

# CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

## BILL ANALYSIS

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**BILL NUMBER: AB 239**      **VERSION: JANUARY 11, 2008**

**AUTHOR: DESAULNIER**      **SPONSOR: CALIFORNIA ASSOCIATION OF ALCOHOLISM AND DRUG ABUSE COUNSELORS**

**RECOMMENDED POSITION: NONE**

**SUBJECT: LICENSED ALCOHOLISM AND DRUG ABUSE COUNSELORS**

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### **Existing Law:**

- 1) Defines a psychotherapist as a physician and surgeon specializing in psychiatry or practicing psychotherapy, a psychologist, a clinical social worker, a MFT, a psychological assistant, a MFT registered intern or trainee, or an associate clinical social worker.
- 2) Establishes the following general requirements for licensure of psychotherapists:
  - a) A graduate degree from an accredited school in a related clinical field;
  - b) Extensive hours of supervised experience gained over years;
  - c) Registration with a regulatory Board while gaining the supervised experience; and,
  - d) Standard and Clinical Vignette licensing examinations.
- 3) Current Department of Alcohol and Drug Programs (ADP) regulations specify the following:
  - a) By April 1, 2010, at least 30% of counselors in licensed facilities shall be in compliance with certification requirements and all other counseling staff shall be registered with a certifying organization (9 CCR §13010).
  - b) Any individual who was certified to provide counseling services in an alcohol or other drug program by a certifying organization as of April 1, 2005, is deemed to be certified pursuant to the requirements of the regulation. (9 CCR §13020)
  - c) Until April 1, 2007, any certifying organization may issue a certificate to any individual employed as an alcohol or other drug program counselor as of April 1, 2005 if the individual is certified and has achieved a score of at least 70% on an approved oral/written examination and has either been providing counseling services for 40 hours a week for a minimum of five years between April 1, 1995 and April 1, 2005 or possesses an Associates of Arts, Bachelor of Arts, or Master of Arts degree in the study of chemical dependency.(9 CCR §13025)

- d) By October 1, 2005 or within six months of the date of hire, whichever is later, all non-licensed or non-certified individuals providing counseling services in an alcohol or other drug program must be registered to obtain certification as an alcohol or other drug program counselor. (9 CCR §13035 (f))
- e) Registrants shall complete certification as an alcohol or other drug program counselor within five years from the date of registration. (9 CCR §13035 (f)(1))
- f) In order for a certifying organization to issue alcohol or other drug program counselor certification, their certification requirements must meet DADP minimum standards. These standards include: completing a minimum of 155 hours of formal classroom alcohol or other drug program counselor education, as defined, completing a minimum of 160 documented hours of supervised alcohol or other drug program counseling, completing 2,080 or more documented hours of work experience, and obtaining a score of at least 70% on an exam approved by the certifying organization. (9 CCR §13040)

**This Bill:**

- 1) Enacts the Alcoholism and Drug Abuse Counselor licensing law and provides for the licensing and regulation of alcoholism and drug abuse counselors (Counselors) by the Board of Behavioral Sciences (Board).
- 2) Provides that the Board membership, after January 1, 2011, shall include one state licensed alcoholism and drug abuse counselor. (B & P Code § 4990)
- 3) Adds an additional public member to the Board, appointed by the Governor, changing the public membership from six individuals to seven individuals. (B & P Code § 4990 (d))
- 4) Defines terms related to this bill, including the following: (B & P Code § 4702)
  - a. "Licensed alcoholism and drug abuse counselor I" (ADAC I) means a person licensed by the Board to practice alcoholism and drug abuse counseling under clinical supervision.
  - b. "Licensed alcoholism and drug abuse counselor II" (ADAC II) means a person licensed by the Board to conduct an independent practice of alcoholism and drug abuse counseling, as defined, and to provide supervision to ADAC I licensees.
  - c. "Experience" means experience in the practice of alcoholism and drug abuse counseling, as defined in this bill.
  - d. "Clinical supervision" means the ongoing process of direct review of a supervisee for the purpose of ensuring administrative accountability, enhancing training and education, and ensuring quality control. The direct review shall be performed by a qualified supervisor who monitors the performance of acts within the practice alcoholism and drug abuse counseling and provides regular consultation, guidance, and instruction with respect to the counseling skills and competencies of the supervisee.
  - e. "Practice of alcoholism and drug abuse counseling" means performing any of the following for the purpose of treating alcoholism and drug abuse:

- i. Screening a client to determine eligibility for admission to a treatment program;
  - ii. Initial intake to include the administrative and initial assessment procedures for admission into a treatment program (does not include psychological testing intended to diagnose mental illness);
  - iii. Orientation to include describing to the client the general nature and goals of the treatment program;
  - iv. Alcoholism and drug abuse counseling, including individual, group, and significant others with the utilization of special skills to assist in the achieving of objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, considerations of alternative solutions and decision making as each relates to substance abuse (Counseling shall be limited to assisting a client in learning more about himself or herself for the purposes of understanding how to effectuate clearly perceived, realistically defined goals related to abstinence. Counseling is limited to assisting the client to learn or acquire new skills that will enable the client to cope and adjust to life situations without the use of substances);
  - v. Case management including the activities that bring services, agencies, resources, or individuals together within a planned framework of action toward achievement of established goals;
  - vi. Crisis intervention required to respond to an alcohol or drug abuser's needs during acute emotional or physical distress;
  - vii. Assessment by a counselor or program to identify and evaluate an individual's strengths, weaknesses, problems, and needs for development of the treatment plan;
  - viii. Treatment planning, the process by which the counselor and the client identify and rank problems needing resolution, establish agreed upon immediate and long-term goals, and decide on a treatment process and the resources to be utilized;
  - ix. Client education to inform individuals and groups concerning alcohol and other drugs of abuse and the services and resources available;
  - x. Referral includes the identifying of the client's needs that cannot be met by the counselor or agency, as well as assisting the client in utilizing the support systems and community resources available;
  - xi. Reports and recordkeeping documenting the client's progress in achieving the client's goals; and,
  - xii. Consultation with other professionals in regard to client treatment or services.
- f. "Student" means an unlicensed person who is currently enrolled in a course of education that is designed to qualify him or her for licensure pursuant to the provisions of this bill and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying education program.

- 5) Directs the Board to carry out the provisions of this bill, including the following: (B & P Code § 4703)
  - a. Issue licenses and registration beginning January 1, 2011;
  - b. Adopt rules and regulations relating to the provisions of this bill;
  - c. Take disciplinary action against a licensees, where appropriate;
  - d. Establish continuing education requirements for licensees;
  - e. Establish procedures for the receipt, investigation, and resolution of complaints against licensees;
  - f. Establish criteria to determine whether the curriculum of an educational institution satisfies the licensure requirements imposed by this bill;
  - g. Establish parameters of unprofessional conduct for licensees that are consistent with generally accepted national standards for the practice of alcoholism and drug abuse counseling;
  - h. Establish reinstatement procedures for an expired or revoked license; and,
  - i. Establish coursework required to obtain a license, including but not limited to, coursework in law and ethics, psychopathology, methodology treatments, cultural diversity, psychopharmacology, anger management and domestic violence, interviewing techniques, and conflict resolution.
- 6) Provides that nothing in the provisions of this bill shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Nursing Practice Act, the Psychology Licensing Act, the Marriage and Family Therapy (MFT) Practice Act, or the Licensed Clinical Social Worker (LCSW )Practice Act. (B & P Code § 4704 (a))
- 7) Exempts the following persons from the provisions of this chapter: (B & P Code § 4704 (b))
  - a. Individuals employed or volunteering at a program administered by a governmental agency, including but not limited to ADP, if the person is qualified or licensed to engage in practice.
  - b. A person who is a member of a peer or self-help group who performs peer group of self-help activities if the person does not use the a title stating or implying that he or she is a licensed alcohol and drug abuse counselor.
  - c. A cleric or other religious leader who provides advice and guidance to members of his or her congregation or order free of charge.
- 8) Requires the Board, beginning January 1, 2011 and through December 31, 2011 (the grandparenting period), to issue an ADAC II license to a person that completes an application, pays the appropriate licensure fees and meets the following requirements: (B & P Code § 4705)
  - a. Current certification by an organization recognized by ADP and accredited by the National Commission on Certifying Agencies (NCCA);

- b. Is a high school graduate or possesses a general education development equivalent;
  - c. Completes a minimum of 315 hours of classroom instruction in alcoholism and drug abuse, including a 45-hour classroom practicum;
  - d. Completes a minimum of 255 hours of field work in a clinically supervised practicum;
  - e. Passes the written examination offered by the IC&RC or as required by the Board;
  - f. Completes at least six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely;
  - g. Completes at least six hours of education in supervision techniques;
  - h. Completes at least 10 hours of education in the recognition of co-occurring disorders, referral process, and the evaluation of clients using placement criteria; and,
  - i. Proof of one of the following:
    - i. At least 10,000 hours of experience in direct alcoholism and drug abuse counseling services, including 4,000 hours of experience in clinical supervision; or,
    - ii. At least 10,000 hours of experience in direct alcoholism and drug abuse counseling services and current licensing in a mental health field requiring at least a master's degree.
- 9) Requires the Board, beginning January 1, 2012, to issue an ADAC II license to a person that completes an application, pays the appropriate licensure fees and meets the following requirements: (B & P Code § 4706)
- a. Passes the written examination offered by the IC&RC or as required by the board;
  - b. Holds a master's degree in alcoholism and drug abuse counseling, or a clinically focused mental health field approved by the Board, obtained from an accredited school. The degree must include at least 18 semester units in counseling or counseling related subjects and 255 hours of supervised practicum experience;
  - c. Completes a minimum of 315 hours of classroom instruction in alcoholism and drug abuse, including a 45-hour classroom practicum;
  - d. Completes at least six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely;
  - e. Completes at least six hours of education in supervision techniques;
  - f. Completes at least 10 hours of education in the recognition of co-occurring disorders, referral process, and the evaluation of clients using placement criteria; and,
  - g. Obtains at least 6,000 hours of experience in direct alcoholism and drug abuse counseling treatment.

- 10) Requires the Board, beginning January 1, 2011, and through December 31, 2011 (the grandparenting period), to issue an ADAC I license to a person that meets the following requirements: (B & P Code § 4707)
- a. Current certification by an organization recognized by ADP and accredited by NCCA;
  - b. Is a high school graduate or possesses a general education development equivalent;
  - c. Completes a minimum of 315 hours of classroom instruction in alcoholism and drug abuse, including a 45-hour classroom practicum;
  - d. Completes a minimum of 255 hours of field work in a clinically supervised practicum;
  - e. Passes the written examination offered by the IC&RC or as required by the Board; and,
  - f. Completes at least 4,000 hours of clinically supervised experience.
- 11) Requires the Board, beginning January 1, 2012 to issue an ADAC I license to a person that meets the following requirements: (B & P Code § 4708)
- a. Holds a bachelor's degree from an accredited school;
  - b. Completes a minimum of 315 hours of classroom instruction in alcoholism and drug abuse, including a 45-hour classroom practicum;
  - c. Completes a minimum of 255 hours of field work in a clinically supervised practicum;
  - d. Completes a minimum of 4,000 hours of supervised experience; and,
  - e. Passes the written examination offered by the IC&RC or as required by the Board.
- 12) Provides that if a licensee fails to renew a license issued during the grandparenting period (January 1, 2011 through December 31, 2011) before the expiration date of the license, the licensee will be required to meet the current licensure requirements before obtaining a new license. (B & P Code § 4705, 4707)
- 13) Authorizes the Board to evaluate the written examination offered by IC&RC prior to its use to determine whether it meets the prevailing standards of the Office of Examination Resources and is adequate at measuring the skills and knowledge required to deliver safe and effective alcoholism and drug abuse counseling. (B & P Code § 4709)
- 14) Allows the board to develop an alternate or supplemental examination if it deems necessary. If it is determined that an alternate or supplemental examination is needed, the IC&RC exam shall be used until the alternate or supplemental examination is adopted. Additionally requires the examinations to be given twice a year, at a time and place determined by the Board or offered by IC&RC. (B & P Code § 4709)
- 15) Allows the Board to issue an ADAC I or ADAC II license to any person who has held for at least two years, a valid corresponding license in another state, if the educational and supervised experience requirements are substantially equivalent to the respective requirements of this bill, and the person successfully completes the Board administered examinations. (B & P Code § 4711)

- 16) Allows the Board to accept education gained while residing outside of California, if the education is substantially equivalent to the education requirements in this bill. (B & P Code § 4712)
- 17) Allows the Board to accept experience gained outside of California if it is substantially equivalent to the licensure requirements provided for in this bill. (B & P Code § 4712)
- 18) States that an ADAC I clinical supervisor may include an ADAC II, MFT, LCSW, licensed psychologist, licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a physician who has completed a residency but is not yet board certified in psychiatry. All clinical supervisors must have at least 4,000 hours of direct treatment experience in substance abuse and addiction. (B & P Code § 4722(a))
- 19) Requires a clinical supervisor to have a written agreement with the supervisee describing the planned hours of practice, supervision schedule, nature of work assignments and other specifications. (B & P Code § 4722(b))
- 20) Requires a clinical supervisor to evaluate a supervisee at least annually and requires these evaluations to be signed by both the supervisor and the supervisee and copies retained by both for seven years. (B & P Code § 4722(c))
- 21) Requires at least 50 hours of face-to-face supervision a year, averaging one hour per week. As necessary, clinical supervisors shall make themselves available to each supervisee for face-to-face consultations or consultations via telephone, or other electronic means. (B & P Code § 4722(d))
- 22) Limits the number of supervisees assigned to a clinical supervisor to no more than five at one time, unless specifically authorized by the board to supervise additional supervisees. (B & P Code § 4722(e))
- 23) An ADAC I shall conduct business in the same work setting as their clinical supervisor subject to regulation by the board. (B & P Code § 4722(f))
- 24) Requires and ADAC I to disclose to a client prior to performing professional services that he or she is licensed by the state and under the supervision of a licensed mental health professional, the extent of his or her training, and that he or she will make a referral to another licensed mental health professional within 14 days for assessment of any co-occurring disorders. (B & P Code § 4722(g))
- 25) Provides that the scope of practice for the ADAC I shall include the practice of alcoholism and drug abuse counseling, and stipulates that an ADAC I may perform these services in private practice only if under the supervision of an ADAC II or other clinical supervisor as specified. (B & P Code § 4721(b))
- 26) Authorizes an ADAC I to provide services in hospitals, agencies, and other facilities where alcoholism and drug abuse services are delivered, without supervision, in accordance with the laws and regulations governing the facilities. (B & P Code § 4721(b)(2))
- 27) Describes the scope of practice for an ADAC II to include both the practice of alcoholism and drug abuse counseling and the clinical supervision of interns and ADAC I practitioners. (B & P Code § 4721 (a))

- 28) Requires all clients of ADAC I and ADAC II practitioners to be referred for an initial assessment within 14 days of intake to be assessed for any co-occurring needs or disorders by one of the following professional: (B & P Code § 4723(a))
- a. An MFT
  - b. An LCSW
  - c. A Licensed psychologist
  - d. A Licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology
  - e. A Licensed physician who has completed a residency but is not yet board certified in psychiatry
  - f. Any other licensed professional approved by the board
- 29) Requires a professional receiving a referral pursuant to the provisions of this bill, with the written consent of the client, to provide to the referring alcoholism and drug abuse counselor a signed, written report that includes assessment results and treatment and referral recommendations. (B&P Code §4722(a)(3))
- 30) Makes it unlawful for any person to engage in the following acts included in the definition of the practice of alcoholism and drug abuse counseling without licensure pursuant to the provisions of this bill: orientation, crisis intervention, assessment, treatment planning, referral, reports and recordkeeping, consultation with other professions regarding client treatment, and, alcoholism and drug abuse counseling. (B & P Code § 4721.1)
- 31) Makes it unlawful for any person not licensed under the provisions of this bill, to operate a private practice in alcoholism and drug abuse counseling or represent himself or herself as, or use the title or designation of a alcoholism and drug abuse counselor, or make use of any title, words, letters or abbreviations that may reasonably be confused with a designation provided by this bill to denote a standard of professional or occupational competence. (B & P Code § 4721.1)
- 32) Allows the Board to deny, revoke or suspend a license for unprofessional conduct, as defined, including the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any specified substances, after becoming licensed. (B & P Code § 4724 (c))
- 33) Requires the Board to file an accusation against a licensee within three years from the date the Board discovers the alleged act that is the basis for disciplinary action, or within seven years from the date the alleged act that is the basis for disciplinary action occurred, with specified exemptions, including those for occurrences relating to sexual misconduct. (B & P Code § 4725)
- 34) Requires an applicant for licensure to submit to a criminal history background check, and makes refusal to do so grounds for denial of the license. (B & P Code § 4726)
- 35) Requires the Board, when reviewing an applicant's criminal background history that includes one or more convictions, to consider all the following factors in determining whether to issue a license: (B & P Code § 4726 (c))
- a. The level of seriousness of the crime committed;

- b. The date that the crime was committed;
  - c. The age of the applicant at the time of conviction;
  - d. The circumstances surrounding the commission of the crime, if known;
  - e. The nexus between the criminal conduct and the duties of a licensed alcoholism and drug abuse counselor; and,
  - f. The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- 36) Requires a licensee to complete not less than 60 hours of continuing education coursework that is offered by a Board approved provider and that is relevant to the field of alcoholism and drug abuse counseling in order to renew licensure, on a biennial basis. (B & P Code § 4728 (a))
- 37) Directs the Board to establish procedures for approving providers of continuing education, and requires the Board to fund the administration of the provisions relating to continuing education by collecting continuing education provider fees. (B & P Code § 4728)
- 38) Allows the Board to place a licensee on probation under specified circumstances. (B & P Code § 4735)
- 39) Stipulates that start up funds to implement the provisions of this bill shall be derived as a loan, from the reserve of the Behavioral Science Fund, subject to an appropriation by the Legislature, and states that the Board shall not be required to implement the provisions of this bill until the start up funds have been appropriated. (B & P Code § 4740 (b))
- 40) Allows the Board to adjust the deadlines imposed by this bill in the event that funds have not been appropriated. (B & P Code § 4740 (c))

**Comment:**

- 1) **Author's Intent.** According to the sponsor of this bill, creating a licensure category for this profession will raise the level of care provided to addicts seeking treatment in the private sector where the progression of their disease may be treated before costly, in-patient, publicly financed treatment becomes necessary.

