the client was stable as long as she remained on her medication. The client reports that her symptoms seem to be getting worse. How should the therapist address the client's deterioration?

- A. Obtain a release to consult with the obstetrician, assess for compliance with antidepressants, and refer the client for psychological testing
- B. Obtain a release to consult with the obstetrician, assess for compliance with antidepressants, and continue psychotherapy
- C. Invite the client's husband to participate in treatment, assess for suicidality, and refer the client for psychological testing
- D. Invite the client's husband to participate in treatment, assess for suicidality, and continue psychotherapy

Treatment

11. A client is ready to terminate therapy. Which of the following questions would the therapist answer to determine the client's readiness to terminate?

- A. "Have the troublesome behaviors in the relationship been stabilized?"
- B. "Have all the referrals been attempted, discussed, and eliminated?"
- C. "Is the client able to use what has been learned in treatment?"
- D. "Is the client willing to interpret self-generated behaviors?"

12. After seeing a therapist for three sessions, a family thanks the therapist for teaching them how to better communicate with their teenager. The family announces that they will not be returning for further sessions. Which of the following interventions would appropriately assess the termination process?

- A. Suggest that improving communication is only the first step in helping the family and encourage them to make another appointment
- B. Compliment the family on having been very responsive to treatment but predict that they will probably relapse within a week or two
- C. Open a discussion of the presenting problem and encourage the family to explore how their interactions affected any change
- D. Point out other areas of dysfunction and recommend that the family come back once they are ready to address those issues

Sample MFT Clinical Vignette Questions

Vignette 1

Tom, age 41 and Geri, age 23, a Caucasian couple are referred by Tom's health insurance. Geri tearfully tells of Tom's lack of affection over the past six months. He can't control the amount of time he spends on the Internet at work and at home. Tom nervously states, "I don't know what I'll do if my employer finds out about my problem." Geri's voice breaks as she says, "I can't keep living like this! He is spending all our money on porn sites. We can't pay our bills and today we can't even pay our \$10.00 co-pay. Can we defer that until you cure Tom?"

Crisis Management

13. What crisis issues and psychosocial stressors are presented in the case described in the vignette?

- A. Geri's possibility of suicide;
Health concerns of possible STDs;
Lack of intimacy in the relationship;
Consent for Internet access at work.
- B. Serious financial concerns;
Geri's possibility of suicide;
Lack of intimacy in the relationship;
Tom's addiction to Internet pornography.
- C. Health concerns of possible STDs;
Consent for Internet access at work;
Involuntary hospitalization for Geri;
Tom's escalating sexual behavior outside the relationship.
- D. Serious financial concerns;
Involuntary hospitalization for Geri;
Tom's addiction to Internet pornography;
Tom's escalating sexual behavior outside the relationship.

Clinical Evaluation

14. Using an addiction model, how would a therapist gather additional information to develop a clinical assessment for the case provided in the vignette?

- A. Administer Beck's Depression Inventory;
Discuss co-dependent behavior with Geri;
Explore the frequency of Tom's Internet use;
Explore the couple's concern for their intimacy.
- B. Assess for other addictions;
Consult with Tom's employer;
Discuss co-dependent behavior with Geri;
Assess Tom's addiction by administering an addiction scale inventory.
- C. Assess for other addictions;
Administer Beck's Depression Inventory;
Explore Tom's other recreational interests;
Assess Tom's addiction by administering an addiction scale inventory.
- D. Assess for other addictions;
Explore the frequency of Tom's Internet use;
Explore the couple's concern for their intimacy;
Assess Tom's addiction by administering an addiction scale inventory.

Treatment Planning

15. How would Cognitive Behavioral Therapy be used in the case presented in the vignette?

- A. Assign homework on active listening to improve communication;
Explore his belief system about sexual addiction relating to shame;
Learn what automatic thoughts are triggered by those underlying assumptions;
Identify Tom's underlying assumptions about his sense of self, the world, and his future.
- B. Discuss Tom and Geri's beliefs about their body images;
Explore the underlying assumptions that come from Tom's parents;
Explore his belief system about sexual addiction relating to shame;
Learn what automatic thoughts are triggered by those underlying assumptions.
- C. Explore Tom's payment for emotional gratification;
Assign homework on active listening to improve communication;
Identify Tom's underlying assumptions about his sense of self, the world, and his future;
Clarify Tom and Geri's sexual needs and how they communicate those needs to each other.
- D. Explore Tom's payment for emotional gratification;
Discuss Tom and Geri's beliefs about their body images;
Explore the underlying assumptions that come from Tom's parents;
Clarify Tom and Geri's sexual needs and how they communicate those needs to each other.

Treatment

16. How should the therapist proceed if using a three-column log fails to work in the case described in the vignette?

- A. Use a psychoeducational approach to increase the couple's intimacy;
Reframe Tom's sexual behavior as his expression of a fear of intimacy;
Use a Bowenian approach that identifies pornography as triangulation.
- B. Refer Tom and Geri to a surrogate;
Use empty chair technique to role-play Tom's sexual ambivalence;
Use a Bowenian approach that identifies pornography as triangulation.
- C. Encourage Geri to seek her own sexual gratification;
Use empty chair technique to role-play Tom's sexual ambivalence;
Use a psychoeducational approach to increase the couple's intimacy.
- D. Refer Tom and Geri to a surrogate;
Encourage Geri to seek her own sexual gratification;
Reframe Tom's sexual behavior as his expression of a fear of intimacy.

Ethics

17. What ethical responsibilities does the therapist have based on the case provided in the vignette?

- A. Manage the fee;
Assess for Geri's suicide ideation;
Obtain consent to treat from the EAP;
Refer clients to a low-fee or no-fee provider.
- B. Manage the fee;
Assess for Geri's suicide ideation;
Manage confidentiality with insurance carrier;
Identify expectations of treatment for both Tom and Geri.
- C. Manage the fee;
Assess for Geri's suicide ideation;
Duty to warn Tom's employer about Internet abuse;
Consult with case manager of insurance company concerning Internet use.
- D. Refer clients to a low-fee or no-fee provider;
Manage confidentiality with insurance carrier;
Duty to warn Tom's employer about internet abuse;
Identify expectations of treatment for both Tom and Geri.

Law

18. What legal obligations does the therapist have based on the case provided in the vignette?

- A. Set fees prior to first session;
Inform clients of scope of practice;
Obtain releases for referral resources;
Inform clients on limits of confidentiality.
- B. Manage countertransference;
Inform clients of scope of practice;
Inform clients on limits of confidentiality;
Explain therapist's obligation to report domestic violence.
- C. Manage fees;
Set fees prior to first session;
Manage countertransference;
Obtain releases for referral resources.
- D. Manage fees;
Inform clients of scope of practice;
Refer Tom to a sexual addiction group;
Inform clients on limits of confidentiality.

Vignette 2

Brian, a 42-year-old Caucasian, and Nicole, a 43-year-old African American, are referred by Nicole's physician. In order to keep his job, Brian recently completed a 30-day drug and alcohol residential treatment program. Nicole states that while Brian was away, she felt safe for the first time in years. She was able to attend church and see her friends. Her situation has changed since Brian returned home. She reports feeling nervous and complains of insomnia, nightmares, and difficulty concentrating at work. She fears that they both might lose their jobs. Brian states, "I'm done drinking! What's the problem? Nicole should just see you alone. I don't need any more therapy."

Crisis Management

19. What crisis issues and psychosocial stressors are presented in the case described in the vignette?

- A. Nicole's fear of job loss;
Brian's risk of substance abuse relapse;
Domestic violence between Brian and Nicole.
- B. Nicole's fear of job loss;
Brian's refusal to participate in therapy;
Nicole's inadequate social support system.
- C. Brian's refusal to participate in therapy;
Nicole's inadequate social support system;
Domestic violence between Brian and Nicole.
- D. Brian's risk of substance abuse relapse;
Domestic violence between Brian and Nicole;
Nicole's hope to maintain her spiritual affiliation.

Clinical Evaluation

20. What human diversity issues should be considered based on the case provided in the vignette?

- A. Health concerns, based on Brian's substance abuse history;
Brian's possible involvement in drug and alcohol culture;
Ethnic diversity, based on Brian and Nicole's racial differences.
- B. Brian's possible involvement in drug and alcohol culture
Ethnic diversity, based on Brian and Nicole's racial differences;
Religious and spiritual beliefs, based on Nicole's church attendance.
- C. Marital status, based on threat of divorce due to couple conflict;
Occupational concerns due to participation in rehabilitation program;
Religious and spiritual beliefs, based on Nicole's church attendance.
- D. Health concerns, based on Brian's substance abuse history;
Occupational concerns due to participation in rehabilitation program;
Marital status, based on threat of divorce due to couple conflict;

Treatment Planning

21. Why should Cognitive-Behavioral therapy be used to develop a treatment plan in the vignette?

- A. To develop Brian's skills in recognizing triggers for his drinking behavior;
To enable Brian to challenge his denial system;
To increase Nicole's anxiety management skills;
To enable Nicole to develop a safety plan.
- B. To increase Brian's insight into his drinking behavior;
To increase Nicole's understanding of Brian's anger;
To enable Brian to challenge his denial system;
To enable Nicole to develop a safety plan.
- C. To develop Brian's skills in recognizing triggers for his drinking behavior;
To provide Brian with the opportunity to develop alternative defenses;
To increase Nicole's understanding of Brian's anger;
To increase Nicole's anxiety management skills.
- D. To provide Brian with the opportunity to develop alternative defenses;
To provide Nicole with the structure to externalize her nightmares;
To enable Brian to challenge his denial system;
To enable Nicole to develop a safety plan.

Treatment

22. Using Cognitive-Behavioral therapy, which of the following interventions would achieve Nicole's goal of increasing her self-care skills based on the case provided in the vignette?

- A. Teach Nicole relaxation techniques to use when she awakens from a nightmare;
Teach Nicole thought stopping techniques regarding Brian's drinking;
Evaluate Nicole's beliefs that she is powerless in her relationship;
Enable Nicole to challenge her isolation as a result of not seeing friends.
- B. Encourage Nicole to monitor her thoughts when she is feeling nervous;
Enable Nicole to identify the origins of her self-defeating thoughts;
Teach Nicole thought stopping techniques regarding Brian's drinking;
Test Nicole's assumptions that she might lose her job.
- C. Teach Nicole relaxation techniques to use when she awakens from a nightmare;
Enable Nicole to identify the origins of her self-defeating thoughts;
Enable Nicole to challenge her isolation as a result of not seeing friends;
Teach Nicole to extinguish her fears about seeing her friends.
- D. Teach Nicole relaxation techniques to use when she awakens from a nightmare;
Encourage Nicole to monitor her thoughts when she is feeling nervous;
Enable Nicole to challenge her isolation as a result of not seeing friends;
Test Nicole's assumptions that she might lose her job.

Ethics

23. What ethical responsibilities does the therapist have based on the case provided in the vignette?

- A. Review with Brian his relapse prevention plan;
Monitor Nicole's safety since Brian has returned home;
Explore Brian's thoughts about participating in therapy;
Discuss fee structure that addresses potential job loss.
- B. Review with Brian his relapse prevention plan;
Monitor Nicole's safety since Brian has returned home;
Provide two appropriate referrals if clients lose their jobs;
Inform the couple that the therapist will not keep "secrets."
- C. Explore Brian's thoughts about participating in therapy;
Discuss fee structure that addresses potential job loss;
Encourage Brian to attend Nicole's church for spiritual support;
Discuss the limits of confidentiality regarding domestic violence.
- D. Explore Brian's thoughts about participating in therapy;
Discuss fee structure that addresses potential job loss;
Inform the couple that the therapist will not keep "secrets;"
Discuss the limits of confidentiality regarding domestic violence.

Law

24. How should the therapist handle the legal requirements regarding the potential for danger to others if Brian states in session, "I will do whatever it takes to keep Nicole from leaving"?

- A. Identify Brian's prior history of violent behavior;
Explore what Brian means by "whatever it takes;"
Initiate Tarasoff if Brian reveals a plan to harm Nicole.
- B. Explore what Brian means by "whatever it takes;"
Consider 5150 since Brian presents a danger to others;
Provide Nicole with a safety plan to escape Brian's violence.
- C. Identify Brian's prior history of violent behavior;
Consider 5150 since Brian presents a danger to others;
Contact Brian's residential treatment program to evaluate his level of risk.
- D. Initiate Tarasoff if Brian reveals a plan to harm Nicole;
Provide Nicole with a safety plan to escape Brian's violence;
Contact Brian's residential treatment program to evaluate his level of risk.

Answer Key

1. D	13. B
2. B	14. D
3. C	15. A
4. D	16. A
5. A	17. B
6. D	18. A
7. A	19. A
8. C	20. B
9. C	21. A
10. B	22. D
11. C	23. A
12. C	24. A

Examination Results

Passing Notices

You will need to pass the Standard Written Examination before you can apply to take the Clinical Vignette Examination using the *MFT Request for Examination/Re-Examination* form.

Passing both examinations means you are ready to receive your license. Congratulations, and remember to submit your *Request for MFT Initial License Issuance* form and appropriate fee to the Board. You should receive the *Request for MFT Initial License Issuance* form at the testing center once you pass the Clinical Vignette Examination.

Failure Notices

Failing will undoubtedly disappoint any examination candidate; however, if you do fail, treat it as an opportunity to improve.

Failure notices provide the candidate with a breakdown of how well he or she performed within each of the content areas. This information will assist you in preparing to re-take the examination. You must wait six months before you will be eligible to retake an examination. The Board must receive a *MFT Request for Examination/Re-Examination* application in order to make a candidate re-eligible for testing.

Conclusion

Meeting educational and experience requirements and passing the examinations are challenging experiences. The entire process takes years of dedication. The purpose of the licensing examinations is to protect consumers and ensure that MFTs are minimally competent to provide independent psychotherapy in the State of California. While it seems self-evident that well rounded clinicians will perform well on the examination, many candidates will begin studying two to four months in advance of the examination, take a preparation course, and expect to pass both examinations on the first attempt. This may work for some, but two to four months of studying is no compensation for polished clinical skills and knowledge.

Use this study guide to become the best therapist that you can be. Doing so results not only in success on the licensing examination, but success in your career.

Appendix A

MFT Standard Written Examination Content Outline

- I. **Clinical Evaluation**
 - A. **Initial Assessment**
 - B. **Clinical Assessment**
 - I. **Developmental History**
 - II. **Physical Condition**
 - III. **Psychological Condition**
 - IV. **Family/Personal History**
 - V. **Social Factors**
 - C. **Diagnosis**
- II. **Crisis Management**
 - A. **Assessment**
 - B. **Strategies**
- III. **Treatment Planning**
 - A. **Goal Setting**
 - B. **Formulation of Treatment Plan**
 - I. **Theoretical Orientation**
 - II. **Clinical Factors**
- IV. **Treatment**
 - A. **Therapeutic Relationship**
 - B. **Interventions**
 - I. **Theoretical Orientations**
 - II. **Clinical Factors**
- V. **Ethics**
 - A. **Informed Consent**
 - B. **Therapeutic Boundaries**
 - C. **Management of Ethical Issues**
- VI. **Law**
 - A. **Confidentiality and Privilege**
 - B. **Exceptions**
 - C. **Professional Conduct**

The following pages contain detailed information regarding examination content. A description of each content area, sub-area and the associated task and knowledge statements are provided. It is important for candidates to use this section as a study guide because each item in the Standard Written examination is linked to this content. To help ensure success on the examination, candidates are also encouraged to use this section as a checklist by considering their own strengths and weaknesses in each area.