The sponsor states that this proposal will benefit the counselors and consumers through the following:

- Consumer will have a means to address complaints and seek redress for abusive and incompetent behavior by licensed individuals.
- Consistent standards of quality of education, training and experience for licensees.
- Safeguard the public health, safety and welfare, and to protect the public from unauthorized service delivery by non-licensed alcohol and drug abuse counselors.
- Professionalizes the industry and allows career building for alcoholism and drug abuse counselors.

2) **Licensing categories.** The following table outlines the requirements and qualifications for alcoholism and drug abuse counselor licensure, pursuant to the provisions in this bill.

Requirements	<b>ADAC Student</b>	<b>ADAC I Grandparented</b>	<b>ADAC I (after 1/1/2012)</b>	<b>ADAC II Grandparented</b>	<b>ADAC II (after 1/1/2012)</b>
<b>Education</b>	12 Semester units or 18 quarter units	High School or GED  Certification recognized by ADP & Accredited by NCCA  315 hours classroom instruction (w/ 45 hrs practicum)  255 hrs fieldwork in clinically supervised practicum	Bachelor's Degree  315 hours classroom instruction (w/ 45 hrs practicum)  255 hrs fieldwork in clinically supervised practicum	High School or GED  Certification recognized by ADP & Accredited by NCCA  315 hours classroom instruction (w/ 45 hrs practicum)  255 hrs fieldwork in clinically supervised practicum  6 hrs in supervision techniques  6 hrs law & ethics  10 hrs co-occurring disorders	Master's Degree  315 hrs classroom instruction (w/ 45 hrs practicum)  255 hours of supervised practicum experience within degree  6 hrs. supervision techniques  6 hrs law & ethics  10 hrs co-occurring disorders
<b>Experience</b>	none	4,000 hrs clinically supervised	4,000 hours clinically supervised	10,000 in direct counseling w/ 4,000 in clinical supervision *OR* 10,000 hrs of direct and current licensure in a mental health field requiring at least a master's degree.	6,000 hrs direct counseling

Requirements	<b>ADAC Student</b>	<b>ADAC I Grandparented</b>	<b>ADAC I (after 1/1/2012)</b>	<b>ADAC II Grandparented</b>	<b>ADAC II (after 1/1/2012)</b>
<b>Exam</b>	none	Written IC&RC or as determined by BBS	Written IC&RC or as determined by BBS	Written IC&RC or as determined by BBS	Written IC&RC or as determined by BBS
<b>Level of Supervision</b>	Allowed to practice if it is during the "supervised course of Study". (4704)	Clinical supervision by specified mental health professional (4722). Annual evaluation, at least 50 hours of face-to-face supervision a year, and a written agreement between the supervisor and supervisee.	Clinical supervision by specified mental health professional. Annual evaluation, at least 50 hours of face-to-face supervision a year, and a written agreement between the supervisor and supervisee.	none	none

**3) Grandparenting.** As currently drafted, this bill allows applicants for an ADAC I and ADAC II license to qualify for licensure from January 1, 2011 through December 31, 2011 without a degree from an accredited university. Both the ADAC I and ADAC II require only a high school diploma or GED during the grandparenting period to meet the education qualifications. However, after January 1, 2012, the ADAC I must have a bachelor's degree to qualify for licensure and an ADAC II must have a qualifying master's degree.

In order to maintain high consumer protection standards, a specified recertification period should be required of those licensed under the grandparenting provisions contained in this bill. This recertification would consist of passing the current licensing examination (if different) and meeting all other requirements necessary for licensure at the time of recertification.

- **Suggested Amendment.** Add a section that requires persons grandparented under sections 4705 and 4707 to be recertified after a specific time period, to consist of taking current licensing examinations and meeting all other requirements at the time

of recertification. This language is consistent with Board approved language amended into AB 1486 (Calderon), the bill creating licensure for Professional Counselors.

- **Suggested Amendment.** Insert sunset dates in to the grandparenting provisions, making those provisions sunset after the grandparenting period ends in 2012.

**4) Policy and Advocacy Committee Recommendation.** The Policy and Advocacy Committee considered AB 1367 (DeSaulnier), with similar content to this bill, for a position recommendation on January 18, 2008. The committee did not adopt a formal recommendation to the board and asked for more information to be provided at the next committee meeting. However, AB 1367 failed to pass out of Assembly Appropriations Committee in April and was no longer viable when the Policy and Advocacy Committee met next on April 11, 2008.

This bill, AB 239, was gutted of previous content on April 9, 2008 and amended to create licensure for alcoholism and drug abuse counselors. The current version of this bill includes many amendments taken by the sponsors to address issues discussed at the January Policy and Advocacy Committee meeting.

**5) Different Standards of Care.** This bill creates licensure for individuals practicing alcoholism and drug abuse counseling in a private setting only. Currently ADP regulates and certifies counselors providing treatment in ADP licensed facilities (see *Existing Law*). Should policies be implemented that encourage disparate standards of care for those seeking treatment in a residential facility and those seeking outpatient care?

**6) Suggested Amendments.**

- a) Add a provision to the unprofessional conduct section regarding the failure to keep records with specified standards in order to make this code section consistent with current licensing law.
- b) Amend the grandparenting provisions (B&P Code sections 4705 and 4707) to define the grandparenting phase by the time period in which the board will accept applications for licensure, not issue licenses. As currently written this bill allows the board to *issue* grandparenting licenses January 11, 2011 through December 31, 2011. However, because of process time and the standard 12 months allowed to remedy any application deficiencies, this window to issue licenses would actually be shorter than the prescribed year. Suggested amendments:
  - i) B&P Code section 4705 "~~On or after January 1, 2011, and until December 31, 2011,~~ †The board shall issue an alcoholism and drug abuse counselor II license to a ~~any~~ person who submits an application for a license between January 1, 2011 and December 31, 2011 and meets all of the following requirements:"
  - ii) B&P Code section 4707 "~~On or after January 1, 2011, and until December 31, 2011,~~ †The board shall issue an alcoholism and drug abuse counselor I license to a ~~any~~ person who submits an application for a license between January 1, 2011 and December 31, 2011 and meets all of the following requirements:"
- c) Amend B&P Code section 4740 (a) as follows:
  - i) "The board shall assess fees for applications, examinations, licensure, renewals, background checks, and other items in amounts sufficient to recover, but not exceed,

all administrative, loan, and operating expenses related to this chapter as projected for the fiscal year commencing on the date the fees become effective....”

## 7) Support and Opposition.

### *Support:*

California Association of Alcoholism & Drug Abuse Counselors (Sponsor)  
California Association of Marriage and Family Therapists (CAMFT)  
California Certification Board of Alcohol and Drug Counselors (CCBADC)  
California Foundation for the Advancement of Addiction Professionals  
California Probation Parole and Correctional Association (CPPCA)  
California Society for Clinical Social Work  
Drug Policy Alliance Network (DPAN)  
InterCoast Colleges  
The Justin Foundation

### *Opposition:*

California Association of Addiction Recovery Resources (CAARR)  
California Association of Alcohol and Drug Program Executives (CAADPE)  
California Opioid Maintenance Providers  
Health Net  
Tulare County Alcoholism Council, Inc.

## 8) History

### **2008**

May 5 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.  
Apr. 14 Re-referred to Com. on B., P. & E.D.  
Apr. 10 Withdrawn from committee. Re-referred to Com. on RLS.  
Apr. 9 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on L.GOV.

### **2007**

June 27 In committee: Set, first hearing. Hearing canceled at the request of author.  
June 7 Referred to Coms. on L.GOV. and JUD.  
May 30 In Senate. Read first time. To Com. on RLS. for assignment.  
May 29 Read third time, passed, and to Senate. (Ayes 42. Noes 35. Page 1669.)  
May 10 Read second time. To third reading.  
May 9 From committee: Do pass. (Ayes 5. Noes 2.) (May 9).  
May 1 Re-referred to Com. on H. & C.D.  
Apr. 30 From committee chair, with author's amendments: Amend, and re-refer to Com. on H. & C.D. Read second time and amended.  
Apr. 9 Re-referred to Com. on H. & C.D.  
Mar. 29 Read second time and amended.  
Mar. 28 From committee: Amend, do pass as amended, and re-refer to Com. on H. & C.D. (Ayes 5. Noes 2.) (March 28).  
Mar. 26 Re-referred to Com. on L. GOV.  
Mar. 22 From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV. Read second time and amended.

Feb. 26 Referred to Coms. on L. GOV. and H. & C.D.  
Feb. 1 From printer. May be heard in committee March 3.  
Jan. 31 Read first time. To print.

# ALCOHOL AND DRUG COUNSELOR CRITERIA

## CADC-I

1. High School Diploma or equivalent (GED)
2. Two (2) years of full-time supervised employment as an alcoholism counselor or drug counselor or
3. 4,000\* clock hours of supervised counseling work experience, to include 255 hours of supervised field work practicum (described in 2.B.), 315 hours of "approved alcohol and drug training education in the five performance domains" (including the 45 hours for supervised practicum course described in the Practicum Requirements.).
4. 315 hours = 270 class hours (6 classes)
5. + 45 hours practicum class (7th class)
6. 4,000\* hours includes 255 hours of field placement experience.
7. Supervised counseling hours completed in a qualified setting prior to beginning a course of study in alcohol and drug education may be included in the 4,000 hours/two year work experience requirement. (*maximum of 250 hours of an intern's 4,000 required work experience hours, maybe acquired in CAADAC approved workshops if desired*)
8. Completion of 300 hours, supervised practicum to be divided as follows:
  - a. \*\*Supervised Practicum = 45 hours
  - b. agency orientation = 3 hours
  - c. Core function areas = 252 hours
  - d. Total = 300 hours

\*\* (Supervised Field Work Practicum: field placement experience that must include a minimum of 21 hours in each of the 12 core functions)

- ◆ The areas of alcohol/drug counseling to be covered, known as "core functions," include: (1) Screening, (2) Intake, (3) Orientation, (4) Assessment, (5) Treatment Planning, (6) Counseling (individual, group, and significant others), (7) Case Management, (8) Crisis Intervention, (9) Client Education, (10) Referral, (11) Reports and Recordkeeping, (12) Consultation (with other professionals in regard to client treatment and services). (*Please see the Certification Handbook for a detailed description of these core functions are located in the Domains, Tasks, Knowledge and Skills For The Certified AODA Counselor, Educational Requirements, ICRC Role Delineation Study, for the elements of each domain.*)
  - ◆ If hours are for volunteer work - 4,000 hours of documented, supervised, volunteer alcohol and other drug counseling experience is equivalent to two (2) years of full-time employment.\*\*
  - ◆ The applicant will send to the address specified on the application form all records required as listed below, the completed application form and all required fees. Persons furnishing completed evaluation forms are to mail them directly to the address listed on the evaluation form.
- **FOR MORE INFORMATION ON THE FOLLOWING TOPICS SEE "CERTIFICATION HANDBOOK"**
    - **EDUCATION REQUIREMENTS AND INTERNSHIP/PRACTICUM**
    - **ETHICS COMPLAINTS AND PROCEDURES**
    - **CASE PRESENTATION METHOD**
    - **OTHER POLICIES/PROCEDURES AND DISLCOSURES RELATED TO CERTIFICATION**

# ALCOHOL AND DRUG COUNSELOR CRITERIA

## CADC II

1. High School Diploma or equivalent (GED)
2. Three (3) years of full-time supervised employment as an alcoholism counselor or drug counselor or
3. 6,000\* clock hours of supervised counseling work experience, to include 255 hours of supervised field work practicum (described in 2.B.), 315 hours of "approved alcohol and drug training education in the five performance domains" (including the 45 hours for supervised practicum course described in the Practicum Requirements.).
4. 315 hours = 270 class hours in alcohol/drug specific courses (6 classes) See Handbook for details.
5. + 45 hours practicum class (7th class) See Handbook for details.
6. 4,000\* hours includes 255 hours of field placement experience.
7. Supervised counseling hours completed in a qualified setting prior to beginning a course of study in alcohol and drug education may be included in the 4,000 hours/two year work experience requirement. (*maximum of 250 hours of an intern's 4,000 required work experience hours, maybe acquired in CAADAC approved workshops if desired*)
8. Completion of 300 hours, supervised practicum to be divided as follows:
  - a. \*\*Supervised Practicum = 45 hours
  - b. agency orientation = 3 hours
  - c. Core function areas = 252 hours
  - d. Total = 300 hours

\*\* (Supervised Field Work Practicum: field placement experience that must include a minimum of 21 hours in each of the 12 core functions)

- ◆ The areas of alcohol/drug counseling to be covered, known as "core functions," include:
  - Screening, (2) Intake, (3) Orientation, (4) Assessment, (5) Treatment Planning, (6) Counseling (individual, group, and significant others), (7) Case Management, (8) Crisis Intervention, (9) Client Education, (10) Referral, (11) Reports and Recordkeeping, (12) Consultation (with other professionals in regard to client treatment and services). (*A detailed description of these core functions are located in the Domains, Tasks, Knowledge and Skills For The Certified AODA Counselor, Educational Requirements, ICRC Role Delineation Study, for the elements of each domain.*)
- ◆ If hours are for volunteer work - 4,000 hours of documented, supervised, volunteer alcohol and other drug counseling experience is equivalent to two (2) years of full-time employment.\*\*
- ◆ The applicant will send to the address specified on the application form all records required as listed below, the completed application form and all required fees. Persons furnishing completed evaluation forms are to mail them directly to the address listed on the evaluation form.
- **FOR MORE INFORMATION ON EDUCATION REQUIREMENTS AND INTERNSHIP/PRACTICUM: SEE THE CERTIFICATION HANDBOOK**
- **FOR MORE INFORMATION ON THE WRITTEN EXAM SEE THE CERTIFICATION HANDBOOK**
- **FOR MORE INFORMATION ON THE CASE PRESENTATION METHOD: CERT HANDBOOK**

AMENDED IN SENATE MAY 5, 2008  
AMENDED IN SENATE APRIL 9, 2008  
AMENDED IN ASSEMBLY APRIL 30, 2007  
AMENDED IN ASSEMBLY MARCH 29, 2007  
AMENDED IN ASSEMBLY MARCH 22, 2007  
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 239**

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**Introduced by Assembly Member DeSaulnier  
(Coauthors: Assembly Members Beall, Brownley, Leno, Parra,  
Portantino, Solorio, and Torrico)**

January 31, 2007

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An act to amend Sections 4990, 4990.18, 4990.30, and 4990.38 of, and to add Chapter 10.5 (commencing with Section 4700) to Division 2 of, the Business and Professions Code, relating to alcoholism and drug abuse counselors.

LEGISLATIVE COUNSEL'S DIGEST

AB 239, as amended, DeSaulnier. Alcoholism and drug abuse counselors.

Existing law provides for the licensure and regulation of marriage and family therapists, social workers, and educational psychologists by the Board of Behavioral Sciences, in the Department of Consumer Affairs. Existing law provides that the Board of Behavioral Sciences consists of 11 members, makes that provision inoperative on July 1, 2009, and repeals it on January 1, 2010. Existing law declares the intent of the Legislature that the board employ its resources for, among other

things, the licensure of marriage and family therapists, clinical social workers, and educational psychologists. Existing law authorizes a licensed marriage and family therapist and a marriage and family therapist intern, among others, whose license or registration has been revoked to petition the board for reinstatement or modification of the penalty. Existing law also authorizes the board to deny an application or suspend or revoke a license or registration issued under the provisions it administers and enforces for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency, on a license, certificate, or registration to practice marriage and family therapy, clinical social work, educational psychology, or any other healing art.

This bill would enact the Alcoholism and Drug Abuse Counselors Licensing Law and provide for the licensure and regulation of alcoholism and drug abuse counselors by the Board of Behavioral Sciences. The bill would, after January 1, 2011, add one licensed alcoholism and drug abuse counselor to the board, to be appointed by the Governor. The bill would also add an additional public member to the board, to be appointed by the Governor. The bill would declare the intent of the Legislature that the board also employ its resources for the licensure of alcoholism and drug abuse counselors and would authorize *a* licensed alcoholism and drug abuse ~~counselors~~ *counselor* whose license has been revoked to petition the board for reinstatement or modification of the penalty. The bill would authorize the board to deny an application or suspend or revoke an alcoholism and drug abuse counselor license for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency. The bill would enact various related provisions regarding the practice of licensed alcoholism and drug abuse counselors, including, but not limited to, licensing requirements, scope of practice, conditions for license renewals, and grounds for revocation or suspension of a license. The bill would authorize the board to impose various fees on licensed alcoholism and drug abuse counselors, as specified, which would be deposited in the Behavioral Sciences Fund and be made available to the board upon appropriation by the Legislature. The bill would require that startup funds to implement these provisions be derived, as a loan, from the reserve of that fund, subject to an appropriation by the Legislature, and would specify that the board shall not be required to implement these provisions until those funds are appropriated. The bill would make it unlawful for an unlicensed person

to, among other things, use the title of a licensed alcoholism and drug abuse counselor or engage in certain acts that constitute the practice of alcoholism and drug abuse counseling, 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. The Legislature finds and declares all of the  
2 following:

3 (a) The practice of alcoholism and drug abuse counseling affects  
4 the public health, safety, and welfare, and is, therefore, subject to  
5 regulation in the public's interest.