I. CLINICAL EVALUATION

Definition: This area assesses the candidate's ability to identify presenting problems and collect information to assess clinical issues and formulate a diagnostic impression within the client's interpersonal and cultural context.

A. INITIAL ASSESSMENT

Tasks

- Identify presenting problems by assessing client's initial concerns to determine purpose for seeking therapy

- Identify unit of treatment (e.g., individual, couple, family) to determine a strategy for therapy.
- Assess client's motivation for and commitment to therapy by discussing client's expectations of therapeutic process.
- Evaluate client's previous therapy experience to determine impact on current therapeutic process.
- Identify human diversity factors to determine how to proceed with client's treatment.
- Assess for indicators of substance use, abuse, and dependency to plan for client's treatment.
- Assess the impact of client's substance use, abuse, and dependency on family members and significant others to determine how to proceed with treatment.

Knowledge of

- Therapeutic questioning methods
- Active listening techniques
- Procedures to gather initial intake information
- Observation techniques to evaluate verbal and nonverbal cues.
- Factors influencing the choice of unit of treatment
- Impact of cultural context on family structure and values
- Role of client motivation in therapeutic change
- Techniques to facilitate engagement of the therapeutic process with involuntary clients
- Effects of previous therapy on current therapeutic process
- Effects of human diversity factors on the therapeutic process
- Cultural beliefs regarding therapy and mental health
- Impact of cultural context on family structures and values
- Criteria for classifying substance use, abuse, and dependency
- Effects of substance use, abuse, and dependency on psychosocial functioning and family relationships
- Impact of substance use, abuse, and dependency on affective, behavioral, cognitive, and physical functioning

B. CLINICAL ASSESSMENT

1. Developmental History

Tasks

- Gather information regarding developmental history to determine impact on client's functioning.

Knowledge of

- Developmental processes of individual growth and change
- Behavioral and psychological indicators of developmental disorders
- Stages of family life-cycle development

2. Physical Condition

Tasks

- Gather information regarding physical conditions or symptoms to determine impact on client's presenting problems.
- Evaluate client's medical history and current complaints to determine need for medical referral.

Knowledge of

- Effects of physical condition on psychosocial functioning

- Relationship between medical conditions and psychosocial functioning
- Effects of physical condition on psychosocial functioning
- Psychological features or symptoms that indicate need for a medical evaluation

3. Psychological Condition

Tasks

- Administer mental status exam to identify client's mood and levels of affective and cognitive functioning.
- Identify client's thought processes and behaviors that indicate a need for psychiatric referral.
- Identify client's affective, behavioral, and cognitive functioning that indicates a need for referral for testing.

Knowledge of

- Administration and application of informal mental status examinations
- Psychological features or behaviors that indicate need for a psychiatric evaluation
- Affective, behavioral, and cognitive factors that indicate need for further testing

4. Family/Personal History

Tasks

- Explore human diversity issues to determine impact on client functioning.
- Gather information regarding family history to assess impact of significant relationships and events on client's presenting problems.
- Gather information about family structure by evaluating impact of significant relationships and events.
- Gather information from other involved parties to contribute to development of a clinical impression of client.

Knowledge of

- Implications of human diversity issues on client relationships
- Transitional stages of acculturation
- Techniques to collect family history
- Methods to assess impact of family history on family relationships
- Effects of family structure and dynamics on development of identity
- Impact of cultural context on family structure and values
- Methods to gather information from professionals and other involved parties

5. Social Factors

Tasks

- Gather information regarding client's employment history to determine how patterns of behavior manifest in occupational settings.
- Gather information regarding client's educational history to determine how patterns of behavior manifest in educational settings.
- Assess primary caregiver's willingness and ability to support dependent client's therapy.
- Gather information regarding social relationships to identify client's support systems.
- Identify differences in degrees of acculturation to determine potential source of conflicts among client and family members.
- Assess economic, political, and social climate to determine the impact on client's presenting problems and treatment.

Knowledge of

- Relationship between behavior and the work environment

- Relationship between behavior and the educational setting
- Techniques to identify the primary caregiver's level of involvement in therapy
- Techniques to identify support systems within social network
- Effects of acculturation on family structure and values
- Transitional stages of acculturation
- Impact of economic factors and stressors on presenting problems and treatment
- Impact of the sociopolitical climate on the therapeutic process
- Impact of psychosocial stressors on presenting problems and current functioning

C. DIAGNOSIS

Tasks

- Formulate a diagnostic impression based on assessment information to use as a basis for treatment planning.
- Identify precipitating events related to client's presenting problems to determine contributing factors.
- Assess impact of medication on client's current functioning to develop a diagnostic impression.
- Compare clinical information with diagnostic criteria to differentiate between closely related disorders.

Knowledge of

- Diagnostic and Statistical Manual criteria for determining diagnoses
- Procedures to integrate assessment information with diagnostic categories
- The impact of psychosocial stressors on presenting problems and current functioning
- The impact associated with onset, intensity, and duration of symptoms for developing a diagnostic impression
- The impact of medication on physical and psychological functioning
- Procedures to develop a differential diagnosis

II. CRISIS MANAGEMENT

Definition: This area assesses the candidate's ability to identify, evaluate, and manage crisis situations.

A. ASSESSMENT

Tasks

- Identify nature of client's crises to determine what immediate intervention is needed.
- Evaluate severity of crisis situation by assessing the level of impairment in client's life.
- Identify type of abuse by assessing client to determine level of intervention.
- Assess trauma history to determine impact on client's current crisis.
- Assess for suicide potential by evaluating client's lethality to determine need for and level of intervention.
- Evaluate potential for self-destructive and/or self-injurious behavior to determine level of intervention.
- Evaluate level of danger client presents to others to determine need for immediate intervention (e.g., 5150).

Knowledge of

- Techniques to identify crisis situations
- Principles of crisis management
- Methods to assess strengths and coping skills
- Methods to evaluate severity of symptoms

- Techniques to assess for grave disability of client
- Criteria to determine situations that constitute high risk for abuse
- Indicators of abuse
- Indicators of neglect
- Indicators of endangerment
- Indicators of domestic violence
- Effects of prior trauma on current functioning
- Risk factors that indicate potential for suicide within age, gender, and cultural groups
- Physical and psychological indicators of suicidality
- Effects of precipitating events on suicide potential
- Physical and psychological indicators of self-destructive and/or self-injurious behavior
- Risk factors that indicate potential for self-destructive behavior
- Methods to evaluate severity of symptoms
- Risk factors that indicate client's potential for causing harm to others

B. STRATEGIES

Tasks

- Develop a plan with client who has indicated thoughts of causing harm to self to reduce potential for danger.
- Develop a plan for a client who has indicated thoughts of causing harm to others to reduce potential for danger.
- Develop a plan with client in a potentially abusive situation to provide for safety of client and family members.
- Identify resources (e.g., referrals, collateral services) to assist with management of client's crisis.

Knowledge of

- Procedures to manage client's suicidal ideation that do not require hospitalization
- Techniques to provide suicide intervention in emergency situations
- Strategies to reduce incidence of self-destructive/self-injurious behavior
- Techniques (e.g., contract) to manage suicidality
- Strategies to deal with dangerous clients
- Strategies for anger management
- Strategies to manage situations dangerous to therapists
- Strategies to address safety in situations of abuse
- Support systems to manage crisis
- Referral sources to manage crisis
- Methods to coordinate collateral services

III. TREATMENT PLANNING

Definition: This area assesses the candidate's ability to develop a complete treatment plan and prioritize treatment goals based on assessment, diagnoses, and a theoretical model.