6 (b) California's alcoholism and drug abuse treatment system is  
7 in crisis. The lack of adequate standards and accountability  
8 undermines consumer confidence in alcoholism and drug abuse  
9 counselor services in both the public and private arenas.

10 (c) The practice of alcoholism and drug abuse counseling is  
11 regulated in 30 states by way of mandated licensure or certification.  
12 California continues to fall behind these states in oversight and  
13 required training and education.

14 (d) National standards of education for alcoholism and drug  
15 abuse counselors require a minimum of 270 hours of education  
16 that is alcohol and other drug specific and 4,000 hours of  
17 experience. These national standards are consistent in 48 states.  
18 California standards are fragmented at best and are considered by  
19 many experts to be the lowest in the nation.

20 (e) The State Department of Alcohol and Drug Programs  
21 implemented modest counselor certification regulations in 2005.  
22 These minimal state regulations do not, however, apply to private  
23 practitioners treating alcoholism and drug abuse.

24 (f) The lack of licensure of alcoholism and drug abuse  
25 counselors in California has severely limited the growth of private  
26 sector treatment options, thereby leaving the state as the first  
27 provider of care rather than the safety net.

28 (g) Alcoholism and drug abuse heavily impact a majority of  
29 state services, including corrections, welfare, hospital and  
30 emergency room care, and education, costing California billions  
31 of dollars every year.

1 (h) Deaths and injuries resulting from incompetent care of those  
2 suffering from alcoholism or drug abuse have reached record levels.

3 (i) Unlicensed persons are currently treating alcoholism and  
4 drug abuse cases without a defined scope of practice and without  
5 making appropriate referrals to other trained professionals for  
6 underlying and cooccurring issues.

7 (j) Therefore, it is the intent of the Legislature to provide for  
8 licensure of alcoholism and drug abuse counselors in this state by  
9 enacting the Alcoholism and Drug Abuse Counselors Licensing  
10 Law.

11 (k) It is further the intent of the Legislature that the licensure  
12 provisions set forth in this act be applicable only to alcoholism  
13 and drug abuse counselors practicing in private practice settings  
14 and not to those practicing in residential facilities or outpatient  
15 programs administered, certified, or licensed by a governmental  
16 agency.

17 SEC. 2. Chapter 10.5 (commencing with Section 4700) is added  
18 to Division 2 of the Business and Professions Code, to read:

19  
20 CHAPTER 10.5. ALCOHOLISM AND DRUG ABUSE COUNSELORS  
21

22 4700. This chapter shall be known and may be cited as the  
23 Alcoholism and Drug Abuse Counselors Licensing Law.

24 4701. The Board of Behavioral Sciences shall administer and  
25 enforce this chapter.

26 4702. For purposes of this chapter, the following terms have  
27 the following meanings:

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

29 (b) "IC&RC" means the International Certification &  
30 Reciprocity Consortium/Alcohol & Other Drug Abuse, Inc., an  
31 organization comprised of domestic and international organizations  
32 involved in credentialing and licensing alcohol and other drug  
33 abuse counselors.

34 (c) "Licensed alcoholism and drug abuse counselor I" means a  
35 person licensed by the board to practice alcoholism and drug abuse  
36 counseling under clinical supervision.

37 (d) "Licensed alcoholism and drug abuse counselor II" means  
38 a person licensed by the board to conduct an independent practice  
39 of alcoholism and drug abuse counseling and to provide supervision  
40 to other alcoholism and drug abuse counselors.

1 (e) “Applicant” means an unlicensed person who has completed  
2 the education requirements for licensure, as specified in this  
3 chapter, and is currently in the examination process.

4 (f) “Experience” means completed work within the practice of  
5 alcoholism and drug abuse counseling, as defined in subdivision  
6 (a) of Section 4720.

7 (g) “Clinical supervision” means the ongoing process of direct  
8 review of a supervisee for the purpose of ensuring administrative  
9 accountability, enhancing training and education, and ensuring  
10 quality control. The direct review shall be performed by a qualified  
11 supervisor who monitors the performance of acts within the  
12 practice of alcoholism and drug abuse counseling, as defined in  
13 subdivision (a) of Section 4720, and provides regular consultation,  
14 guidance, and instruction with respect to the counseling skills and  
15 competencies of the supervisee.

16 (h) “Advertise” includes, but is not limited to, the issuance of  
17 any card, sign, or device to any person, or the causing, permitting,  
18 or allowing of any sign or marking on, or in, any building or  
19 structure, or in any newspaper or magazine or in any directory, or  
20 any printed matter, with or without any limiting qualification. It  
21 also includes business solicitations communicated by radio or  
22 television broadcasting. Signs within church buildings or notices  
23 in church bulletins mailed to a congregation shall not be construed  
24 as advertising within the meaning of this chapter.

25 (i) “Student” means an unlicensed person who is currently  
26 enrolled in a course of education that is designed to qualify him  
27 or her for licensure under this chapter and who has completed no  
28 less than 12 semester units or 18 quarter units of coursework in  
29 any qualifying educational program.

30 4703. In order to carry out the provisions of this chapter, the  
31 board shall do, but shall not be limited to, all of the following:

32 (a) Adopt rules and regulations to implement this chapter.

33 (b) Issue licenses beginning January 1, 2011.

34 (c) Take disciplinary action against a licensee where appropriate,  
35 including, but not limited to, ~~censure or reprimand~~, *reprimand* or  
36 probation, suspension, or revocation of the license, or imposition  
37 of fines or fees.

38 (d) Establish continuing education requirements for licensees.

39 (e) Establish procedures for the receipt, investigation, and  
40 resolution of complaints against licensees.

- 1 (f) Establish criteria to determine whether the curriculum of an  
2 educational institution satisfies the licensure requirements imposed  
3 by this chapter.
- 4 (g) Establish parameters of unprofessional conduct for licensees  
5 that are consistent with generally accepted ethics codes for the  
6 profession.
- 7 (h) Establish standards of competency for licensees that are  
8 consistent with generally accepted national standards for the  
9 practice of alcoholism and drug abuse counseling.
- 10 (i) Establish reinstatement procedures for an expired or revoked  
11 license.
- 12 (j) Establish supervision and supervisory requirements for  
13 students.
- 14 (k) Establish supervision and supervisory requirements for  
15 supervisors of a licensed alcoholism and drug abuse counselor I  
16 performing services in a private practice setting.
- 17 (l) Establish qualifications and responsibilities for licensed  
18 professionals who receive client referrals through the referral  
19 process described in Section 4723.
- 20 (m) Establish coursework required to obtain a license, including,  
21 but not limited to, coursework in law and ethics, psychopathology,  
22 methodology treatments, cultural diversity, psychopharmacology,  
23 anger management and domestic violence, interviewing techniques,  
24 and conflict resolution.
- 25 4704. (a) Nothing in this chapter shall be construed to constrict,  
26 limit, or withdraw the Medical Practice Act (Chapter 5  
27 (commencing with Section 2000)), the Nursing Practice Act  
28 (Chapter 6 (commencing with Section 2700)), the Psychology  
29 Licensing Act (Chapter 6.6 (commencing with Section 2900)), the  
30 Marriage and Family Therapist Act (Chapter 13 (commencing  
31 with Section 4980)), or the Clinical Social Worker Practice Act  
32 (Chapter 14 (commencing with Section 4991)).
- 33 (b) This chapter shall not apply to the following:
- 34 (1) A student, provided that the activities and services he or she  
35 performs as a student, *consistent with Section 4713*, constitute part  
36 of the student's supervised course of study and provided that, when  
37 performing those services, he or she is designated by the title  
38 "student." A student may gain hours of experience outside the  
39 required practicum.

1 (2) A person who engages in the practice of alcoholism and  
2 drug abuse counseling, as defined in Section 4720, if the person  
3 is otherwise qualified to engage in that practice and is employed  
4 or volunteers at a facility or program administered, licensed, or  
5 certified by a governmental agency, including, but not limited to,  
6 the State Department of Alcohol and Drug Programs.

7 (3) A person who is a member of a peer or self-help group who  
8 performs peer group or self-help activities if the person does not  
9 use a title stating or implying that he or she is a licensed alcohol  
10 and drug abuse counselor or any other designation listed in  
11 subdivision (a) of Section 4721.1.

12 (4) A cleric or other religious leader who provides advice and  
13 guidance to members of his or her congregation or order free of  
14 charge.

15 (c) A licensee shall display his or her license in a conspicuous  
16 place in the licensee's primary place of practice.

17 (d) A licensed alcoholism and drug abuse counselor who  
18 conducts a private practice under a fictitious business name shall  
19 not use any name that is false, misleading, or deceptive and shall  
20 inform his or her clients, prior to the commencement of treatment,  
21 of the name and license designation of the owner or owners of the  
22 practice.

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

28 4705. (a) On and after January 1, 2011, and until December  
29 31, 2011, the board shall issue an alcoholism and drug abuse  
30 counselor II license to a person who meets all of the following  
31 requirements:

32 (1) Completes an application for a license.

33 (2) Pays the fees prescribed by the board.

34 (3) Obtains current certification by an organization recognized  
35 by the State Department of Alcohol and Drug Programs and  
36 accredited by the National Commission on Certifying Agencies  
37 (NCCA).

38 (4) Is a high school graduate or possesses a general education  
39 development equivalent.

- 1 (5) Completes at least 315 hours of classroom instruction in  
2 alcoholism and drug abuse counseling, including, but not limited  
3 to, a 45-hour classroom practicum course offered by a provider  
4 approved by the board and the other courses prescribed by the  
5 board pursuant to subdivision (m) of Section 4703.
- 6 (6) Completes at least 255 hours of fieldwork in a clinically  
7 supervised practicum.
- 8 (7) Passes the written examination offered by the IC&RC or as  
9 required by the board under Section 4709.
- 10 (8) Completes at least 6 hours of education in supervision  
11 techniques.
- 12 (9) Completes at least 6 hours of education in the subject of law  
13 and ethics as it relates to a licensee’s ability to practice alcoholism  
14 and drug abuse counseling safely. This education may include, but  
15 shall not be limited to, education in the legal and regulatory aspects  
16 of chemical dependency treatment, regulatory restrictions,  
17 confidentiality, issues surrounding clients’ rights, and standards  
18 of competency for the practice of alcoholism and drug abuse  
19 counseling.
- 20 (10) Completes at least 10 hours of education in the recognition  
21 of cooccurring disorders, referral processes, and the evaluation of  
22 clients using placement criteria, such as the ASAM Patient  
23 Placement Criteria, to determine the most appropriate level of care  
24 for a client and a client’s eligibility for admission to a particular  
25 alcoholism and drug abuse treatment program.
- 26 (11) Produces documentation of either of the following:
  - 27 (A) At least 10,000 hours of experience in direct alcoholism  
28 and drug abuse counseling services, including 4,000 hours of  
29 experience in clinical supervision.
  - 30 (B) At least 10,000 hours of experience in direct alcoholism  
31 and drug abuse counseling services and current licensure in a  
32 mental health field requiring at least a master’s degree.
- 33 (b) The term of a license issued under this section is two years.  
34 The license may be renewed upon application to the board, showing  
35 proof of completion of the required continuing education, and  
36 payment of the renewal fee prescribed by the board. If a person  
37 licensed under this section fails to renew the license on or before  
38 the expiration date of the license, the person shall be required to  
39 meet the requirements listed in subdivision (a) of Section 4706 in  
40 order to obtain a new license.

1 4706. (a) On and after January 1, 2012, the board shall issue  
2 an alcoholism and drug abuse counselor II license to a person who  
3 meets all of the following requirements:  
4 (1) *Completes an application for a license.*  
5 (2) *Pays the fees prescribed by the board.*  
6 ~~(1)~~  
7 (3) Passes the written examination offered by the IC&RC or as  
8 required by the board under Section 4709.  
9 ~~(2)~~  
10 (4) Holds a master's degree in alcoholism and drug abuse  
11 counseling, or a clinically-focused mental health field approved  
12 by the board, obtained from a school, college, or university that,  
13 at the time the degree was conferred, was accredited by the Western  
14 Association of Schools and Colleges or an equivalent regional  
15 accrediting agency approved by the United States Department of  
16 Education. The degree shall include at least 18 semester units, or  
17 equivalent quarter units, in counseling or counseling-related  
18 subjects and 255 hours of supervised practicum experience.  
19 ~~(3)~~  
20 (5) Completes at least 315 hours of classroom instruction in  
21 alcoholism and drug abuse counseling, including, but not limited  
22 to, a 45-hour classroom practicum course offered by a provider  
23 approved by the board and the other courses prescribed by the  
24 board pursuant to subdivision (m) of Section 4703.  
25 ~~(4)~~  
26 (6) Completes at least 6 hours of education in supervision  
27 techniques.  
28 ~~(5)~~  
29 (7) Completes at least 6 hours of education in the subject of law  
30 and ethics as it relates to a licensee's ability to practice alcoholism  
31 and drug abuse counseling safely. This education may include, but  
32 shall not be limited to, education in the legal and regulatory aspects  
33 of chemical dependency treatment, regulatory restrictions,  
34 confidentiality, issues surrounding clients' rights, and standards  
35 of competency for the practice of alcoholism and drug abuse  
36 counseling.  
37 ~~(6)~~  
38 (8) Completes at least 10 hours of education in the recognition  
39 of cooccurring disorders, referral processes, and the evaluation of  
40 clients using placement criteria, such as the ASAM Patient

1 Placement Criteria, to determine the most appropriate level of care  
2 for the client and eligibility for admission to a particular alcoholism  
3 and drug abuse treatment program.

4 (7)

5 (9) Obtains at least 6,000 hours of experience in direct  
6 alcoholism and drug abuse counseling services.

7 (b) The term of a license issued under this section is two years.  
8 The license may be renewed upon application to the board, showing  
9 proof of completion of the required continuing education, and  
10 payment of the renewal fee prescribed by the board.

11 4707. (a) On and after January 1, 2011, and until December  
12 31, 2011, the board shall issue an alcoholism and drug abuse  
13 counselor I license to a person who meets all of the following  
14 requirements:

15 (1) Completes an application for a license.

16 (2) Pays the fees prescribed by the board.

17 (3) Obtains current certification by an organization recognized  
18 by the State Department of Alcohol and Drug Programs and  
19 accredited by the National Commission on Certifying Agencies  
20 (NCCA).

21 (4) Is a high school graduate or possesses a general education  
22 development equivalent.

23 (5) Completes at least 315 hours of classroom instruction in  
24 alcoholism and drug abuse counseling, including, but not limited  
25 to, a 45-hour classroom practicum course offered by a provider  
26 approved by the board.

27 (6) Completes at least 255 hours of fieldwork in a clinically  
28 supervised practicum.

29 (7) Completes at least 4,000 hours of *clinically* supervised  
30 experience.

31 (8) Passes the written examination offered by the IC&RC or as  
32 required by the board under Section 4709.

33 (b) The term of a license issued under this section is two years.  
34 The license may be renewed upon application to the board, showing  
35 proof of completion of the required continuing education, and  
36 payment of the renewal fee prescribed by the board. If a person  
37 licensed under this section fails to renew the license on or before  
38 the expiration date of the license, the person shall be required to  
39 meet the requirements listed in subdivision (a) of Section 4708 in  
40 order to obtain a new license.

1 4708. (a) On and after January 1, 2012, the board shall issue  
2 an alcoholism and drug abuse counselor I license to a person who  
3 meets all of the following requirements:

- 4 (1) Completes an application for a license.
- 5 (2) Pays the fees prescribed by the board.
- 6 (3) Holds a bachelor's degree from a school, college, or  
7 university that, at the time the degree was conferred, was accredited  
8 by the Western Association of Schools and Colleges or an  
9 equivalent regional accrediting agency approved by the United  
10 States Department of Education.
- 11 (4) Completes a minimum of 315 hours of classroom instruction  
12 in alcoholism and drug abuse counseling, including, but not limited  
13 to, a 45-hour classroom practicum course offered by a provider  
14 approved by the board and the courses prescribed by the board  
15 pursuant to subdivision (m) of Section 4703.
- 16 (5) Completes a minimum of 255 hours of field work in a  
17 clinically supervised practicum.
- 18 (6) Completes ~~a minimum of~~ *at least* 4,000 hours of *clinically*  
19 supervised experience.
- 20 (7) Passes the written examination offered by the IC&RC or as  
21 required by the board under Section 4709.

22 (b) The term of a license issued under this section is two years.  
23 The license may be renewed upon application to the board, showing  
24 proof of completion of the required continuing education, and  
25 payment of the renewal fee prescribed by the board.

26 4709. The board may evaluate the written examination offered  
27 by the IC&RC prior to its use to determine whether it meets the  
28 prevailing standards of the Office of Examination Resources and  
29 is adequate at measuring the skills and knowledge required to  
30 deliver safe and effective alcoholism and drug abuse counseling  
31 services. The board may develop an alternate or supplemental  
32 examination if it deems necessary. If an alternate or supplemental  
33 examination is developed, the written examination offered by the  
34 IC&RC shall be used until that alternate or supplemental  
35 examination is adopted. Examinations shall be given at least twice  
36 a year at a time and place and under supervision as the board may  
37 determine.

38 4710. (a) An applicant who fails an examination may take  
39 subsequent examinations upon payment of the required  
40 examination fee.

1 (b) The board may establish the criteria under which an applicant  
2 may take subsequent examinations.