A. GOAL SETTING

Tasks

- Assess client's perspective of presenting problems to determine consistency of therapist and client treatment goals.
- Prioritize treatment goals to determine client's course of treatment.
- Identify evaluation criteria to monitor client's progress toward treatment goals and objectives.

Knowledge of

- Means to integrate client and therapist understanding of the goals in treatment planning
- Techniques for establishing a therapeutic framework within diverse populations
- Factors influencing the frequency of therapy sessions
- Stages of treatment
- Strategies to prioritize treatment goals
- Methods to formulate short and long-term treatment goals
- Third party specifications (e.g., managed care, court mandated, EAP) impacting treatment planning
- Criteria to monitor therapeutic progress
- Procedures to measure qualitative and quantitative therapeutic changes

B. FORMULATION OF TREATMENT PLAN

1. Theoretical Orientation

Tasks

- Formulate a treatment plan within a theoretical orientation to provide a framework for client's therapy.

Knowledge of

- Theoretical modalities to formulate a treatment plan
- Assumptions, concepts, and methodology associated with a cognitive-behavior approach
- Assumptions, concepts, and methodology associated with a humanistic-existential approach
- Assumptions, concepts, and methodology associated with a postmodern approach (e.g., narrative, solution-focused)
- Assumptions, concepts, and methodology associated with a psychodynamic approach
- Assumptions, concepts, and methodology associated with a systems approach
- Assumptions, concepts, and methodology associated with group therapy

2. Clinical Factors

Tasks

- Develop a treatment plan within context of client's culture to provide therapy consistent with client's values and beliefs.
- Determine the need for referral for adjunctive services to augment client's treatment
- Integrate medical information obtained from physician/psychiatrist to formulate treatment plan.
- Integrate information obtained from collateral consultations (e.g., educational, vocational) to formulate treatment plan.
- Develop a termination plan by assessing client needs within framework of third party specifications (e.g., managed care, court-mandated, EAP).
- Coordinate mental health services to formulate a multidisciplinary treatment plan.

Knowledge of

- Means to integrate client and therapist understanding of the goals in treatment planning
- Techniques for establishing a therapeutic framework within diverse populations
- Methods to assess client's ability to access resources
- Methods to identify need for adjunctive services
- Adjunctive services within community/culture to augment therapy
- Methods to integrate information obtained from physician/psychiatrist

- Methods to integrate information obtained from collateral sources (e.g., educational, vocational).
- Issues related to the process of termination
- Techniques to assess when to initiate termination
- Impact of third-party specifications (e.g., managed care, court-mandated, EAP) on termination
- Impact of combining treatment modalities in treating problems or disorders
- Factors associated with use of a multidisciplinary team approach to treatment

IV. TREATMENT

Definition: This area assesses the candidate's ability to implement, evaluate, and modify clinical interventions consistent with treatment plan and theoretical model.

A. THERAPEUTIC RELATIONSHIP

Tasks

- Establish a therapeutic relationship with client to facilitate treatment.
- Provide feedback to client throughout the therapeutic process to demonstrate treatment progress.

Knowledge of

- Components (e.g., safety, rapport) needed to develop the therapeutic relationship
- Strategies to develop a therapeutic relationship
- Impact of value differences between therapist and client on the therapeutic process
- Strategies to acknowledge treatment progress

B. INTERVENTIONS

2. Theoretical Orientations

Tasks

- Develop strategies consistent with systems theories to facilitate client's treatment.
- Develop strategies consistent with cognitive-behavioral theories to facilitate client's treatment.
- Develop strategies consistent with psychodynamic theories to facilitate client's treatment.
- Develop strategies consistent with humanistic-existential theories to facilitate client's treatment.

Knowledge of

- Theory of change and the role of therapist from a systems approach
- Use of interventions associated with systems theories
- Theory of change and the role of therapist from a cognitive-behavioral approach
- Use of interventions associated with cognitive-behavioral theories
- Impact of transference and countertransference dynamics
- Theory of change and the role of therapist from a psychodynamic approach
- Use of interventions associated with psychodynamic theories
- Theory of change and the role of therapist from a humanistic-existential approach
- Use of interventions associated with humanistic-existential theories

3. Clinical Factors

Tasks

- Develop strategies to include the impact of crisis issues on client's treatment.
- Develop strategies consistent with developmental theories to facilitate client's treatment.
- Develop strategies to address client issues regarding lifestyle into treatment.

Knowledge of

- Intervention methods for treating substance abuse • Intervention methods for treating abuse (e.g., child, elder) within families
- Intervention methods for treating the impact of violence (e.g., rape, terrorism, Tarasoff)
- Interventions for treating situational crises (e.g., loss of job, natural disasters, poverty)
- Use of interventions associated with developmental processes (e.g., cognitive, moral, psychosocial)
- Techniques to assist client to adjust to cognitive, emotional, and physical changes associated with the life cycle (e.g., children, adolescents, elders)
- Techniques to address variations in the life cycle process (e.g., divorce, blended families, grief/loss)
- Impact of value differences between therapist and client on the therapeutic process
- Approaches to address issues associated with variations in lifestyles (e.g., gay, lesbian, bisexual, transgender)

C. TERMINIATION

Tasks

- Determine client's readiness for termination by evaluating whether treatment goals have been met.
- Develop a termination plan with client to maintain gains after treatment has ended.
- Integrate community resources to provide ongoing support to the client following termination of treatment.

Knowledge of

- Changes in functioning that indicates readiness to terminate therapy
- Issues related to the process of termination
- Techniques to assess when to initiate termination
- Techniques to maintain therapeutic gains outside therapy
- Relapse prevention techniques
- Methods to integrate available community resources into treatment planning

V. ETHICS

Definition: This area assesses the candidate's ability to apply and manage ethical standards and principles in clinical practice to advance the welfare of the client.

A. INFORMED CONSENT

Tasks

- Address client's expectations about therapy to promote understanding of the therapeutic process.
- Discuss management of fees and office policies to promote client's understanding of treatment process.
- Inform client of parameters of confidentiality to facilitate client's understanding of therapist's responsibility.
- Inform parent/legal guardian and minor client about confidentiality issues and exceptions.

Knowledge of

- Approaches to address expectations of the therapeutic process
- Cultural differences which may affect the therapeutic alliance
- Methods to explain management of fees and office policies

- Methods to explain confidentiality parameters
- Methods to explain mandated reporting
- Minor client's right to confidentiality and associated limitations

B. THERAPEUTIC BOUNDARIES

Tasks

- Manage countertransference to maintain integrity of the therapeutic relationship.
- Manage potential dual relationship to avoid loss of therapist objectivity or exploitation of client.
- Manage client's overt/covert sexual feelings toward the therapist to maintain integrity of the therapeutic relationship.

Knowledge of

- Strategies to manage countertransference issues
- Impact of gift giving and receiving on the therapeutic relationship
- Business, personal, professional, and social relationships that create a conflict of interest within the therapeutic relationship
- Implications of sexual feelings/contact within the context of therapy
- Implications of physical contact within the context of therapy
- Strategies to maintain therapeutic boundaries

C. MANAGEMENT OF ETHICAL ISSUES

Tasks

- Manage confidentiality issues to maintain integrity of the therapeutic contract.
- Manage client's concurrent relationships with other therapists to evaluate impact on treatment.
- Manage clinical issues outside therapist's scope of competence in order to meet client needs.
- Assist client to obtain alternate treatment when therapist is unable to continue therapeutic relationship.
- Determine competency to provide professional services by identifying therapist's cognitive, emotional, or physical impairments.

Knowledge of

- Confidentiality issues in therapy
- Effects of concurrent therapeutic relationships on treatment process
- Criteria to identify limits of therapist's scope of competence
- Areas of practice requiring specialized training
- Ethical considerations for interrupting or terminating therapy
- Alternative referrals to provide continuity of treatment
- Effects of therapist's cognitive, emotional, or physical limitations on the therapeutic process

VI. LAW

Definition: This area assesses the candidate's ability to apply and manage legal standards and mandates in clinical practice.

A. CONFIDENTIALITY AND PRIVILEGE

Tasks

- Maintain client confidentiality within limitations as defined by mandated reporting requirements.

- Obtain client's authorization for release to disclose or obtain confidential information.
- Comply with client's requests for records as mandated by law.
- Comply with legal standards regarding guidelines for consent to treat a minor.
- Assert client privilege regarding requests for confidential information within legal parameters.

Knowledge of

- Exceptions to confidentiality pertaining to mandated reporting requirements
- Conditions and requirements to disclose or obtain confidential information
- Laws regarding client's requests for records
- Laws regarding consent to treat a minor
- Custody issues of minor client to determine source of consent
- Laws regarding privileged communication
- Laws regarding holder of privilege
- Laws regarding therapist response to subpoenas

B. EXCEPTIONS

Tasks

- Report to authorities cases of abuse as defined by mandated reporting requirements (e.g., child, dependent adult, elder).
- Report expressions of intent to harm by client to others as defined by mandated reporting requirements.
- Assess client's level of danger to self or others to determine need for involuntary hospitalization.

Knowledge of

- Laws pertaining to mandated reporting of suspected or known abuse (e.g., child, dependent adult, elder)
- Laws pertaining to mandated reporting of client's intent to harm others
- Techniques to evaluate client's plan, means, and intent for dangerous behavior
- Legal criteria for determining involuntary hospitalization

C. PROFESSIONAL CONDUCT

Tasks

- Provide information associated with provision of therapeutic services to client as mandated by law.
- Maintain security of client's records as mandated by law.
- Maintain documentation of clinical services as mandated by law.
- Comply with legal standards regarding sexual contact, conduct, and relations with client.
- Comply with legal standards regarding scope of practice in the provision of services.
- Comply with legal standards regarding advertising to inform public of therapist's qualifications and services provided.

Knowledge of

- Laws regarding disclosing fees for professional services
- Situations requiring distribution of the State of California, Department of Consumer Affairs' pamphlet entitled, "Professional Therapy Never Includes Sex"
- Laws regarding security of client records
- Laws regarding documentation of clinical services
- Laws regarding sexual conduct between therapist and client
- Laws which define scope of practice

- Laws regarding advertisement and dissemination of information pertaining to professional qualifications and services

MFT Written Clinical Vignette Examination Content Outline

- I. Crisis Management**
- II. Clinical Evaluation**
- III. Treatment Planning**
- IV. Treatment**
- V. Ethics**
- VI. Law**

A definition and description of each content area, as well as the associated tasks and knowledge statements, are included in the content outline. The description provides an overall description of the content area – that is, what the questions for that content area are designed to assess. Examination candidates should be able to perform the tasks identified in the content outline. Candidates should also be familiar with the topics identified in the knowledge statements.

I. CRISIS MANAGEMENT

Description: This area assesses the candidate's ability to identify, evaluate, and clinically manage crisis situations and psychosocial stressors specific to the vignette presented.

Definition: The candidate may be required to:

Identify crises and psychosocial stressors

Recognize the severity of crises and psychosocial stressors

Evaluate plans to clinically manage crises and psychosocial stressors

Tasks

- Evaluate severity of crisis situation by assessing the level of impairment in client's life.
- Assess trauma history to determine impact on client's current crisis.
- Evaluate potential for self-destructive and/or self-injurious behavior to determine level of intervention.
- Identify type of abuse by assessing client to determine level of intervention.
- Evaluate level of danger client presents to others to determine need for immediate intervention (e.g., 5150).
- Develop a plan with client who has indicated thoughts of causing harm to self to reduce potential for danger.
- Develop a plan for a client who has indicated thoughts of causing harm to others to reduce potential for danger.
- Develop a plan with client in a potentially abusive situation to provide for safety of client and family members.

Knowledge of

- Methods to assess strengths and coping skills.
- Methods to evaluate severity of symptoms.
- The effects of prior trauma on current functioning.
- Risk factors that indicate potential for suicide within age, gender, and cultural groups.
- Physical and psychological indicators of self-destructive and/or self-injurious behavior.
- Risk factors that indicate potential for self-destructive behavior.
- Criteria to determine situations that constitute high risk for abuse.
- Indicators of abuse.
- Indicators of neglect.
- Indicators of endangerment.

- Indicators of domestic violence.
- Methods to evaluate severity of symptoms.
- Risk factors that indicate client's potential for causing harm to others.
- Strategies to reduce incidence of self-destructive/self-injurious behavior.
- Techniques (e.g., contract) to manage suicidality.
- Strategies to deal with dangerous clients.
- Strategies for anger management.
- Strategies to address safety in situations of abuse.

II. CLINICAL EVALUATION

Description: This area assesses the candidate's ability to identify presenting problems and collect information to assess clinical issues and formulate a diagnostic impression within the client's interpersonal and cultural context specific to the vignette presented.

Definition: The candidate may be required to:

- Identify human diversity issues
- Evaluate clinical issues and assessment information from theoretical frameworks
- Evaluate diagnostic impressions including those consistent with DSM-IV-TR

Tasks

- Identify presenting problems by assessing client's initial concerns to determine purpose for seeking therapy.
- Identify unit of treatment (e.g., individual, couple, or family) to determine a strategy for therapy.
- Assess primary caregiver's willingness and ability to support dependent client's therapy.
- Assess client's motivation for and commitment to therapy by discussing client's expectations of therapeutic process.
- Gather information regarding history, relationships, and other involved parties to develop a clinical impression of the client.
- Explore human diversity issues to determine impact on client functioning.
- Formulate a diagnostic impression based on assessment information to use as a basis for treatment planning.

Knowledge of

- Therapeutic questioning methods.
- Active listening techniques.
- Procedures to gather initial intake information.
- Observation techniques to evaluate verbal and nonverbal cues.
- The impact of psychosocial stressors on presenting problems and current functioning.
- Factors influencing the choice of unit of treatment.
- The role of client motivation in therapeutic change.
- Techniques to facilitate engagement of the therapeutic process with involuntary clients.
- The effects of human diversity factors on the therapeutic process.
- The implications of human diversity issues on client relationships.
- Methods to assess impact of family history on family relationships.
- The effects of family structure and dynamics on development of identity.
- The impact of cultural context on family structure and values.
- Methods to gather information from professionals and other involved parties.
- Techniques to identify support systems within social network.
- Techniques to identify the primary caregiver's level of involvement in therapy.
- Diagnostic and Statistical Manual criteria for determining diagnoses.
- Procedures to integrate assessment information with diagnostic categories.

III. TREATMENT PLANNING

Description: This area assesses the candidate's ability to develop a complete treatment plan and prioritize treatment goals based on assessment, diagnoses, and theoretical framework specific to the vignette presented.

Definition: The candidate may be required to:

- Apply theoretical frameworks to a vignette
- Evaluate treatment plans with beginning, middle and end stages
- Evaluate and prioritize treatment goals
- Evaluate the incorporation of human diversity into the treatment plan

Tasks

- Assess client's perspective of presenting problems to determine consistency of therapist and client treatment goals.
- Integrate information obtained from collateral consultations (e.g., educational, vocational and medical) to formulate treatment plans.
- Prioritize treatment goals to determine client's course of treatment.
- Formulate a treatment plan within a theoretical orientation to provide a framework for client's therapy.
- Develop a treatment plan within context of client's culture to provide therapy consistent with client's values and beliefs.