3 4711. The board may issue an alcoholism and drug abuse  
4 counselor I or II license to any person who, at the time of  
5 application, has held for at least two years a valid license issued  
6 by a board of alcoholism and drug abuse counseling, or  
7 corresponding authority, of any state, if the education and  
8 supervised experience requirements are substantially equivalent  
9 to the respective requirements for an alcoholism and drug abuse  
10 counselor I or II license imposed under this chapter and the person  
11 successfully completes the written examination offered by the  
12 IC&RC, or as required by the board under Section 4709, and pays  
13 the required fee.

14 4712. (a) Experience gained outside of California shall be  
15 accepted toward the licensure requirements if it is substantially  
16 equivalent to that required by this chapter.

17 (b) Education gained *while residing* outside of California shall  
18 be accepted toward the licensure requirements if it is substantially  
19 equivalent to the education requirements of this chapter.

20 4713. *All hours of experience gained as a student shall be*  
21 *coordinated between the school and the site where the hours are*  
22 *being accrued. The school shall approve each site and shall have*  
23 *a written agreement with each site that details each party's*  
24 *responsibilities, including the methods by which supervision shall*  
25 *be provided. The agreement shall provide for regular progress*  
26 *reports and evaluations of the student's performance at the site.*  
27 *If an applicant has gained hours of experience while enrolled in*  
28 *a school other than the one that confers the qualifying degree, it*  
29 *shall be the applicant's responsibility to provide to the board*  
30 *satisfactory evidence that those hours of student experience were*  
31 *gained in compliance with this chapter.*

32 4720. (a) A licensee may engage in the practice of alcoholism  
33 and drug abuse counseling. For purposes of this chapter, the  
34 "practice of alcoholism and drug abuse counseling" means  
35 performing any of the following services for the purpose of treating  
36 alcoholism and drug abuse:

37 (1) Screening. The process by which a client is determined to  
38 be eligible for admission to a particular alcoholism and drug abuse  
39 treatment program.

1 (2) Initial intake. The administrative and initial assessment  
2 procedures for admission to an alcoholism and drug abuse  
3 treatment program. Assessment shall not include psychological  
4 testing intended to measure or diagnose mental illness.

5 (3) Orientation. Describing to the client the general nature and  
6 goals of the alcoholism and drug abuse treatment program,  
7 including rules governing client conduct and infractions that can  
8 lead to disciplinary action or discharge from the program.

9 (4) Alcoholism and drug abuse counseling, including individual,  
10 group, and significant others. The utilization of special skills to  
11 assist individuals, families, or groups in achieving objectives  
12 through exploration of a problem and its ramifications, examination  
13 of attitudes and feelings, considerations of alternative solutions  
14 and decisionmaking as each relates to substance abuse. Counseling  
15 shall be limited to assisting a client in learning more about himself  
16 or herself for the purposes of understanding how to effectuate  
17 clearly perceived, realistically defined goals related to abstinence.  
18 Counseling is limited to assisting the client to learn or acquire new  
19 skills that will enable the client to cope and adjust to life situations  
20 without the use of substances.

21 (5) Case management. Activities that bring services, agencies,  
22 resources, or individuals together within a planned framework of  
23 action toward achievement of established goals. It may involve  
24 liaison activities and collateral contacts.

25 (6) Crisis intervention. Those services ~~which~~ *that* respond to an  
26 alcohol or drug abuser's needs during acute emotional or physical  
27 distress, including, but not limited to, referrals for assessment of  
28 the client's need for additional psychological or medical treatment  
29 for client behaviors that signal risk or prolonged distress.

30 (7) Assessment. Those procedures by which a counselor or  
31 program identifies and evaluates an individual's strengths,  
32 weaknesses, problems, and needs for the development of the  
33 alcoholism and drug abuse treatment plan.

34 (8) Treatment planning. The process by which the counselor  
35 and the client identify and rank problems needing resolution,  
36 establish agreed upon immediate and long-term goals, and decide  
37 on a treatment process and the resources to be utilized.

38 (9) Client education. Providing information to individuals and  
39 groups concerning alcohol and other drugs of abuse and the  
40 services and resources available.

1 (10) Referral. Identifying the needs of the client that cannot be  
2 met by the counselor or agency, as well as assisting the client in  
3 utilizing the support systems and community resources available.

4 (11) Reports and recordkeeping. Documenting the client's  
5 progress in achieving the client's goals.

6 (12) Consultation with other professionals with regard to client  
7 treatment or services. Communicating with other professionals to  
8 ensure comprehensive, quality care for the client.

9 (b) A licensee may perform the acts listed in this section only  
10 for the purpose of treating alcoholism and drug abuse.

11 4721. (a) The scope of practice for a licensed alcoholism and  
12 drug abuse counselor II shall include both of the following:

13 (1) The services described in subdivision (a) of Section 4720.

14 (2) Clinical supervision of licensed alcoholism and drug abuse  
15 counselors I.

16 (b) The scope of practice for a licensed alcoholism and drug  
17 abuse counselor I shall include the services described in subdivision  
18 (a) of Section 4720.

19 (1) A licensed alcoholism and drug abuse counselor I performing  
20 the services described in subdivision (a) of Section 4720 in a  
21 private practice setting shall, pursuant to Section 4722, do so under  
22 the supervision of a licensed alcoholism and drug abuse counselor  
23 II or other clinical supervisor, as defined in Section 4722 or as  
24 deemed appropriate by the board.

25 (2) ~~A licensee~~ *licensed* alcoholism and drug abuse counselor I  
26 may perform the acts listed in subdivision (a) of Section 4720 in  
27 hospitals, agencies, or other facilities where alcoholism or drug  
28 abuse services are delivered without supervision in accordance  
29 with the laws and regulations governing the facilities.

30 4721.1. (a) (1) It shall be unlawful for a person to do any of  
31 the following unless he or she is licensed pursuant to this chapter:

32 (A) Engage in any of the acts described in paragraph (3), (4),  
33 (6), (7), (8), (10), (11), or (12) of subdivision (a) of Section 4720  
34 with regard to alcoholism and drug abuse.

35 (B) Operate a private practice in alcoholism and drug abuse  
36 counseling or represent himself or herself as, or use the title or  
37 designation of, alcoholism counselor, alcohol counselor, drug  
38 counselor, alcohol and drug counselor, alcoholism and drug  
39 counselor, licensed clinical alcohol and drug counselor, certified  
40 alcohol and drug counselor, substance abuse counselor, chemical

1 dependency counselor, addictions counselor, certified addictions  
2 counselor, certified addictions specialist or chemical dependency  
3 supervisor, or any abbreviations for the above titles.

4 (C) Make use of any title, words, letters, or abbreviations that  
5 may reasonably be confused with a designation provided by this  
6 chapter to denote a standard of professional or occupational  
7 competence.

8 (2) It shall be unlawful for a person to represent himself or  
9 herself by the title licensed alcoholism and drug abuse counselor  
10 I or II, LADC I, or LADC II unless he or she holds the  
11 corresponding license pursuant to this chapter.

12 (b) Nothing in this chapter shall prevent a physician and surgeon  
13 licensed pursuant to Chapter 5 (commencing with Section 2000),  
14 a psychologist licensed pursuant to Chapter 6.6 (commencing with  
15 Section 2900), a marriage and family therapist licensed pursuant  
16 to Chapter 13 (commencing with Section 4980), or a clinical social  
17 worker licensed pursuant to Chapter 14 (commencing with Section  
18 4991) from providing services within their scope of practice.  
19 However, these persons shall not use a title stating or implying  
20 that they are licensed alcohol and drug abuse counselors or any  
21 other designation listed in subdivision (a) unless they are licensed  
22 pursuant to this chapter.

23 (c) A licensee shall not engage in the practice of psychology,  
24 as defined in Section 2903, the practice of marriage and family  
25 therapy, as defined in Section 4980.02, or the practice of clinical  
26 social work, as defined in Section 4996.2, unless he or she is  
27 accordingly licensed to engage in that practice.

28 4722. (a) A licensed alcoholism and drug abuse counselor I  
29 performing services in a private practice setting shall be supervised  
30 by a clinical supervisor, which may include licensed alcoholism  
31 and drug abuse counselors II, marriage and family therapists,  
32 licensed clinical social workers, licensed psychologists, licensed  
33 physicians certified in psychiatry by the American Board of  
34 Psychiatry and Neurology, or physicians who have completed a  
35 residency but are not yet board certified in psychiatry. All clinical  
36 supervisors of licensed alcoholism and drug abuse counselors I  
37 shall have at least 4,000 hours of direct treatment experience in  
38 substance abuse and addiction.

39 (b) A clinical supervisor of an alcoholism and drug abuse  
40 counselor I shall have a written agreement with the supervisee

1 describing the planned hours of practice, supervision schedule,  
2 nature of work assignments, and other specifications that the  
3 supervisor reasonably deems appropriate to the supervisee's level  
4 of training.

5 (c) A clinical supervisor shall evaluate a supervisee at least  
6 annually, emphasizing his or her strengths and shortcomings as  
7 well as areas in which the supervisee should pursue additional  
8 knowledge or skill development. These evaluations shall be signed  
9 by both the supervisor and the supervisee and copies shall be  
10 retained by both for seven years. The board may request copies of  
11 these evaluations.

12 (d) Clinical supervision conducted pursuant to this section shall  
13 include at least 50 hours of face-to-face supervision per year,  
14 averaging one hour per week. As necessary, clinical supervisors  
15 shall make themselves available to each supervisee for face-to-face  
16 consultations or consultations via telephone, ~~pager~~, or other  
17 electronic means.

18 (e) A clinical supervisor shall be limited to no more than 5  
19 supervisees at a time, unless specifically authorized by the board  
20 to supervise additional supervisees.

21 (f) An alcoholism and drug abuse counselor I shall conduct  
22 business in the same work setting as their clinical supervisor subject  
23 to regulation by the board.

24 (g) An alcoholism and drug abuse counselor I shall disclose all  
25 of the following to a client prior to performing a professional  
26 service:

27 (1) That he or she is licensed by the State of California and  
28 under the supervision of a licensed alcoholism and drug abuse  
29 counselor II or a licensed mental health professional.

30 (2) That he or she will refer the client to another licensed  
31 professional within 14 days pursuant to Section 4723.

32 (3) The extent of his or her education or training.

33 4723. (a) (1) Licensed alcoholism and drug abuse counselors  
34 providing services in a private practice setting shall refer all clients  
35 for an initial assessment to one of the following professionals  
36 within 14 days of intake to assess any cooccurring needs or  
37 disorders:

38 (A) A marriage and family therapist.

39 (B) A licensed clinical social worker.

40 (C) A licensed psychologist.

1 (D) A licensed physician and surgeon certified in psychiatry by  
2 the American Board of Psychiatry and Neurology.

3 (E) A licensed physician and surgeon who has completed a  
4 residency but is not yet board certified in psychiatry.

5 (F) Any other licensed professional approved by the board.

6 (2) Referrals made pursuant to this subdivision shall be  
7 documented in the client's chart.

8 (3) A professional receiving a referral under this section shall,  
9 with the written consent of the client, provide to the referring  
10 alcoholism and drug abuse counselor a signed, written report that  
11 includes assessment results and treatment and referral  
12 recommendations. The referring alcoholism and drug abuse  
13 counselor shall place this report in the client's chart.

14 (b) A licensee shall, in an effective and safe fashion, demonstrate  
15 the ability to refer patients in need of services that go beyond the  
16 scope of practice of alcoholism and drug abuse counseling. The  
17 licensee shall maintain current referral information for the services  
18 he or she is prohibited from providing under subdivision (c) of  
19 Section 4721.1.

20 (c) During the course of the screening and intake process, a  
21 licensed alcoholism and drug abuse counselor, working within his  
22 or her scope of practice, shall determine the level of care most  
23 appropriate for the client and the need for integrated treatment in  
24 the presence of medical, emotional, and behavioral conditions.  
25 This determination shall be based on the client's state of  
26 intoxication or withdrawal, the presence of other conditions, relapse  
27 potential, the nature of the recovery environment, and other client  
28 issues, including, but not limited to, legal, financial, or housing  
29 issues.

30 4724. The board may refuse to issue a license, or may suspend  
31 or revoke a license, if the applicant or licensee has been guilty of  
32 unprofessional conduct. Unprofessional conduct shall include, but  
33 not be limited to, all of the following:

34 (a) The conviction of a crime substantially related to the  
35 qualifications, functions, or duties of a licensee under this chapter.  
36 The record of conviction shall be conclusive evidence only of the  
37 fact that the conviction occurred. The board may inquire into the  
38 circumstances surrounding the commission of the crime in order  
39 to fix the degree of discipline or to determine if the conviction is  
40 substantially related to the qualifications, functions, or duties of a

1 licensee under this chapter. A plea or verdict of guilty or a  
2 conviction following a plea of nolo contendere made to a charge  
3 substantially related to the qualifications, functions, or duties of a  
4 licensee under this chapter shall be deemed to be a conviction  
5 within the meaning of this section. The board may order any license  
6 suspended or revoked, or may decline to issue a license when the  
7 time for appeal has elapsed or the judgment of conviction has been  
8 affirmed on appeal, or when an order granting probation is made  
9 suspending the imposition of sentence, irrespective of a subsequent  
10 order under Section 1203.4 of the Penal Code allowing the person  
11 to withdraw a plea of guilty and enter a plea of not guilty, or setting  
12 aside the verdict of guilty, or dismissing the accusation,  
13 information, or indictment.

14 (b) Securing a license by fraud, deceit, or misrepresentation on  
15 an application for licensure submitted to the board, whether  
16 engaged in by an applicant for a license, or by a licensee in support  
17 of an application for licensure.

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

33 (d) Gross negligence or incompetence in the performance of  
34 alcoholism and drug abuse counseling services.

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

38 (f) Misrepresentation as to the type or status of a license held  
39 by the person, or otherwise misrepresenting or permitting

1 misrepresentation of his or her education, professional  
2 qualifications, or professional affiliations to any person or entity.

3 (g) Impersonation of another by a licensee or applicant for a  
4 license or allowing any other person to use his or her license.

5 (h) Aiding or abetting, or employing, directly or indirectly, any  
6 unlicensed person to engage in conduct for which a license is  
7 required under this chapter.

8 (i) Intentionally or recklessly causing physical or emotional  
9 harm to a client.

10 (j) The commission of a dishonest, corrupt, or fraudulent act  
11 substantially related to the qualifications, functions, or duties of a  
12 licensee.

13 (k) Engaging in sexual relations with a client, or a former client  
14 within two years following termination of services, 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 an alcoholism  
19 and drug abuse counselor.

20 (l) Performing, or holding oneself out as being able to perform,  
21 or offering to perform, any professional services beyond the scope  
22 of the license authorized by this chapter.

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

28 (n) Prior to the commencement of treatment, failing to disclose  
29 to the client or prospective client the fee to be charged for the  
30 professional services, or the basis upon which that fee will be  
31 computed.

32 (o) Paying, accepting, or soliciting any consideration,  
33 compensation, or remuneration, whether monetary or otherwise,  
34 for the referral of professional clients. All consideration,  
35 compensation, or remuneration shall be in relation to professional  
36 counseling services actually provided by the licensee. Nothing in  
37 this subdivision shall prevent collaboration among two or more  
38 licensees in a case or cases. However, no fee shall be charged for  
39 that collaboration, except when disclosure of the fee has been made  
40 in compliance with subdivision (n).

- 1 (p) Advertising in a manner that is false, misleading, or  
 2 deceptive.
- 3 (q) Reproduction or description in public, or in any publication  
 4 subject to general public distribution, of any psychological test or  
 5 other assessment device, the value of which depends in whole or  
 6 in part on the naivete of the subject, in ways that might invalidate  
 7 the test or device.
- 8 (r) Any conduct in the supervision of an unlicensed employee,  
 9 student, or volunteer by a licensee that violates this chapter or any  
 10 rules or regulations adopted by the board.
- 11 (s) Performing or holding oneself out as being able to perform  
 12 professional services beyond the scope of one’s competence, as  
 13 established by one’s education, training, or experience. This  
 14 subdivision shall not be construed to expand the scope of the  
 15 license authorized by this chapter.
- 16 (t) Receipt of credible justification that a licensed alcoholism  
 17 and drug abuse counselor is performing services outside of his or  
 18 her scope of practice or is negligent in making referrals for  
 19 co-occurring disorders.
- 20 4725. (a) Except as provided in subdivisions (b), (c), and (e),  
 21 any accusation filed against a licensee pursuant to Section 11503  
 22 of the Government Code shall be filed within three years from the  
 23 date the board discovers the alleged act or omission that is the  
 24 basis for disciplinary action, or within seven years from the date  
 25 the alleged act or omission that is the basis for disciplinary action  
 26 occurred, whichever occurs first.
- 27 (b) An accusation filed against a licensee pursuant to Section  
 28 11503 of the Government Code alleging the procurement of a  
 29 license by fraud or misrepresentation is not subject to the  
 30 limitations set forth in subdivision (a).
- 31 (c) The limitation provided for by subdivision (a) shall be tolled  
 32 for the length of time required to obtain compliance when a report  
 33 required to be filed by the licensee with the board pursuant to  
 34 Article 11 (commencing with Section 800) of Chapter 1 is not filed  
 35 in a timely fashion.
- 36 (d) If an alleged act or omission involves a minor, the seven-year  
 37 limitations period provided for by subdivision (a) and the 10-year  
 38 limitations period provided for by subdivision (e) shall be tolled  
 39 until the minor reaches the age of majority.

1 (e) An accusation filed against a licensee pursuant to Section  
2 11503 of the Government Code alleging sexual misconduct shall  
3 be filed within three years after the board discovers the act or  
4 omission alleged as the grounds for disciplinary action, or within  
5 10 years after the act or omission alleged as the grounds for  
6 disciplinary action occurs, whichever occurs first.

7 (f) The limitations period provided by subdivision (a) shall be  
8 tolled during any period if material evidence necessary for  
9 prosecuting or determining whether a disciplinary action would  
10 be appropriate is unavailable to the board due to an ongoing  
11 criminal investigation.

12 (g) For purposes of this section, “discovers” means the later of  
13 the occurrence of any of the following with respect to each act or  
14 omission alleged as the basis for disciplinary action:

15 (1) The date the board received a complaint or report describing  
16 the act or omission.

17 (2) The date, subsequent to the original complaint or report, on  
18 which the board became aware of any additional acts or omissions  
19 alleged as the basis for disciplinary action against the same  
20 individual.

21 (3) The date the board receives from the complainant a written  
22 release of information pertaining to the complainant’s diagnosis  
23 and treatment.

24 4726. (a) An applicant for a license under this chapter shall  
25 consent to a criminal history background check. Refusal to consent  
26 to the criminal history background check constitutes grounds for  
27 denial of the license.

28 (b) Before issuing a license to an applicant, the board shall  
29 ensure that the state and national criminal history of the applicant  
30 is reviewed.

31 (c) If an applicant’s criminal history background check reveals  
32 one or more convictions, the applicant shall not automatically be  
33 denied a license. With regard to each conviction, the board shall  
34 consider all of the following factors in determining whether to  
35 issue a license:

36 (1) The level of seriousness of the crime committed.

37 (2) The date that the crime was committed.

38 (3) The age of the applicant at the time of conviction.

39 (4) The circumstances surrounding the commission of the crime,  
40 if known.

- 1 (5) The nexus between the criminal conduct and the duties of  
2 a licensed alcoholism and drug abuse counselor.
- 3 (6) The applicant’s prison, jail, probation, parole, rehabilitation,  
4 and employment records since the date the crime was committed.
- 5 (d) If the board denies a license based on an applicant’s criminal  
6 history background check, the board may disclose to the applicant  
7 the information contained in the background check that is relevant  
8 to the denial.
- 9 (e) The applicant shall have the right to appear before the board  
10 to appeal a decision made by the board pursuant to this section.
- 11 4727. The board shall renew an unexpired license of a licensee  
12 who meets the following qualifications:
  - 13 (a) Has applied for renewal on a form prescribed by the board  
14 and paid the required renewal fee.
  - 15 (b) Has certified compliance with continuing education  
16 requirements imposed by Section 4728.
  - 17 (c) Has notified the board whether he or she has been subject  
18 to, or whether another board has taken, disciplinary action since  
19 the last renewal.
- 20 4728. (a) The board shall not renew any license pursuant to  
21 this chapter unless the licensee certifies to the board, on a form  
22 prescribed by the board, that he or she has completed, during the  
23 previous two years, not less than 60 hours of continuing education  
24 coursework that is offered by a board-approved provider and that  
25 is in or relevant to the field of alcoholism and drug abuse  
26 counseling. The board may require licensees to take specific  
27 coursework, including, but not limited to, coursework concerning  
28 supervisory training, as a condition of license renewal.
- 29 (b) The board shall have the right to audit the records of any  
30 licensee to verify the completion of the continuing education  
31 requirement. Licensees shall maintain records of completion of  
32 required continuing education coursework for a minimum of two  
33 years and shall make these records available to the board for  
34 auditing purposes upon request.
- 35 (c) The continuing education shall be obtained from one of the  
36 following sources:
  - 37 (1) A school, college, or university accredited by the Western  
38 Association of Schools and Colleges or an equivalent regional  
39 accrediting agency approved by the United States Department of

1 Education. Nothing in this section shall be construed as requiring  
2 coursework to be offered as part of a regular degree program.

3 (2) Other continuing education providers approved by the board,  
4 including, but not limited to, a certified counseling association, a  
5 licensed health facility, a governmental entity, a continuing  
6 education unit of an accredited four-year institution of higher  
7 learning, or a mental health professional association.

8 (d) The board shall establish, by regulation, a procedure for  
9 approving providers of continuing education courses. The board  
10 may refuse to approve continuing education credit for courses  
11 offered by providers who fail to comply with the requirements of  
12 this section or any regulation adopted pursuant to this section.

13 (e) Training, education, and coursework offered by approved  
14 providers shall incorporate one or more of the following:

15 (1) Aspects of the discipline that are fundamental to the  
16 understanding or the practice of alcoholism and drug abuse  
17 counseling.

18 (2) Aspects of the discipline of alcoholism and drug abuse  
19 counseling in which significant recent developments have occurred.

20 (3) Aspects of other disciplines that enhance the understanding  
21 or the practice of alcoholism and drug abuse counseling.

22 (f) The board shall, by regulation, fund the administration of  
23 this section through continuing education provider fees to be  
24 deposited in the Behavioral Sciences Fund. The fees related to the  
25 administration of this section shall be sufficient to meet, but shall  
26 not exceed, the costs of administering the corresponding provisions  
27 of this section.

28 4729. The board may renew an expired license for a former  
29 licensee who meets the following qualifications:

30 (a) Applies for renewal on a form prescribed by the board within  
31 three years of the expiration date of the license.

32 (b) Pays the renewal fees that would have been paid if the license  
33 had not been delinquent.

34 (c) Pays all delinquency fees.

35 (d) Certifies compliance with continuing education requirements.

36 (e) Notifies the board whether he or she has been subject to, or  
37 whether another board has taken, disciplinary action since the last  
38 renewal.

39 4730. A license that is not renewed within three years after its  
40 expiration may not be renewed, restored, reinstated, or reissued

1 thereafter, but the former licensee may apply for and obtain a new  
2 license if all of the following are satisfied:

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 pays the fees that would be required if he or she  
6 were applying for a license for the first time.

7 (c) He or she meets the current requirements for licensure as a  
8 licensed alcoholism and drug abuse counselor II or a licensed  
9 alcoholism and drug abuse counselor I under Section 4706 or 4708,  
10 respectively.

11 4731. A suspended license is subject to expiration and may be  
12 renewed as provided in this chapter, but the renewal does not entitle  
13 the licensee, while it remains suspended and until it is reinstated,  
14 to engage in the activity to which the license relates, or in any  
15 other activity or conduct in violation of the order or judgment by  
16 which it was suspended.

17 4732. A revoked license is subject to expiration as provided  
18 in this chapter, but it may not be renewed. If it is reinstated after  
19 its expiration, the licensee shall, as a condition precedent to its  
20 reinstatement, pay a reinstatement fee in an amount equal to the  
21 renewal fee in effect on the last regular renewal date before the  
22 date on which it is reinstated, plus the delinquency fee, if any,  
23 accrued at the time of its revocation.

24 4733. A licensed alcoholism and drug abuse counselor may  
25 apply to the board to request that his or her license be placed on  
26 inactive status. A licensee who holds an inactive license shall pay  
27 a biennial fee of one-half of the active renewal fee and shall be  
28 exempt from continuing education requirements specified in  
29 subdivision (a) of Section 4728, but shall otherwise be subject to  
30 this chapter and shall not engage in the practice of alcoholism and  
31 drug abuse counseling in this state. A licensee on inactive status  
32 who has not committed any acts or crimes constituting grounds  
33 for denial of licensure may, upon his or her request, have his or  
34 her license to practice alcoholism and drug abuse counseling placed  
35 on active status. A licensee requesting his or her license to be  
36 placed on active status at any time between a renewal cycle shall  
37 pay the remaining one-half of the renewal fee. A licensee  
38 requesting to reactivate from an inactive status whose license will  
39 expire less than one year from the date of the request shall be  
40 required to complete 30 hours of continuing education for license

1 renewal. A licensee requesting to reactivate from an inactive status  
2 whose license will expire more than one year from the date of the  
3 request shall be required to complete 60 hours of continuing  
4 education for license renewal.

5 4734. The board may refuse to issue a license whenever it  
6 appears that an applicant may be unable to practice his or her  
7 profession safely due to mental illness or chemical dependency.  
8 The procedures set forth in Article 12.5 (commencing with Section  
9 820) of Chapter 1 of Division 1 shall apply to any denial of a  
10 license pursuant to this section.

11 4735. (a) The board may place a licensee on probation under  
12 the following circumstances:

13 (1) Instead of, or in addition to, any order of the board  
14 suspending or revoking the license of the licensee.

15 (2) Upon the issuance of a license to an individual who has  
16 engaged in unprofessional conduct, but who has otherwise  
17 completed all licensure requirements relating to education, training,  
18 and experience.

19 (3) As a condition upon the reissuance or reinstatement of any  
20 license that has been suspended or revoked by the board.

21 (b) The board may adopt regulations establishing a monitoring  
22 program to ensure compliance with any terms or conditions of  
23 probation imposed by the board pursuant to this section. The cost  
24 of probation or monitoring may be ordered to be paid by the  
25 licensee or applicant.

26 (c) The board, in its discretion, may require any licensee who  
27 has been placed on probation, or whose license has been suspended,  
28 to obtain additional professional training, and to pass an  
29 examination upon completion of that training, and to pay any  
30 necessary examination fee. The examination may be written or a  
31 practical or clinical examination.

32 4736. (a) A licensed alcoholism and drug abuse counselor  
33 who has been placed on probation may petition the board for  
34 reinstatement or modification of the penalty, including modification  
35 or termination of probation, after a period not less than the  
36 following minimum periods has elapsed from the effective date  
37 of the decision ordering the disciplinary action, or if the order of  
38 the board, or any portion of it, is stayed by the board itself, or by  
39 the superior court, from the date the disciplinary action is actually  
40 implemented in its entirety:

1 (1) At least three years for reinstatement of a license that was  
2 revoked for unprofessional conduct, except that the board may, in  
3 its sole discretion at the time of adoption, specify in its order that  
4 a petition for reinstatement may be filed after two years.

5 (2) At least two years for early termination of any probation  
6 period of three years or more.

7 (3) At least one year for modification of a condition, or  
8 reinstatement of a license revoked for mental or physical illness,  
9 or termination of probation of less than three years.

10 (b) The petition may be heard by the board itself, or the board  
11 may assign the petition to an administrative law judge pursuant to  
12 Section 11512 of the Government Code. The board shall give  
13 notice to the Attorney General of the filing of the petition. The  
14 petitioner and the Attorney General shall be given timely notice  
15 by letter of the time and place of the hearing on the petition, and  
16 an opportunity to present both oral and documentary evidence and  
17 argument to the board. The petitioner shall at all times have the  
18 burden of production and proof to establish by clear and convincing  
19 evidence that he or she is entitled to the relief sought in the petition.  
20 The board, when it is hearing the petition itself, or an administrative  
21 law judge sitting in for the board, may consider all activities of  
22 the petitioner since the disciplinary action was taken, the offense  
23 for which the petitioner was disciplined, the petitioner's activities  
24 during the time his or her license was in good standing, and the  
25 petitioner's rehabilitative efforts, general reputation for truth, and  
26 professional ability.

27 (c) The hearing may be continued from time to time as the board  
28 or the administrative law judge deems appropriate.

29 (d) The board itself, or the administrative law judge if one is  
30 designated by the board, shall hear the petition and shall prepare  
31 a written decision setting forth the reasons supporting the decision.  
32 In a decision granting a petition reinstating a license or modifying  
33 a penalty, the board itself, or the administrative law judge may  
34 impose any terms and conditions that the agency deems reasonably  
35 appropriate, including those set forth in Sections 823 and 4737.  
36 Where a petition is heard by an administrative law judge sitting  
37 alone, the administrative law judge shall prepare a proposed  
38 decision and submit it to the board.

39 (e) The board may take action with respect to the proposed  
40 decision and petition as it deems appropriate.

1 (f) The petition shall be on a form provided by the board, and  
2 shall state any facts and information as may be required by the  
3 board including, but not limited to, proof of compliance with the  
4 terms and conditions of the underlying disciplinary order.

5 (g) The petitioner shall pay a fingerprinting fee and provide a  
6 current set of his or her fingerprints to the board. The petitioner  
7 shall execute a form authorizing release to the board or its designee,  
8 of all information concerning the petitioner's current physical and  
9 mental condition. Information provided to the board pursuant to  
10 the release shall be confidential and shall not be subject to  
11 discovery or subpoena in any other proceeding, and shall not be  
12 admissible in any action, other than before the board, to determine  
13 the petitioner's fitness to practice as required by Section 822.

14 (h) The petition shall be verified by the petitioner, who shall  
15 file an original and sufficient copies of the petition, together with  
16 any supporting documents, for the members of the board, the  
17 administrative law judge, and the Attorney General.

18 (i) The board may delegate to its executive officer authority to  
19 order investigation of the contents of the petition, but in no case,  
20 may the hearing on the petition be delayed more than 180 days  
21 from its filing without the consent of the petitioner.

22 (j) The petitioner may request that the board schedule the hearing  
23 on the petition for a board meeting at a specific city where the  
24 board regularly meets.

25 (k) No petition shall be considered while the petitioner is under  
26 sentence for any criminal offense, including any period during  
27 which the petitioner is on court-imposed probation or parole, or  
28 the petitioner is required to register pursuant to Section 290 of the  
29 Penal Code. No petition shall be considered while there is an  
30 accusation or petition to revoke probation pending against the  
31 petitioner.

32 (l) Except in those cases where the petitioner has been  
33 disciplined for violation of Section 822, the board may in its  
34 discretion deny without hearing or argument any petition that is  
35 filed pursuant to this section within a period of two years from the  
36 effective date of a prior decision following a hearing under this  
37 section.

38 4737. The board may deny an application, or may suspend or  
39 revoke a license issued under this chapter, for any of the following:

1 (a) Denial of licensure, revocation, suspension, restriction, or  
2 any other disciplinary action imposed by another state or territory  
3 or possession of the United States, or by any other governmental  
4 agency, on a license, certificate, or registration to practice  
5 alcoholism and drug abuse counseling, or any other healing art,  
6 shall constitute unprofessional conduct. A certified copy of the  
7 disciplinary action decision or judgment shall be conclusive  
8 evidence of that action.

9 (b) Revocation, suspension, or restriction by the board of a  
10 license, certificate, or registration to practice as a marriage and  
11 family therapist, clinical social worker, or educational psychologist  
12 shall also constitute grounds for disciplinary action for  
13 unprofessional conduct against the licensee under this chapter.

14 (c) Written documentation from the State Department of Alcohol  
15 and Drug Programs demonstrating that the department has ruled  
16 that a certification should be revoked by a private certifying  
17 organization.

18 4738. The board shall revoke any license issued under this  
19 chapter upon a decision made in accordance with the procedures  
20 set forth in Chapter 5 (commencing with Section 11500) of Part  
21 1 of Division 3 of Title 2 of the Government Code, that contains  
22 any finding of fact that the licensee engaged in any act of sexual  
23 contact, as defined in Section 729, when that act is with a client,  
24 or with a former client when the relationship was terminated  
25 primarily for the purpose of engaging in that act. The revocation  
26 shall not be stayed by the administrative law judge or the board.

27 4739. The proceedings conducted under this chapter shall be  
28 held in accordance with Chapter 5 (commencing with Section  
29 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

30 4740. (a) The board shall assess fees for applications,  
31 examinations, licensure, renewals, background checks, and other  
32 items in amounts sufficient to recover, but not exceed, all  
33 administrative, loan, and operating expenses related to this chapter  
34 as projected for the fiscal year commencing on the date the fees  
35 become effective. The fees collected pursuant to this chapter shall  
36 be deposited in the Behavioral Sciences Fund and, upon  
37 appropriation by the Legislature, shall be available to the board  
38 for carrying out and enforcing this chapter.

1 ~~(b) The fees described in subdivision (a) shall be fixed by the~~  
2 ~~board by May 1 of each year, to become effective on July 1 of that~~  
3 ~~year.~~

4 ~~(e)~~

5 (b) Notwithstanding subdivision (a), neither the licensure fee  
6 nor the renewal fee shall exceed ~~four~~ *three* hundred dollars ~~(\$400)~~  
7 ~~(\$300).~~

8 ~~(d) In the event that excess fees are collected under this chapter~~  
9 ~~during any fiscal year, the individual fee amounts for the following~~  
10 ~~year shall be reduced in an amount sufficient to return the excess~~  
11 ~~fees collected.~~

12 ~~(e)~~

13 (c) Startup funds to implement this chapter shall be derived, as  
14 a loan, from the reserve of the Behavioral Sciences Fund, subject  
15 to an appropriation by the Legislature in the annual Budget Act.  
16 That loan shall be repayed when sufficient fees have been collected  
17 pursuant to subdivision (a). The board shall not be required to  
18 implement this chapter until these startup funds have been  
19 appropriated.

20 ~~(f)~~

21 (d) The board may adjust the deadlines imposed by this chapter  
22 in the event that funds have not been appropriated as described in  
23 subdivision (a) or (c).

24 4741. (a) The board shall report each month to the Controller  
25 the amount and source of all revenue received pursuant to this  
26 chapter and at the same time pay the entire amount thereof into  
27 the State Treasury for credit to the Behavioral Sciences Fund.

28 (b) The Behavioral Sciences Fund shall be used for the purposes  
29 of carrying out and enforcing the provisions of this chapter.

30 (c) The board shall keep any records as will reasonably ensure  
31 that funds expended in the administration of each licensing  
32 category shall bear a reasonable relation to the revenue derived  
33 from each category, and shall so notify the department no later  
34 than May 31 of each year.

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

37 4990. (a) There is in the Department of Consumer Affairs, a  
38 Board of Behavioral Sciences that consists of the following  
39 members:

40 (1) Two state licensed clinical social workers.