Knowledge of

- Means to integrate client and therapist understanding of the goals in treatment planning.
- Factors influencing the frequency of therapy sessions
- Stages of treatment.
- Strategies to prioritize treatment goals.
- Methods to formulate short- and long-term treatment goals.
- Theoretical modalities to formulate a treatment plan.
- The assumptions, concepts, and methodology associated with a theoretical framework (e.g., cognitive-behavioral, humanistic-existential, postmodern, psychodynamic, systems).
- Means to integrate client and therapist understanding of the goals in treatment planning.
- Techniques for establishing a therapeutic framework within diverse populations.
- Methods to integrate information obtained from collateral sources (e.g., educational, vocational, and medical).

IV. TREATMENT

Description: This area assesses the candidate's ability to implement, evaluate, and modify clinical interventions consistent with the treatment plan and theoretical frameworks specific to the vignette presented.

Definition: The candidate may be required to:

- Select theoretically consistent and client-specific clinical interventions
- Evaluate the progress of treatment
- Consider alternative interventions

Tasks

- Establish a therapeutic relationship with client to facilitate treatment.
- Develop strategies consistent with a theoretical model to facilitate a client's treatment.
- Develop strategies to include the impact of crisis issues on client's treatment.

- Develop strategies to address client issues regarding lifestyle into treatment.
- Develop a termination plan with client to maintain gains after treatment has ended.

Knowledge of

- The components (e.g., safety, rapport) needed to develop the therapeutic relationship.
- Strategies to develop a therapeutic relationship.
- The use of interventions associated with a theoretical model.
- The theory of change and the role of therapist from a theoretical approach.
- Intervention methods for treating substance abuse.
- Intervention methods for treating abuse (e.g., domestic, child, and elder) within families.
- Intervention methods for treating the impact of violence.
- Interventions for treating situational crises (e.g., loss of job, natural disasters, poverty).
- The impact of value differences between therapist and client on the therapeutic process.
- Approaches to address issues associated with variations in lifestyles.
- Techniques to maintain therapeutic gains outside therapy.
- Relapse prevention techniques.

V. ETHICS

Description: This area assesses the candidate's ability to apply and manage ethical standards and principles in clinical practice to advance the welfare of the client specific to the vignette presented.

Definition: The candidate may be required to:

- Recognize professional ethical responsibilities specific to the case
- Apply ethical standards and principles throughout the treatment process
- Identify the clinical impact of ethical responsibilities on treatment

Tasks

- Address client's expectations about therapy to promote understanding of the therapeutic process.
- Discuss management of fees and office policies to promote client's understanding of treatment process.
- Manage countertransference to maintain integrity of the therapeutic relationship.
- Manage potential dual relationship to avoid possible loss of therapist objectivity or exploitation of client.
- Manage confidentiality issues to maintain integrity of the therapeutic contract.

Knowledge of

- Approaches to address expectations of the therapeutic process.
- Cultural differences which may affect the therapeutic alliance.
- Methods to explain management of fees and office policies.
- Strategies to manage countertransference issues.
- The impact of gift giving and receiving on the therapeutic relationship.
- Business, personal, professional, and social relationships that create a conflict of interest within the therapeutic relationship.
- The implications of sexual feeling/contact within the context of therapy.
- Strategies to maintain therapeutic boundaries.
- Confidentiality issues in therapy.

VI. LAW

Description: This area assesses the candidate's ability to apply and manage legal standards and mandates in clinical practice specific to the vignette presented.

Definition: The candidate may be required to:

- Recognize legal obligations specific to the case
- Apply legal obligations throughout the treatment process
- Identify the clinical impact of legal obligations on treatment

Tasks

- Comply with legal standards regarding guidelines for consent to treat a minor.
- Report cases of abuse to authorities as defined by mandated reporting requirements (e.g., child, dependent adult, elder).
- Report expressions of intent to harm others by client as defined by mandated reporting requirements.
- Assess client's level of danger to self or others to determine need for involuntary hospitalization.
- Assert client privilege regarding requests for confidential information within legal parameters.

Knowledge of

- Laws regarding consent to treat a minor.
- Custody issues of minor client to determine source of consent.
- Laws pertaining to mandated reporting of suspected or known abuse (e.g., child, dependent adult, elder).
- Laws pertaining to mandated reporting of client's intent to harm others.
- Techniques to evaluate client's plan, means, and intent for dangerous behavior (i.e., harm others).
- Legal criteria for determining involuntary hospitalization.
- Laws regarding privileged communication.
- Laws regarding holder of privilege.
- Laws regarding therapist response to subpoenas.

Appendix B

How is an Examination Created?

The development of an examination program begins with an occupational analysis. An occupational analysis is a method for surveying and identifying the tasks performed in a profession or on a job and the knowledge, skills, and abilities required to perform that job. The Board uses a questionnaire sent to MFTs practicing in California to assist in determining what skills, tasks, and knowledge are currently used in the field. MFTs serving as subject matter experts (SME) then analyze the results of the questionnaire. The results of an occupational analysis form an examination plan.

An examination plan consists of content areas. In each content area, the examination plan describes examination content in terms of the task statements and knowledge gathered during the occupational analysis.

MFT examinations, both the Standard Written and the Written Clinical Vignette, are developed and maintained by the Office of Examination Resources (OER). Test validation and development specialists at OER work with MFT SMEs to develop test questions and licensure examinations that are valid and legally defensible.

To establish pass and fail standards for each examination version, a criterion-referenced passing score methodology is used. The passing score is based on a minimum competence criterion that is defined in terms of the actual behavior that qualified MFTs would perform if they possessed the knowledge necessary to perform job duties. The intent of this methodology is to differentiate between a qualified and unqualified licensure candidate.

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To: Policy and Advocacy Committee

Date: April 7, 2008

From: Mona Maggio
Assistant Executive Officer

Telephone: (916) 574-7841

Subject: Review and Discussion Regarding Draft Supervision Course Outline

Introduction

Marriage and Family Therapist Interns and Associate Clinical Social Workers are required by law to gain supervised hours of clinical experience to qualify to sit for their prospective licensure examinations. Clinical supervision is one component in developing an individual's competency to become licensed as a Marriage and Family Therapist (MFT) or Licensed Clinical Social Worker (LCSW). However, currently there is no accurate way to measure the quality of supervision the interns and associates receive. Recognizing the need to improve the quality of clinical supervision, the Board conducted a survey in 2005 of interns and associates to determine their supervision experiences. Though results revealed respondents were satisfied with the supervision received, the pass rates on the licensing examinations as well as the numerous inquiries from supervisees and supervisors alike indicate there is a need to improve the quality of clinical supervision.

To begin the discussion on this issue, staff sought the assistance from licensees who have experience in providing clinical supervision to interns and associates. The Supervision Workgroup was formed with the guidance of board member, Joan Walmsley, LCSW, Gary Henderson, MFT and Michael Brooks, LCSW. Ms. Walmsley provides supervision for the Irvine School District, Mr. Henderson provides supervision in a private practice setting and conducts supervision courses to supervisors who work in a variety of employment settings. Mr. Brooks is a member of the American Board of Examiners in Clinical Social Work and assisted in the development of the publications: *Clinical Supervision: A Practice Specialty of Clinical Social Work* and *Professional Development and Practice Competencies in Clinical Social Work*.

Initially, the Workgroup and licensing staff began discussions with the idea of developing guidelines to assist supervisees in selecting a supervisor, and expectations from the supervisory experience. However, further discussions led the creation of the attached draft curriculum for training supervisors.

The purpose of the course is to provide supervisors with a clear understanding of how to frame supervision, how to develop a supervisory plan and how to prepare the supervisee not only for

the licensure examination but also for a competent and successful career working in a variety of mental health settings and with diverse client populations.