- 1 (2) One state licensed educational psychologist.  
2 (3) Two state licensed marriage and family therapists.  
3 (4) After January 1, 2011, one state-licensed alcoholism and  
4 drug abuse counselor.  
5 (5) Seven public members.  
6 (b) Each member, except the seven public members, shall have  
7 at least two years of experience in his or her profession.  
8 (c) Each member shall reside in the State of California.  
9 (d) The Governor shall appoint five of the public members and  
10 the six licensed members with the advice and consent of the Senate.  
11 The Senate Committee on Rules and the Speaker of the Assembly  
12 shall each appoint a public member.  
13 (e) Each member of the board shall be appointed for a term of  
14 four years. A member appointed by the Speaker of the Assembly  
15 or the Senate Committee on Rules shall hold office until the  
16 appointment and qualification of his or her successor or until one  
17 year from the expiration date of the term for which he or she was  
18 appointed, whichever first occurs. Pursuant to Section 1774 of the  
19 Government Code, a member appointed by the Governor shall  
20 hold office until the appointment and qualification of his or her  
21 successor or until 60 days from the expiration date of the term for  
22 which he or she was appointed, whichever first occurs.  
23 (f) A vacancy on the board shall be filled by appointment for  
24 the unexpired term by the authority who appointed the member  
25 whose membership was vacated.  
26 (g) Not later than the first of June of each calendar year, the  
27 board shall elect a chairperson and a vice chairperson from its  
28 membership.  
29 (h) Each member of the board shall receive a per diem and  
30 reimbursement of expenses as provided in Section 103.  
31 (i) This section shall become inoperative on July 1, 2009, and,  
32 as of January 1, 2010, is repealed, unless a later enacted statute,  
33 ~~that becomes operative on or is enacted~~ before January 1, 2010,  
34 deletes or extends the dates on which it becomes inoperative and  
35 is repealed.  
36 SEC. 4. Section 4990.18 of the Business and Professions Code  
37 is amended to read:  
38 4990.18. It is the intent of the Legislature that the board employ  
39 its resources for each and all of the following functions:

1 (a) The licensure of marriage and family therapists, alcoholism  
2 and drug abuse counselors, clinical social workers, and educational  
3 psychologists.

4 (b) The development and administration of licensure  
5 examinations and examination procedures consistent with  
6 prevailing standards for the validation and use of licensing and  
7 certification tests. Examinations shall measure knowledge and  
8 abilities demonstrably important to the safe, effective practice of  
9 the profession.

10 (c) Enforcement of laws designed to protect the public from  
11 incompetent, unethical, or unprofessional practitioners.

12 (d) Consumer education.

13 SEC. 5. Section 4990.30 of the Business and Professions Code  
14 is amended to read:

15 4990.30. (a) A licensed marriage and family therapist, marriage  
16 and family therapist intern, licensed alcoholism and drug abuse  
17 counselor, licensed clinical social worker, associate clinical social  
18 worker, or licensed educational psychologist whose license or  
19 registration has been revoked, suspended, or placed on probation,  
20 may petition the board for reinstatement or modification of the  
21 penalty, including modification or termination of probation. The  
22 petition shall be on a form provided by the board and shall state  
23 any facts and information as may be required by the board  
24 including, but not limited to, proof of compliance with the terms  
25 and conditions of the underlying disciplinary order. The petition  
26 shall be verified by the petitioner who shall file an original and  
27 sufficient copies of the petition, together with any supporting  
28 documents, for the members of the board, the administrative law  
29 judge, and the Attorney General.

30 (b) The licensee or registrant may file the petition on or after  
31 the expiration of the following timeframes, each of which  
32 commences on the effective date of the decision ordering the  
33 disciplinary action or, if the order of the board, or any portion of  
34 it, is stayed by the board itself or by the superior court, from the  
35 date the disciplinary action is actually implemented in its entirety:

36 (1) Three years for reinstatement of a license or registration that  
37 was revoked for unprofessional conduct, except that the board  
38 may, in its sole discretion, specify in its revocation order that a  
39 petition for reinstatement may be filed after two years.

1 (2) Two years for early termination of any probation period of  
2 three years or more.

3 (3) One year for modification of a condition, reinstatement of  
4 a license or registration revoked for mental or physical illness, or  
5 termination of probation of less than three years.

6 (c) The petition may be heard by the board itself or the board  
7 may assign the petition to an administrative law judge pursuant to  
8 Section 11512 of the Government Code.

9 (d) The petitioner may request that the board schedule the  
10 hearing on the petition for a board meeting at a specific city where  
11 the board regularly meets.

12 (e) The petitioner and the Attorney General shall be given timely  
13 notice by letter of the time and place of the hearing on the petition  
14 and an opportunity to present both oral and documentary evidence  
15 and argument to the board or the administrative law judge.

16 (f) The petitioner shall at all times have the burden of production  
17 and proof to establish by clear and convincing evidence that he or  
18 she is entitled to the relief sought in the petition.

19 (g) The board, when it is hearing the petition itself, or an  
20 administrative law judge sitting for the board, may consider all  
21 activities of the petitioner since the disciplinary action was taken,  
22 the offense for which the petitioner was disciplined, the petitioner's  
23 activities during the time his or her license or registration was in  
24 good standing, and the petitioner's rehabilitative efforts, general  
25 reputation for truth, and professional ability.

26 (h) The hearing may be continued from time to time as the board  
27 or the administrative law judge deems appropriate but in no case  
28 may the hearing on the petition be delayed more than 180 days  
29 from its filing without the consent of the petitioner.

30 (i) The board itself, or the administrative law judge if one is  
31 designated by the board, shall hear the petition and shall prepare  
32 a written decision setting forth the reasons supporting the decision.  
33 In a decision granting a petition reinstating a license or modifying  
34 a penalty, the board itself, or the administrative law judge, may  
35 impose any terms and conditions that the agency deems reasonably  
36 appropriate, including those set forth in Sections 823 and 4990.38.  
37 If a petition is heard by an administrative law judge sitting alone,  
38 the administrative law judge shall prepare a proposed decision and  
39 submit it to the board. The board may take action with respect to  
40 the proposed decision and petition as it deems appropriate.

1 (j) The petitioner shall pay a fingerprinting fee and provide a  
2 current set of his or her fingerprints to the board. The petitioner  
3 shall execute a form authorizing release to the board or its designee,  
4 of all information concerning the petitioner's current physical and  
5 mental condition. Information provided to the board pursuant to  
6 the release shall be confidential and shall not be subject to  
7 discovery or subpoena in any other proceeding, and shall not be  
8 admissible in any action, other than before the board, to determine  
9 the petitioner's fitness to practice as required by Section 822.

10 (k) The board may delegate to its executive officer authority to  
11 order investigation of the contents of the petition.

12 (l) No petition shall be considered while the petitioner is under  
13 sentence for any criminal offense, including any period during  
14 which the petitioner is on court-imposed probation or parole or  
15 the petitioner is required to register pursuant to Section 290 of the  
16 Penal Code. No petition shall be considered while there is an  
17 accusation or petition to revoke probation pending against the  
18 petitioner.

19 (m) Except in those cases where the petitioner has been  
20 disciplined for violation of Section 822, the board may in its  
21 discretion deny without hearing or argument any petition that is  
22 filed pursuant to this section within a period of two years from the  
23 effective date of a prior decision following a hearing under this  
24 section.

25 SEC. 6. Section 4990.38 of the Business and Professions Code  
26 is amended to read:

27 4990.38. The board may deny an application or may suspend  
28 or revoke a license or registration issued under the chapters it  
29 administers and enforces for any disciplinary action imposed by  
30 another state or territory or possession of the United States, or by  
31 a governmental agency on a license, certificate or registration to  
32 practice marriage and family therapy, clinical social work,  
33 educational psychology, alcoholism or drug abuse counseling, or  
34 any other healing art. The disciplinary action, which may include  
35 denial of licensure or revocation or suspension of the license or  
36 imposition of restrictions on it, constitutes unprofessional conduct.  
37 A certified copy of the disciplinary action decision or judgment  
38 shall be conclusive evidence of that action.

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www.bbs.ca.gov

**To:** Board Members

**Date:** May 13, 2008

**From:** Christy Berger  
MHSA Coordinator

**Telephone:** (916) 574-7834

**Subject:** LCSW Education Committee Report

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At its meeting in February 2008, the Board formed the LCSW Education Committee consisting of Renee Lonner, LCSW, Chair, Joan Walmsley, LCSW and Donna DiGiorgio, public member. The Committee is working to gather information about social work education in California and the competencies needed to practice in different environments, with a focus on public mental health settings. The Committee will be working closely with the schools of social work, students, the public, professional associations, agencies and various other stakeholders in the process. After meeting over an estimated two-year period, the committee will consider whether changes are needed to the educational requirements, and what those changes might be.

The Committee held its first meeting on May 5, 2008 in Sacramento, where the committee reviewed sources of information and key stakeholders and asked the audience for feedback. The LCSW occupational analysis was discussed briefly, and Robin Carter, Chair of the graduate social work division at California State University, Sacramento (CSUS) presented information about CSUS' program and social work accreditation in general and answered questions. Representatives from CSU Chico and the University of Southern California also provided information and answered questions. Attendance was minimal, but is expected to increase as word gets out. Staff is sending an invitation to all social work programs, encouraging faculty to be a part of this process.

Future meeting dates and anticipated agenda items are as follows:

*June 23, 2008 in Long Beach*

At this meeting we anticipate having a presentation from the California Social Work Education Center (CalSWEC) regarding schools' level of adoption of CalSWEC's mental health curriculum competencies, and how this ties in with the mental health stipend program. We will also take a closer look at demographics and will have Chad Costello, MSW from Mental Health America present on recovery oriented care.

*September 15, 2008 in the Bay Area*

*December 8, 2008 in Los Angeles*

At these meetings we anticipate having a presentation from the Council on Social Work Education (CSWE) about accreditation standards and process. We will also take a look at the basic coursework required for

all MSW programs, program structure, field placement, etc. We will also discuss job performance as assessed by recent graduates – staff will survey ASWs registered for approximately one year to see how well they believe their education has prepared them for practice. We will also discuss the skills desired by public mental health agencies. Staff has asked the Council of Community Mental Health Agencies (CCMHA) to survey agencies about how well ASWs are prepared for agency practice. We may bring in speakers from other types of agencies that employ ASWs and LCSWs such as the military/VA, prisons, medical social work, and trauma/disaster response, and related job descriptions.

We expect to have four more meetings during 2009.

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**To:** Board Members

**Date:** May 6, 2008

**From:** Paul Riches  
 Executive Officer

**Telephone:** (916) 574-7840

**Subject:** Election of Officers

Section 4990 of the Business and Professions Code requires the board to elect a Chair and Vice-Chair prior to June 1 of each year. Currently, Ian Russ is the Board Chair and Joan Walmsley is the Vice-Chair. Accordingly, the board should elect both a chair and a vice-chair at this meeting.

Below a list of board members and the date on which their terms expire.

Board Member	Type	Authority	Date Appointed	Term Expires	Grace Expires
Victor Law	Public	Assembly	11/1/2003	6/1/2007	6/1/2008
Judy Johnson	LEP	Governor	8/24/2005	6/1/2008	8/1/2008
Joan Walmsley - Vice Chair	LCSW	Governor	11/11/2005	6/1/2009	8/1/2009
Ian Russ - Chair	MFT	Governor	9/19/2005	6/1/2009	8/1/2009
Karen Roye	Public	Governor	9/7/2006	6/1/2009	8/1/2009
D'Karla Leach	Public	Governor	9/7/2006	6/1/2009	8/1/2009
Victor Perez	Public	Governor	11/3/2006	6/1/2010	8/1/2010
Renee Lonner	LCSW	Governor	1/17/2007	6/1/2010	8/1/2010
Elise Froistad	MFT	Governor	5/24/2007	6/1/2010	8/1/2010
Rita Cameron-Wedding	Public	Senate	9/04/2007	6/1/2011	6/1/2012
Donna DiGiorgio	Public	Governor	7/11/2007	6/1/2011	8/1/2011

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## **DRAFT MEETING MINUTES**

### **Planning Committee October 24, 2007**

Department of Consumer Affairs  
1625 North Market Blvd.  
El Dorado Room N-220  
Sacramento, CA 95834

#### Members Present

Judy Johnson, Committee Chair, LEP Member  
D'Karla Leach, Public Member

#### Members Absent

None

#### Staff Present

Paul Riches, Executive Officer  
Mona Maggio, Assistant Executive Officer  
Steve Sodergren, Program Manager  
Paula Gershon, Budget Analyst  
Christy Berger, Legislation Analyst  
Cassandra Kearney, Regulation Analyst  
Sean O'Connor, Outreach Coordinator  
Christina Kitamura, Administrative Assistant

#### Guest List

On file

### **I. Introductions**

Judy Johnson, Committee Chair, called the meeting to order at 8:33 a.m. Committee members introduced themselves in place of roll, and a quorum was established. Staff and audience members also introduced themselves.

### **II. Accept Minutes as Submitted by Staff for the Communications Committee Meeting on January 10, 2007**

Ms. Maggio reported that the Budget and Efficiency Committee and Communications Committee merged to create the Planning Committee. This committee was given express responsibility for overseeing the specific goals and objectives of the Board's strategic plan as well as a general jurisdiction over the Board's budget.

The Communications Committee last met on January 10, 2007, and did not have a meeting after January to approve those minutes. The Planning Committee was asked to approve the draft minutes as submitted.

**D'Karla Leach moved to accept the Communications Committee meeting minutes as submitted by staff. Judy Johnson seconded. The Committee voted (2-0) to pass the motion.**

### **III. Budget Review**

Paula Gershon reported on the budget. In reviewing the upcoming budget for this year, the bottom line on the expenditure report is a negative number as a result of 1) a redirection of funds for two new positions in the enforcement unit, 2) several large contracts that will be completed this year, 3) Office of Examination Resource (OER) contracts. Contracts total \$155,355. Some line items are discretionary, and can be adjusted if needed to avoid ending the year with a negative number.

Mr. Riches has several different solutions for this: 1) reducing the contract amounts. 2) postponing the occupational analysis contract with OER for the licensed educational psychologist (LEP) examination. This is a savings of \$50,000. 3) Cut newsletter mailings. This is a savings of \$50,000 in printing and postage. 4) Travel can be cut by \$50,000. 5) Cut equipment purchases for a year.

Ms. Johnson asked what equipment would staff have purchased. Ms. Gershon responded that possible purchases would have been software and computers. The warranties have expired on the office computers. Mr. Riches added that if there is money at the end of the year, staff will take a look at purchasing equipment if necessary. These are only projections.

Ms. Gershon continued listing other solutions: 6) BP Cubed contract is \$73,000. Staff can cut this and not spend the entire amount. 7) Personnel adjustments in the temp line will result in a savings of \$20,000. The temp line is a blanket fund for temporary help such as seasonals and student assistants. The potential savings is a total of \$260,000.

Mr. Riches added that in the past, there were some long-standing attendance problems that no longer exist. That uncompensated leave was used to underwrite the temp help.

Sean O'Connor reported that the entire newsletter has been drafted. He anticipates the newsletter to be distributed electronically.

Ms. Johnson suggested keeping the option is open to distribute the newsletter by other means if those people cannot receive it electronically.

Mr. Riches we have contracts expiring this year. There are other changes in the pipeline that staff expects to get funded next year.

Ms. Gershon reported on the Fund Condition, explaining that it is a picture of the fund. There must be a healthy fund in order to request budget change proposals or to fund the budget on a yearly basis. The current fund and future projections were outlined. The months in reserve were also outlined. Ms. Gershon stated that the Department of Finance suggests keeping the fund at 3-6 months reserve.

### **IV. Discussion and Possible Action Regarding Fee Reduction Alternatives and Funding for Loan Repayment Program**

Ms. Gershon reported on the fee reduction analysis, illustrating how various fee reductions are going to affect the fund condition. There are three scenarios: 1) status quo, 2) \$20 fee reduction, and 3) \$40 fee reduction. These are the only fees that by law, BBS can reduce.

Ms. Gershon calculated the three scenarios of fees and revenue and included the payback of the general fund loan.

Mr. Riches talked briefly about the loan repayment program, explaining that the fee reduction amount will be redirected to the loan repayment program for practitioners to work in underserved programs. This also serves as a mean to decrease the reserve balance. Even absent repayment of the loan, the fund balance is building year after year. The program is up and running, and disbursements are expected this year. Ian Russ has been appointed to the advisory committee that evaluates the applications and makes decisions regarding the disbursements.

Ben Caldwell, American Association for Marriage and Family Therapy (AAMFT) California Division, expressed support for the Board's efforts in redirecting funds to the loan repayment program. He also stated that whatever proposal the Board carries forward may have dramatic fiscal impacts on pending legislation, especially concerning AB 1486.

Mr. Riches responded that the impact would be minor.

**D'Karla Leach moved to propose the \$20 fee reduction plan to the Board. Judy seconded. The committee voted (2-0) to pass the motion.**

#### **V. Update on Board Outreach Activities**

Sean O'Connor reported on outreach activities. The outreach program has grown since 2005. Total presentations amounted to 53 total at conferences, schools, and agencies. Thirty-four student outreach presentations were conducted this year as of September 24, 2007. Based upon feedback from surveys, over 500 marriage and family therapy students and social work students have attended these events. Feedback is overwhelmingly good.

Staff has received requests to present at agencies. Staff has presented to social workers in the Los Angeles Unified School District. Other presentations are scheduled to larger agencies with 40-60 employees. Staff is expanding agency outreach; it is happening because agencies are contacting the Board.

Staff participated in 6 conferences last year, including the California Association of Marriage and Family Therapists (CAMFT) and the National Association of Social Workers (NASW) conference, where BBS sets up a booth to encourage interaction between conference goers and board members and staff. This year, BBS will conduct a licensing presentation at the NASW conference in Los Angeles.

Objective 1.6 of the Board's strategic plan requires participation in 45 outreach events per year. The Board easily met that goal this year.

Mr. O'Connor addressed outreach publications. During the last Consumer Protection Committee meeting, the publication *Empowering Consumers* was submitted for approval. It is in the final approval stages with the director of the department. Staff is also looking into getting the publication translated in several other languages.

BP Cubed, the Board's contracted public relations firm, have developed some consumer-targeted publications that are in the early draft stages. Staff also sends consumer-targeted publications to experts in the field for review it.

Ms. Johnson suggested putting a list on the Board's website to direct students to schools with school psychology programs. Mr. O'Connor added that staff is working on student handbooks for MFTs and LCSWs, and can work on a similar handbook for LEPs.

Mr. Caldwell stated that his students love the presentations; it's very valuable. It humanizes the Board.

Lora Pierce, NASW, expressed that the outreach has made the greatest difference. The responsiveness of staff has improved immensely; the change in the attitude and responsiveness is tremendous.

Mr. Riches stated that we get more requests than staff can accommodate.

## **VI. Strategic Plan Update**

Ms. Maggio reported on the strategic plan update. At its August meeting, the Board approved the vision and mission statements and the goals and objective develop by staff. Management created a 10-member Strategic Planning Council (SPC), composed of staff and management. The role of the SPC is to serve as the drivers of the strategic plan. Staff has been recruited to serve as "champions" for each objective. Management and the SPC chair met with the champions and provided guidance regarding their responsibilities, the selection of team members, and formulation of Work Action Plans (WAP). The champions have selected their teams and received guidance regarding development of the WAP and a status report document. The teams met with Dr. Hatton on October 3, 2007 to review the draft WAPs and to receive additional training and guidance in developing the WAPs and identifying next steps. The teams are continuing to meet to work on drafting the WAPs.

Ms. Maggio indicated that the status of the objectives will be brought forward to the committee in more detail.

## **VII. Draft Strategic Plan Objective 1.7 to Increase Board Member Effectiveness**

Ms. Maggio reported on Objective 1.7. The management team met in May to brainstorm about how to describe and assess board member effectiveness. Describing effectiveness quickly became a values exercise based on the team's prior experiences with effective board members and what the team wanted to see from board members.

The management team's draft objective was presented to the Board at the August 2007 Board Meeting. The Board discussed how to define board appointees' effectiveness and how effectiveness is measured. There was consensus among the board members about the key elements and measures of board member effectiveness as presented by staff; however, the Board wanted further discussion about including a measurement of how well each member has worked toward their personal goal and community involvement.

Samples of board performance instruments were provided.

Ms. Johnson stated that a lot of the discussion is "qualitative" and is difficult to measure or quantify it. It is challenging to find a way to not diminish the value while objectifying it. Ms. Johnson stated that the further this moves along, the more we will understand what it is we are trying to accomplish.

Ms. Leach asked for clarification on Factor 5, Community Engagement regarding the number of board members participating in a number of community engagements per month. She asked if this is in regards to each board member or the board as a whole. Mr.

Riches responded that it was intended as a collective participation. At its May meeting, the Board indicated that they wanted this to be a collective assessment, not an individual assessment.

Ms. Johnson suggested using language pertaining to deliberately seeking communities or agencies under Community Engagement.

Under Self Assessment, Ms. Johnson suggested using language that covers the following: 1) What is the board member's core issue, passion or charge? 2) How effective was the board member at advancing the core issue, passion or charge.

Mr. Riches stated that the number community engagement days under Factor 5 Community Engagement is aggressive, which raises the question what level of commitment does the Board want to set for itself, and what is a fair number. Ms. Johnson suggested adjusting the language to set the number to an average of one day per month.

Mr. Riches pointed out the weighting of the factors: 1) Attendance and participation in board and committee meetings are the most important. 2) Self-Assessment 3) Community Assessment 4) Outreach. Mr. Riches asked the committee if they were comfortable with those priorities, or if they should be evenly weighted.

Ms. Johnson added that responses for enforcement votes are very important; it is a core function and is a high priority. This factor is measurable. She suggested giving this a higher value.

Ms. Leach suggested increasing the enforcement weighting to 20%.

Mr. Riches explained that Outreach is specific to the outreach program, and would like the board members attend outreach events with staff more often.

Mr. Riches suggested reducing the assessment measures by 5% to increase the enforcement weight to 20%. Ms. Johnson and Ms. Leach agreed.

Ms. Leach suggested making a distinction on index factor 6 Outreach Participation, specifying that the outreach is specific BBS events.

D'Karla Leach moved to accept the Board Member Effectiveness Index Factors as amended and recommend to the Board for approval. Judy seconded. The committee voted (2-0) to approve the motion.

#### **VIII. Public Comment for Items Not on the Agenda**

No comments were made for items not on the agenda.

#### **IX. Suggestions for Future Agenda Items**

No suggestions were presented for future agenda items.

Ms. Maggio suggested scheduling the next committee meeting. Mr. Riches suggested scheduling it with the February board meeting to ease the travel burden. The committee agreed to hold meeting with February board meeting.

The meeting was adjourned at 10:13 a.m.

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# Visions Unlimited

South Sacramento and Galt Mental Health Services



## Therapy

- ◆ [Adults](#)
- ◆ [Senior](#)
- ◆ [Children](#)

## Contact

- ◆ [Sacramento](#)
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## Links

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## Jobs

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## Home Page

## Employees Access

- ◆ [Webmail](#)
- ◆ [Intranet](#)

### Welcome to Visions Unlimited Mental Health Services!

Visions Unlimited, Inc., is a Sacramento County funded Regional Support Team with contracts to provide outpatient mental health services to children and adults with serious mental health issues. Visions is located in South Sacramento and includes the communities of Phoenix Park (formerly Franklin Villa), Meadowview, Franklin/Florin/Fruitridge, and Oak Park, as well as Elk Grove and Galt.

Clients are referred by and authorized for services by the Sacramento County Adult or Child and Family ACCESS Teams. Visions multiethnic, multicultural, multilingual staff of clinicians, counselors, mental health workers, psychiatrists, and support staff are trained to help individuals and their families work through mental health problems that interfere with daily living. Our services are provided at the clinic, in the schools, and in the home and in Board and Care homes. Visions staff offer their clients the tools to strengthen their lives and to function effectively in the community.



Caucasian, Middle Eastern, Laotian, Mien, Hmong, Hispanic, Russian, Filipino, Chinese, Vietnamese, and Indian receive services from bilingual, bicultural staff. All clients, regardless of gender, ethnicity, culture, creed, or ability to pay, are eligible for services at Visions Unlimited.

## Youth Therapy

Visions' Just For Kids program is funded by Sacramento County Division of Drug and Alcohol. This program, designed to teach children ages 5 to 14 to say "No" to drugs and alcohol and to provide positive alternatives, is offered in the community where the children live.

Parents are also encouraged, through this program, to take a leadership role in combating drug use, abuse, and trafficking in their neighborhood.

High School youth receive a variety of services through Visions Youth Diversion program. "Successful Rites of Passage" is a unique, cooperative school/community project funded by the Sacramento Employment and Training Agency (SETA). This program offers youth in grades 9-12 positive alternatives to drugs and alcohol, gangs, truancy, and at-risk behaviors by focusing on continuing education, developing self-esteem, and exploring employment opportunities, with the goal of becoming self sufficient and contributing adults. This goal is achieved through individual, group, and/or family counseling; information; educational enrichment; community information and referral; and, with parental permission, education on human sexuality, HIV, AIDS, and the effects of substance abuse. Students at Luther Burbank High School and local community continuation schools avail of this program.



## Adult Therapy

\* Counseling - Individual, family and group sessions are available. We encourage family participation whenever possible, but also work on a one-to-one basis.

\* Medication - Staff psychiatrists assess the need for medication, prescribe the appropriate psychotropic dosage, provide medication follow-up, and facilitate educational medication groups where participants learn the benefits, risks, and side effects of medication.

\* Case Management - Mental Health workers provide individualized counseling and support, secure money management, assist in finding appropriate and affordable housing, and teach coping and problem solving skills.

\* Groups - A variety of self help groups are conducted for women, men, ethnic monolingual clients, and teens.

\* Intensive Services - Intensive mental health services are offered to those individuals whose needs require more frequent contact and support because of severity of symptoms and/or chronic homelessness.



## Senior Therapy

Visions Unlimited, funded by SETA, offers a wide range of services to homebound, frail seniors. This program is designed to foster self-sufficiency and to relieve the sense of isolation that can impair mental health. The Senior Peer Counseling program provides physically active seniors over 62 an opportunity to work part-time, helping homebound seniors maintain contact with the community through home visits and advocacy.

Visions Unlimited is dedicated to providing quality services that are economical, feasible and meaningful to the adults, children, and families in the community we serve. Our objective is to help individuals and families resolve problems as rapidly as possible through case management, therapy, medication services, and/or supportive counseling that is culturally sensitive, time-limited, and goal oriented. We believe that with support, full potential can be achieved.





*Provider  
Information  
Forums*

# Victim Compensation Program

**Created in 1965 to lessen the financial impact of crime on qualifying victims**

**In 1980 emotional injury was included, allowing coverage for the first mental health treatment**

**By law, VCP is the payer of last resort for non-reimbursed out-of-pocket losses resulting from the crime**

# FUNDING SOURCES

*No taxpayer funding!*

Offenders – including traffic fines

- Restitution fines and orders
- Federal Victims of Crime Act (VOCA)
- Portion of state penalty assessments

## Definition of a Covered Crime

Physical injury or threat of physical injury

One act or a series of acts (CCR § 653.1; CCR § 653.3)

Emotional Injury: In some crimes, such as rape, rape of spouse, child abuse, child molestation, criminal neglect, or incest, emotional injury is all that is needed to qualify as an eligible victim

# Examples of Crimes

Murder

Robbery

Battery

Assault

Assault with Deadly  
Weapon

Sexual Assault

Child Abuse / Molest

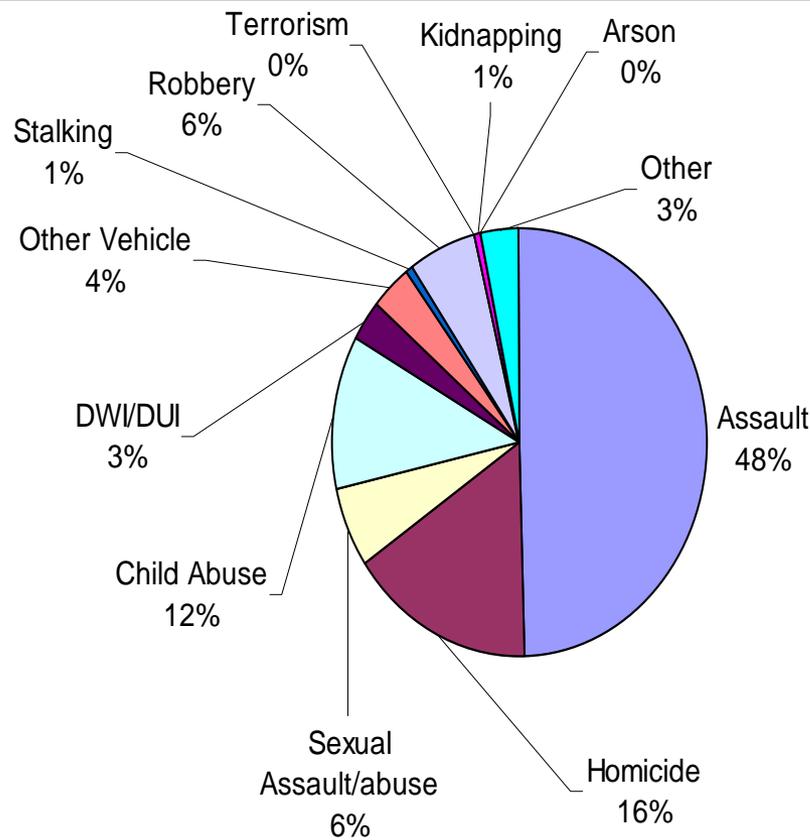
Domestic Violence

Elder Abuse

Vehicular offenses

- Driving Under the Influence
- Hit and Run
- Vehicular Manslaughter
- Fleeing scene of crime
- Assault with vehicle

# Claims by Crime Category California FY 05/06



<u>Type of crime</u>	<u>Count</u>
Assault	12,245
Homicide	3,997
Sexual Assault/Abuse	1,491
Child Abuse	2,915
DWI/DUI	722
Other Vehicle	896
Stalking	133
Robbery	1,450
Terrorism	0
Kidnapping	127
Arson	17
Other	838
<u>Total</u>	<u>24831</u>

# Victim Eligibility

Crime occurred in CA or to a CA resident

No involvement or participation

Cooperation with Law Enforcement

Cooperation with Board

# Victim - Direct/Primary

Person who is subjected to crime

Individual with injury or threat of injury

Typically shown on crime report

Minors who reside in household where Domestic  
Violence occurred

# Victim - Derivative

Immediate family – spouse, sibling, parent, child, grandparent, grandchild, or registered domestic partner

Living in same household at the time of the crime

Lived for two years in a relationship similar to an immediate family member

Post-crime primary caretakers for minor victim

Another family member, including the fiancé or fiancée, who witnessed the crime

# Benefits Covered

*Statutory claim maximum is \$70,000*

Medical, dental, mental health

In-home supportive services

Wage/support loss

Funeral/burial (\$7500)

Job retraining

Crime scene cleanup (\$1000)

Home security (\$1000)

Relocation (\$2000)

Mental Health (\$10,000/\$5,000)

# Mental Health Session Limitations and Requirements

## 40 sessions

Direct victims

## 30 sessions

Minor derivative victims

Primary caretakers at time of crime

A surviving parent, sibling, child, spouse, fiancé fiancée, or registered domestic partner of a victim who died as a result of the crime

Direct victim of P.C. 261.5(d)

## 15 sessions

Adult derivative victim who does not fall into one of the above categories

(For Applications Received On or After January 24, 2006)

# Eligible Therapists

- Board Certified or Eligible Psychiatrists
- Licensed Psychologists
- Licensed Clinical Social Workers
- Marriage & Family Therapists
- Clinical Nurse Specialists
- Psychiatric Mental Health Nurses
- Registered Interns (Supervisor's Rate)

# Mental Health Provider Rates

Licensed Psychiatrist (MD)	\$130/hour \$52/hour – group
Psychologist; Ph.D. or Registered:	\$110/hour \$44/hour- group
LCSW/MFT:	\$90/hour \$36/hour – group
ASW (must be supervised by a licensed therapist)	Same rate allowed for supervising therapist
MFT Intern (must be supervised by a licensed therapist)	Same rate allowed for supervising therapist

(Effective for Treatment Provided On or After March 1, 2006)

## Reimbursable Treatment Expenses

Face to face sessions with victim or family members

- Group sessions
- Limited collateral sessions (6 for minors)
- Some psychological testing

# Non-reimbursable Treatment Expenses

Court related expenses such as court-ordered evaluations, therapist time accompanying client to court

Missed or cancelled appointments

Interest on client's account

Treatment not necessary as a direct result of the crime

Travel Time

# Mental Health Forms

The Treatment Plan (TP) Documents:

- ✓Circumstances of the crime
- ✓Focus of treatment
- ✓Methods to be used
- ✓Means of measuring progress
- ✓Multiaxil diagnosis

The Additional Treatment Plan (ATP)  
 to request authorization for  
 additional session limits:

- ✓Focus of treatment
- ✓Level of impairment of functioning
- ✓ Treatment necessary as a direct result  
 of the qualifying crime
- ✓Treatment progress
- ✓Any factors that are hindering treatment

# Billing Forms

HEALTH INSURANCE CLAIM FORM (CMS-1500)

<http://www.vcgcb.ca.gov/docs/forms/providers/cms1500.pdf>

1. MEDICARE (Medicare #)		MEDICAID (Medicaid #)		CHAMPUS (Sponsor's SSN)		CHAMPVA (VA File #)		GROUP HEALTH PLAN (SSN or ID)		FECA BLK LUNG (SSN)		OTHER (ID)		1a. INSURED'S I.D. NUMBER (FOR PROGRAM IN ITEM 1)	
2. PATIENT'S NAME (Last Name, First Name, Middle Initial)						3. PATIENT'S BIRTH DATE MM DD YY				SEX M F		4. INSURED'S NAME (Last Name, First Name, Middle Initial)			
5. PATIENT'S ADDRESS (No., Street)						6. PATIENT RELATIONSHIP TO INSURED Self Spouse Child Other				7. INSURED'S ADDRESS (No., Street)					
CITY				STATE		8. PATIENT STATUS Single Married Other				CITY		STATE			
ZIP CODE				TELEPHONE (Include Area Code)		Employed Full-Time Student Part-Time Student				ZIP CODE		TELEPHONE (INCLUDE AREA CODE)			
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)						10. IS PATIENT'S CONDITION RELATED TO: a. EMPLOYMENT? (CURRENT OR PREVIOUS) b. AUTO ACCIDENT? PLACE (State) c. OTHER ACCIDENT?				11. INSURED'S POLICY GROUP OR FECA NUMBER					
a. OTHER INSURED'S POLICY OR GROUP NUMBER						a. INSURED'S DATE OF BIRTH MM DD YY				SEX M F		b. EMPLOYER'S NAME OR SCHOOL NAME			
b. OTHER INSURED'S DATE OF BIRTH MM DD YY						c. EMPLOYER'S NAME OR SCHOOL NAME				c. INSURANCE PLAN NAME OR PROGRAM NAME					
d. INSURANCE PLAN NAME OR PROGRAM NAME						10d. RESERVED FOR LOCAL USE				d. IS THERE ANOTHER HEALTH BENEFIT PLAN? YES NO If yes, return to and complete item 9 a-d.					
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request government benefits either to myself or to the party who accepts assignment.						13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.									
READ BEFORE COMPLETING & SIGNING THIS FORM.															
SIGNED _____ DATE _____										SIGNED _____					

14. DATE OF CURRENT ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP) MM DD YY			15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS. GIVE FIRST DATE MM DD YY			16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY					
17. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE			17a. I.D. NUMBER OF REFERRING PHYSICIAN			18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY					
19. RESERVED FOR LOCAL USE						20. OUTSIDE LAB? \$ CHARGES YES NO					
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY. (RELATE ITEMS 1,2,3 OR 4 TO ITEM 34E BY LINE)						22. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO.					
23. PRIOR AUTHORIZATION NUMBER											

24. A	DATE(S) OF SERVICE				B	C	D	E	F	G	H	I	J	K
	From	To	MM	DD										
1														
2														
3														
4														
5														
6														

25. FEDERAL TAX I.D. NUMBER	SSN EIN	26. PATIENT'S ACCOUNT NO.	27. ACCEPT ASSIGNMENT? (For gov't. claims, see back) YES NO	28. TOTAL CHARGE \$	29. AMOUNT PAID \$	30. BALANCE DUE \$
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PATIENT AND INSURED INFORMATION  
PHYSICIAN OR SUPPLIER INFORMATION

# Additional Mental Health Sessions

## Additional Treatment Plan Reviews

- Crime Criteria
- Focus of Treatment
- Substantial Impairment
- Treatment Progress

# Resources

Victims Compensation Government Claims Board  
[www.vcgcb.ca.gov](http://www.vcgcb.ca.gov)

Mental health providers' resource and information  
<http://www.vcgcb.ca.gov/providers/mental.aspx>

Mental Health Forms  
<http://www.vcgcb.ca.gov/providers/formspubs.aspx>

Mental Health Care for Child Crime Victims  
Standards of Care Task Force Guidelines  
<http://www.vcgcb.ca.gov/providers/careguide.aspx>

Local victim witness centers  
<http://www.vcgcb.ca.gov/victims/localhelp.aspx>

Office of Victims of Crime  
[www.ovc.gov](http://www.ovc.gov)

## Contact Information

James Kent, PhD.