At the October 5, 2007 Planning Committee Meeting, staff shared the concept and initial draft of the Supervision Course and asked for input from stakeholders.

On December 1, 2007 Mr. Henderson conducted the first supervision workshop using the draft curriculum for the Sacramento Valley Chapter of the California Association of Marriage and Family Therapists. There were 11 participants which represented a fair mix of both LCSWs and MFTs. All participants are in private practice and are currently supervising, either in their private practice or under contract with a non profit agency.

On January 29th, 2008 Mr. Henderson conducted the second supervision workshop for Placer County employees who are supervising clinicians in the licensing process. There were 8 participants present with representation of both LCSWs and MFTs. All except one are clinical supervisors who work either in the Adult System of Care or the Children's System of Care. Board staff also attended which provided them an opportunity to share issues and a sampling of questions that they receive from both supervisors and supervisees.

The response to the supervision course has been overwhelmingly positive.

After presentation at the February 21, 2008 Board Meeting the Board directed staff to take this matter back to the Policy and Advocacy Committee for additional discussion and input from stakeholders.

What the course does:

- ✓ Normalizes the training supervisors receive while protecting the distinct differences of the MFT and Clinical Social Work Professions
- ✓ Provides mechanisms to develop a working partnership between the supervisees and supervisors
- ✓ Provides both the supervisor and supervisee with an understanding of the expectations of clinical supervision
- ✓ Improved quality of supervision equates to improved quality in the delivery of mental health services provided by interns/associates and licensees

Discussion:

- Should the elements of this course be added to the current statutes and regulations that define supervision? (B&P Code sections 4980.43(b), (c), (d), (e) and 4980.45, 4996.23(b), (c), (d), (e), (m), and (n). 16 CCR 1833 (b) and (d), 1833.1, 1870, 1870.1)
- Should the Board consider defining a basic supervision course and should elements beyond that be defined as an advanced supervision course?
- Should the workgroup and staff recast back to the original idea of creating expectations of a supervisory experience for supervisees? Simplified as: "Here are some of the things that should be covered by your supervisor."
- Create a uniform curriculum written to cover both professions?
- Standardize the supervision course hours requirement? Currently those supervising a MFT intern must complete a 6 hour supervision course every 2 years. Those supervising an

ASW must complete a one time 15 hour supervision course. If so, to what? Should there be a separate requirement for ongoing education? How often? How many hours in length?

- Standardize other requirements for both professions where they are different? (supervisory plans, contracts, log sheets)

Next Steps:

- Create sample supervisory plans
- Create sample supervisor/supervisee contract

Attachment:

Draft Supervision Course Curriculum

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BOARD OF BEHAVIORAL SCIENCES SUGGESTED GUIDELINES FOR A SUPERVISORY COURSE FOR TRAINING CLINICAL SUPERVISORS

NOTE: The following course and recommendations are intended to assist supervisors and supervisees who are participating in clinical supervision for licensing purposes. The contents of this recommended course are suggestions only and do not constitute mandatory requirements for supervisors or course content for approved education providers. Deviations from these suggestions or recommendations do not mean that your supervisor or supervisory course does not meet the requirements for supervisory training required by the Board.

SUPERVISION COURSE DESCRIPTION

The purpose of this course is to provide supervisors of Marriage and Family Therapist Interns and Associate Clinical Social Worker Registrants with a clear understanding of what supervisees should expect from their supervision experience. Not all materials contained in this course will be applicable to every supervisor, but this document can serve as a guideline for the content, context and responsibilities of supervision. Supervision should prepare supervisees not only for licensure but also for a competent and successful career working in a variety of mental health settings with diverse client populations.

For additional information please consult the Board of Behavioral Sciences (BBS) website at www.bbs.ca.gov and your professional organizations.

COURSE OBJECTIVES

1. Supervisors should know how to conceptualize mental health services from a variety of theoretical orientations relevant to private, public, and non-profit settings.
2. Supervisors should be familiar with the legal and ethical standards relevant to California and should be able to apply these standards in a variety of work cultures and with diverse client populations.
3. Supervisors should assist supervisees in the development of a competent professional self, which includes:
 - Cognitive
 - Affective
 - Personal and interpersonal information
 - Skills and abilities.

COURSE OUTLINE

I. Supervision Foundations

- A.** Supervisors should have a strong theoretical understanding of a variety of theoretical orientations, including but not limited to the orientations described in the BBS examination plan for MFT or LCSW licensure. This includes: an understanding of the assumptions, concepts, methods, role of the therapist, and theory of change for these orientations.
- B.** Supervisors should have a thorough knowledge of the legal mandates and ethical standards relevant to California practice. This includes a familiarity with the application of these mandates and standards in various contexts, including public, non-profit, and private settings. This also includes an understanding of how these standards and mandates are interpreted and applied within various work cultures and the conflicts that may arise therein.
- C.** Supervisors should have a thorough understanding of the BBS requirements for gaining hours for licensure. This includes a familiarity with the forms and recordkeeping required for supervisees, as well as supervision ratios and the variety of ways that supervisees may obtain their required hours.

II. Supervision Context and Responsibilities

- A.** Supervisors should have a clear understanding of the various modes of supervision available and should utilize a variety of these modalities. These modalities include but are not limited to:
 - Direct supervision
 - Review case report
 - Review of case notes
 - Reviewing audio and videotape of therapy
 - Individual, group and live supervision.
- B.** Supervisors should also be familiar with a variety of supervision styles including but not limited to the following:
 - Collaborative
 - Hierarchical
 - Directive
 - Developmental
 - Phenomenological
 - Integrated

The supervisor should be able to articulate their own supervisory style and be aware of the strengths and weaknesses of their preference. They should also be able to recognize when another style is preferable. Supervisors should also be familiar with a variety of learning styles and be able to recognize the preferred learning styles of supervisees and respond accordingly.

- C. Supervisors should be familiar with the elements of a supervision plan including goals and objectives. There needs to be specific expectations of supervisor and supervisee, clear outcome evaluations for both supervisor and supervisee, and a stated process of termination.
- D. Supervisors should be able to clearly separate clinical from administrative supervision and refrain from combining them. Supervisors should also be able to clearly separate supervision from therapy and refrain from performing psychotherapy with supervisees.
- E. Supervisors should have a working knowledge of the developmental levels of supervisees and should be able to respond appropriately to the developmental needs of the supervisee.
- F. Supervisors should have a clear awareness and understanding of the impact of the specific work culture on the context and content of supervision. The supervisor should also have a working knowledge of a variety of community resources and an understanding of how and when to utilize these resources.
- G. Supervisors should be aware of evaluation errors and biases as well as the tendency toward isomorphism and take appropriate measures to contain these processes.
- H. Supervisors should be aware of, sensitive to, and educate supervisees about relevant diversity issues including but not limited to:
 - Culture
 - Ethnicity
 - Gender
 - Sexual orientation
 - Religion
 - Disability
 - Age
 - Socio-economic status
 - Political affiliation

Supervisors should also be able to evaluate the impact of the diversity issues upon treatment.

- I. Supervisors should be familiar with group structures, including but not limited to: open or closed and time limited, or ongoing frameworks. Supervisors should be familiar with group processes including but not limited to educational, goal oriented, and process oriented formats. Supervisors should be familiar with various group dynamics, including but not limited to, leadership styles, group member roles, conflict resolution and allocation of time.

III. **Supervision Content**

- A. Supervisors should have a comprehensive knowledge of the cognitive processes required of supervisees including but not limited to:

- Intake
 - Assessment
 - Diagnosis
 - Treatment planning skills
 - The development of conflict management and resolution skills
- B.** Supervisors should have a comprehensive understanding of the interpersonal processes required of supervisees, including but not limited to:
- The ability to form effective relationships with clients
 - The ability to exhibit characteristics of empathy, gentleness, kindness, and other related skills.
- C.** Supervisors should facilitate the development of supervisee's professional self-identity, which may include but is not limited to:
- The development of the use of self
 - Appropriate self-disclosure
 - How to create change
 - Understand the difference between counter transference and parallel process
 - Become comfortable with ambiguity and paradox
 - Learn to treat the person, not the diagnosis

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To: Policy and Advocacy Committee **Date:** April 7, 2008
From: Tracy Rhine
Legislative Analyst **Telephone:** (916) 574-7847
Subject: **Review of Board Sponsored Legislation and Monitored Two-Year Bills**

BOARD-SPONSORED LEGISLATION

AB 1897 (Emmerson)

This bill allows the Board to accept degrees from schools accredited by regional accrediting bodies that are equivalent to Western Association of Schools and Colleges (WASC) for Marriage and family Therapist (MFT) Intern registration or for MFT licensure.

SB 1218 (Correa)

The bill makes a number of changes relating to the education requirements of MFTs, including:

- Permits MFT Interns to gain a portion of the required supervision via teleconferencing;
- Allows applicants to count experience for performing “client centered advocacy” activities toward licensure as a MFT;
- Requires applicants for MFT licensure to submit W-2 forms and verification of volunteer employment for each setting in which the applicant gained experience;
- Increases the graduate degree's total unit requirement from 48 to 60 semester units (72 to 90 quarter units);
- Increases the practicum by three semester units and 75 face-to-face counseling and client centered advocacy hours;
- Provides more flexibility in the degree program by requiring fewer specific hours or units for particular coursework, allowing for innovation in curriculum design; and,
- Deletes the requirement that an applicant licensed as an MFT for less than two years in another state to complete 250 hours of experience in California as an intern prior to applying for licensure.

SB 1505 (Yee)

This bill will increase funds directed into the Mental Health Services Provider Education Program by increasing the surcharge on MFT and LCSW licensure renewal. This bill will increase the funds directed into the program from ten dollars (\$10) to thirty dollars (\$30). However, SB 1505 directs the Board to also decrease the overall license renewal fee by the

same amount – twenty dollars (\$20) – and thereby no actual fee increase will be charged to the licensee.

Omnibus Senate Business, Professions and Economic Development Committee bill

(not yet introduced)

This proposal will permit Associate Social Workers to gain a portion of their supervision via teleconferencing and permit group supervision to be provided in one-hour increments, as long as both increments are provided in the same week as the experience claimed. This bill will also make several technical non substantive changes to the statutes relating to the Board.

TWO YEAR BILLS MONITORED BY THE BOARD

AB 509 (Hayashi) *Suicide Prevention*

This proposal would establish the Office of Suicide Prevention (OSP) under the Department of Mental Health (DMH). The OSP would be required to coordinate and implement a statewide suicide prevention strategy modeled after the National Strategy for Suicide Prevention, among other tasks. The Board's Policy and Advocacy Committee recommended a position of "support" to the full Board, who, at its meeting on May 31, 2007, adopted the Committee's recommendation. The Board recently received a letter from Assembly Member Hayashi regarding this legislation, which is attached. This letter states that the Governor has agreed to create the OSP by Executive Order. This bill is currently on inactive status.

SB 797 (Ridley-Thomas) *Unprofessional Conduct; Statute of Limitations*

This bill would permit the board to discipline a licensee or deny a license for certain sexual acts with a minor that occurred prior to the person being licensed. Currently, when a complaint is received regarding a person who is not yet registered or licensed with the board, the board can investigate and deny a registration or license, if warranted. However when a complaint is received regarding conduct prior to licensure after a person becomes licensed, the board cannot take any action. This legislation would correct this problem in cases where sexual misconduct with a minor is alleged, and only when there is corroborating evidence. This bill also would create a different statute of limitations for these types of complaints, and would require the board to file an accusation within three years. This bill also proposes a number of substantive and technical changes pertaining to programs and boards in the Department of Consumer Affairs.

SB 823 (Perata) *Private, Postsecondary and Vocational Education*

This bill would create a new regulatory structure and a new bureau within the Department of Consumer Affairs to regulate private postsecondary education. The Board has not taken a position on this legislation.

SB 963 (Ridley-Thomas) *Oversight of DCA Boards and Bureaus*

This bill would create a new oversight mechanism for the boards and bureaus under DCA and would eliminate sunset dates for DCA boards and bureaus, establish the Office of the Consumer Advocate with the DCA with a range of powers, including serving as the "independent monitor" of boards reconstituted by the Legislature, establishing a "Consumer Participation Program," hold hearings, subpoena witnesses, take testimony, compel production of documents and evidence, participate as an amicus curiae in disciplinary matters, and charge each board an annual pro-rata share of its operating costs. It would also enact broad new reporting requirements for boards and bureaus within the DCA, subject the appointment of board executive officers to the approval of the DCA Director and Senate confirmation, and establish criteria for reviewing board/bureau evaluations. The Board has not taken a position on this legislation, but decided, at its November 2007 meeting, to develop recommendations regarding this legislation.

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To: Policy and Advocacy Committee

Date: April 1, 2008

From: Tracy Rhine
Legislative Analyst

Telephone: (916) 574-7847

Subject: Rulemaking Update

APPROVED REGULATORY PROPOSALS

Title 16, CCR Sections 1833.1 and 1870, Supervisor Qualifications

Supervisors of registrants are currently required to have practiced psychotherapy for two out of the five years preceding any supervision. This proposal would allow supervisors to count time spent directly supervising persons who perform psychotherapy toward this requirement and delete the requirement that supervisors of MFT Interns and Trainees average 5 hours of client contact per week for two out of the five years before supervising. This proposal would also delete the requirement that supervisors of MFT Interns average 5 hours of client contact per week for two out of the five years prior to supervising. **This proposal took effect on January 26, 2008.**

Title 16, CCR, Sections 1816.7, 1887.7, 1887.75, and 1887.77, Delinquency Fees for Continuing Education Providers

This proposal would allow a registered provider of continuing education (PCE) a period of one year from the registration's expiration date in order to renew an expired PCE registration with a \$100 delinquency fee. Currently, when a PCE does not renew the registration before its expiration date, the registration is cancelled and a new registration must be obtained. This proposal would also provide protections to licensees who take a course from a PCE whose approval has expired. **This proposal took effective on January 26, 2008.**

Title 16, CCR, Sections 1887.2(a) and 1887.3(a) Continuing Education Self-Study

Licensees are currently permitted to take an unlimited amount of continuing education (CE) by conventional or online means. However, hours earned through "self-study" courses are limited to one-third of the total required CE hours. This proposal would increase the self-study course limitation to one-half of the total required CE hours. **This proposal took effect March 19, 2008.**

PENDING REGULATORY PROPOSALS

Title 16, CCR Section 1887.2, Exceptions to Continuing Education Requirements

This regulation sets forth continuing education (CE) exception criteria for MFT and LCSW license renewals. This proposal would amend the language in order to clarify and better facilitate the request for exception from the CE requirement. **The Board approved the originally proposed text at its meeting on May 31, 2007. No further action has been taken due to staff workload considerations.**

Title 16, CCR Sections 1887, 1887.2, 1887.3, and 1887.7, Minor Clean-Up of Continuing Education Regulations

This proposal would make minor clean-up amendments to continuing education regulations. **The Board approved the originally proposed text at its meeting on May 31, 2007. No further action has been taken due to staff workload considerations.**

Title 16, CCR Section 1870, Two-Year Practice Requirement for Supervisors of Associate Clinical Social Workers

This proposal would require supervisors of associate clinical social workers to be licensed for at least two years prior to commencing any supervision, and would make some technical changes for clarity. **The Board approved the originally proposed text at its meeting on May 31, 2007. No further action has been taken due to staff workload considerations.**