[James.kent@vcgcb.ca.gov](mailto:James.kent@vcgcb.ca.gov)

Robin Foemmel Bie, LCSW

[Robin.foemmelbie@vcgcb.ca.gov](mailto:Robin.foemmelbie@vcgcb.ca.gov)

Rose Domingo

[Rose.domingo@vcgcb.ca.gov](mailto:Rose.domingo@vcgcb.ca.gov)

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# CALIFORNIA VICTIM COMPENSATION PROGRAM

Arnold Schwarzenegger  
Governor, State of California

*Helping California Crime  
Victims Since 1965*

800.777.9229  
[www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov)

## What is the Victim Compensation Program?

The Victim Compensation Program (VCP) can help pay bills and expenses that result from certain violent crimes. Victims of crime who have been injured or have been threatened with injury may be eligible for help from the VCP.

## Who qualifies for victim compensation?

The VCP can help victims of crimes such as:

- Domestic violence
- Child abuse
- Assault
- Sexual assault
- Molestation
- Homicide
- Robbery
- Drunk driving
- Vehicular manslaughter

The VCP can help victims of crimes that occur in California as well as California residents who become victims while visiting other states or outside the country.

Additionally, people who suffer a monetary loss because of death or injury to a crime victim may also be eligible for compensation. These "derivative" victims can include:

- Spouses or Domestic Partners
- Children
- Parents
- Legal Guardians
- Brothers
- Sisters
- Grandparents
- Grandchildren

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Call the VCP at **800.777.9229** or visit **[www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov)** for more information.

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## What expenses can the VCP help pay for?

The VCP may help pay for expenses related to a crime such as:

- Medical and dental treatment
- Mental health services
- Income loss
- Funeral and burial expenses
- Loss of support, for dependents when a victim is killed or disabled because of a crime
- Job retraining
- Home or vehicle modifications
- Home security
- Relocation
- Insurance co-payments
- Crime scene cleanup
- Medically necessary equipment such as a wheelchair
- Childcare services, when a caregiver is killed or disabled because of a crime

## What expenses cannot be paid by the VCP?

- Any expense not related to the crime
- Any expenses paid by insurance or another source of reimbursement or coverage
- Expenses for lost, stolen or damaged property (except medically necessary items as described on page 4)
- Damages for pain and suffering

The VCP can only reimburse crime-related expenses that are not covered by other sources. There are limits on how much can be paid for each loss. The program cannot pay any expense for a person who is on felony probation, on parole, in jail or in prison.

(A person who is not a felon can be reimbursed for funeral and crime-scene cleanup expenses even though the victim was a felon.)

## How does a victim apply for compensation?

There are four ways to apply:

- Contact the local Victim Witness Assistance Center. A victim advocate at the center can help victims complete and submit the application. The victim advocate can also help victims learn more about the criminal justice system.
- Call the VCP Customer Service Section at **800.777.9229**
- Apply online or download an application at **[www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov)**
- E-mail the VCP at **[info@vcgcb.ca.gov](mailto:info@vcgcb.ca.gov)**

### Tips that will help expedite the claim:

- Include copies of crime reports, bills and receipts with the application.
- Send bills to the insurance company, workers' compensation carrier, or Medi-Cal right away. The VCP corresponds with such providers as needed to verify benefits and coordinate payment of bills.

## How does a victim qualify for the VCP?

In addition to being the victim of a qualifying violent crime, applicants must:

- Report the crime to the police, sheriff, child protective services, or some other law enforcement agency.
- Apply to the VCP within a year of the time the crime happened, unless the victim is under 18, in which case, their application must be submitted prior to their 19th birthday.
- Applicants/victims must cooperate with law enforcement during the investigation and prosecution of the crime. A victim cannot have participated in or been involved in committing the crime.

- Applicants/victims must cooperate with the VCP by providing the information needed to review the application.

## How does the VCP pay bills?

The VCP verifies that all the bills are related to the crime, applies payment rates, and, in most cases, pays the provider directly.

If the applicant/victim already paid the bill, they should document it with the VCP and the program will reimburse them directly.

If the applicant/victim missed work because they were injured, the VCP will ask for information from their employer. The program will also ask for a disability statement from their healthcare provider. If the applicant/victim is self-employed, the VCP will ask for two years of tax returns.

If the VCP paid the provider and the provider cashed the check, the provider cannot ask the applicant/victim to pay more money toward that bill. If the applicant/victim is asked to pay any money for a bill that the program already paid, they should let their victim advocate know or call the VCP at **800.777.9229**.

## What if property is lost or stolen?

The VCP cannot pay for lost or stolen property.

The VCP can pay for medically necessary items such as wheelchairs, walkers, eye-glasses, and dentures that are lost, stolen, or broken during the crime, or that become necessary due to the crime.

### **Can a victim get an immediate payment?**

An emergency award can be obtained in certain situations. Emergency awards are made based on substantial hardship and the immediate need for payment. Emergency awards are most often obtained to cover funeral/burial expenses.

### **How does a victim apply for compensation for relocation expenses?**

The VCP can help pay moving expenses – such as first and last month’s rent, deposits and temporary lodging – if a victim needs to relocate for their own safety or emotional well-being.

Relocation forms are available at [www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov). The local victim advocate can assist with this process.

### **What if an insurance company or other source pays for crime-related expenses?**

The VCP works with the insurance company to determine how much of the bill qualifies for payment by the VCP. By law, only bills that the insurance company or other sources do not pay can be paid by the VCP.

If the claimant or applicant decides to file a civil suit against someone because of the crime and wins, the claimant or applicant must reimburse the VCP for any expenses it paid.

### **Protective orders**

The VCP cannot help with protective orders. Assistance may be obtained from the local victim advocate, domestic violence shelter, or law enforcement agency.

### **Confidentiality of claims**

All claims filed with the VCP are confidential. Except as required by law, the VCP only discloses a victim or applicant’s information with their written permission. If the applicant or victim is a child or incapacitated adult, the written permission must be provided by a parent, guardian, or other person legally authorized to represent the applicant or victim.

## **Victim’s Right to Appeal**

### **How does a victim appeal the VCP’s decision about an application or a bill?**

The victim has the right to appeal a decision the VCP makes. Decisions on emergency awards cannot be appealed.

The VCP reviews applications for compensation and each request for reimbursement. The applicant is provided a written recommendation that explains whether the claim is denied or approved and the amount that is approved.

If an applicant wants the VCP’s decision to be reviewed, he or she can file a written appeal within 45 days of the date of the original recommendation. The VCP Appeals Process Section will review the appeal and send the applicant a letter explaining the decision, including whether the applicant may be entitled to an in-person hearing.

For more information on appeals, call the Customer Service Section at **800.777.9229** or visit [www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov).

## Victim's Right to Request Restitution

### Offenders can be required to pay victims for crime-related losses

Victims of violent crime have the right to request restitution for crime-related losses from the offender.

If the offender is convicted, the court must issue a restitution order instructing the offender to pay the victim for losses or expenses resulting from the crime. The court can also order the offender to reimburse the Victim Compensation Program for anything it has paid to or on behalf of a victim.

Victims must work with the local district attorney or probation department to request restitution. It's important to keep copies of all losses and expenses. Local victim advocates can assist with requesting restitution and applying for victim compensation.

For more information on restitution, contact a local victim advocate, call the VCP Customer Service Section at **800.777.9229**, or visit [www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov).

## Good Samaritans

The VCP administers the provisions of California law that provide for compensation to Good Samaritans. Good Samaritans are members of the public who suffer injury or loss as a result of their efforts to prevent a crime, apprehend a criminal, or rescue a person in immediate danger of injury or death.

The VCP administers the provisions of California law that provide for compensation to Good Samaritans. Good Samaritans are members of the public who suffer injury or loss as a result of their efforts to prevent a crime, apprehend a criminal, or rescue a person in immediate danger of injury or death.

The immediate family or dependents of a Good Samaritan who dies as a direct result of their meritorious acts can also seek compensation.

Applicants must not have been compensated otherwise. Losses such as medical expenses, counseling, funeral costs, income loss, or property damage are covered up to \$10,000.

A statement from a public safety or law enforcement agency must support the application. Such an agency can also file an application on behalf of the Good Samaritan or survivors.

For details on other qualifications and on how to apply, contact the VCP Customer Service Section at **800.777.9229**.

### Victim Compensation and Government Claims Board:

#### Rosario Marin, Chairperson

Secretary, State and Consumer Services Agency

#### John Chiang, Member

State Controller

#### Michael Ramos, Member

District Attorney, San Bernardino County

#### Karen McGagin

Executive Officer

**For help, contact your county  
Victim Witness Assistance Center:**

Alameda	510.272.6180	Nevada	530.265.1246
Alpine	530.694.2971	Orange	949.975.0244
Amador	209.223.6474	Placer	530.889.7021
Butte	530.538.7340	Plumas	530.283.6285
Calaveras	209.754.6565	Riverside	951.955.5450
Colusa	530.458.0449	Sacramento	916.874.5701
Contra Costa	925.646.2474	San Benito	831.634.1397
Del Norte	707.464.7273	San Bernardino	909.387.6542
El Dorado	530.621.6414	San Diego	619.531.4041
Fresno	559.488.3425	San Francisco	415.553.9044
Glenn	530.934.6510	San Joaquin	209.468.2500
Humboldt	707.445.7417	San Luis Obispo	866.781.5821
Imperial	760.336.3930	San Mateo	650.599.7479
Inyo	760.878.0282	Santa Barbara	805.568.2400
Kern	661.868.4535	Santa Clara	408.295.2656
Kings	559.582.3211 (ext. 2640)	Santa Cruz	831.454.2010
Lake	707.262.4282	Shasta	530.225.5220
Lassen	530.251.8281	Sierra	530.993.4617
Los Angeles City	213.485.6976	Siskiyou	530.842.8229
Los Angeles Co.	800.380.3811	Solano	707.784.6844
Madera	559.661.1000	Sonoma	707.565.8250
Marin	415.499.6450	Stanislaus	209.525.5541
Mariposa	209.742.7441	Sutter	530.822.7345
Mendocino	707.463.4218	Tehama	530.527.4296
Merced	209.385.7381	Trinity	530.623.1204
Modoc	530.233.3311	Tulare	559.733.6754
Mono	760.924.1710	Tuolumne	209.588.5440
Monterey	831.755.5072	Ventura	805.654.3622
Napa	707.252.6222	Yolo	530.666.8187
		Yuba	530.741.6275

For more information, contact:

**Victim Compensation and Government Claims Board**

**P.O. Box 3036  
Sacramento, CA 95812-3036**

**800.777.9229  
[www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov)  
email: [info@vcgcb.ca.gov](mailto:info@vcgcb.ca.gov)**

All languages accommodated.

Hearing impaired: Please call the California Relay Service at 711.

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(Rev 08/07)

# HEALTHCARE PROVIDER INFORMATION



## CALIFORNIA VICTIM COMPENSATION PROGRAM

ARNOLD SCHWARZENEGGER  
GOVERNOR, STATE OF CALIFORNIA

### Victim Compensation and Government Claims Board

ROSARIO MARÍN, CHAIRPERSON  
SECRETARY, STATE AND CONSUMER  
SERVICES AGENCY

JOHN CHIANG, MEMBER  
STATE CONTROLLER

MICHAEL RAMOS, MEMBER  
DISTRICT ATTORNEY,  
SAN BERNARDINO COUNTY

KAREN MCGAGIN,  
EXECUTIVE OFFICER

# HEALTHCARE PROVIDER INFORMATION



The California Victim Compensation Program (VCP) can help pay bills and expenses that are the direct result of a violent crime. This pamphlet provides information to assist licensed physicians, mental health service providers and dentists in obtaining compensation for providing their services to victims of violent crime.

## CALIFORNIA VICTIM COMPENSATION PROGRAM

*For more information on the Victim Compensation Program's benefits and guidelines for service providers, contact:*

### **Victim Compensation Program**

800.777.9229  
[www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov)  
email: [info@vcgcb.ca.gov](mailto:info@vcgcb.ca.gov)

P.O. Box 3036  
Sacramento, CA 95812-3036

*Helping California Crime Victims Since 1965*

# MENTAL HEALTH SERVICES

Any licensed mental health service provider can serve victims who are claimants with the VCP. Once an eligible victim visits a licensed mental health provider for treatment and the provider submits a bill to the VCP, the provider is listed in our system as a provider of services. To speed processing, please include verification of licensure and a completed IRS Form W-9 with the first bill submitted to the VCP.

## Benefit Limitations

The dollar limit on payments for mental health treatment is \$10,000 for direct victims and \$5,000\*\* for derivative victims. Derivative victims are people, such as household or family members, who suffer a monetary loss because of death or injury to a crime victim. If a mental health provider believes a patient or client requires treatment beyond the \$10,000 or \$5,000\*\* limits, the provider must demonstrate that dire or exceptional circumstances exist. The maximum reimbursement per claim, including all available benefits, is \$70,000.

\*\* For applications filed before January 1, 2008, this limit is \$3,000

### For applications filed on or after January 24, 2006:

- Minor victims have an initial limit of 40 sessions
- Adult victims have an initial limit of 40 sessions
- Survivors of homicide victims are limited to 30 sessions
- Primary caretakers of a direct victim who was a minor at the time of the crime are limited to 30 sessions each (maximum 2 primary caretakers)
- Minor derivative victims are limited to 30 sessions
- Adult derivative victims are limited to 15 sessions

## Mental Health Bills

Mental Health bills must be submitted on CMS 1500 or 1450 forms and must contain:

- Patient's name and address
- Date(s) of service
- Type(s) of service(s) provided (diagnosis and procedure)
- Billed amount
- Provider's license number, federal tax identification number (FEIN or SSN)\*, business address, telephone number, signature or signature stamp, and billing date



If a mental health provider is of the opinion that the patient requires treatment beyond the session limitations, the provider must file an Additional Treatment Plan (ATP) with the VCP. These ATP forms are available upon request or on the VCP website at [www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov).

## Reimbursement Rates

• <b>Psychiatrist</b>	Individual Therapy	\$130/hour
	Group Therapy	\$52/hour
	Medication Management	\$130/hour
• <b>Psychologist</b>	Individual Therapy	\$110/hour
	Group Therapy	\$44/hour
• <b>Licensed Clinical Social Worker (LCSW)</b>	Individual Therapy	\$90/hour
• <b>Licensed Marriage and Family Therapist (MFT)</b>	Group Therapy	\$36/hour
• <b>Psychiatric Mental Health Nurse</b>		
• <b>Clinical Nurse Specialist</b>		
• <b>Registered Psychologist</b>	Individual Therapy	Paid at
• <b>Psychologist Assistant</b>	Group Therapy	Supervisor's
• <b>Supervised Psychology Intern</b> (University Hospital or Medical School Clinic)		Rate
• <b>Supervised Postdoctoral Trainee</b> (University Hospital or Medical School Clinic)		
• <b>Marriage and Family Therapist Intern</b>		
• <b>Associate Clinical Social Worker</b>		

# MEDICAL SERVICES

**The VCP may pay for medical and medically related expenses that are caused by a crime, including but not limited to:**

- Medical services including hospitalization, surgery, ambulance transportation and prescriptions
- Medically necessary items such as eyeglasses, hearing aids, dentures and prosthetic devices that are lost, stolen or broken during the crime or that become necessary due to the crime
- Chiropractic treatment for up to six months
- Certain alternative medical treatments (physician referral and session limits apply)



## Benefit Limitations

The maximum reimbursement per claim, including all available benefits, is \$70,000.

## Reimbursement Rates

Generally, medical expenses are paid at the Medicare rate plus 20 percent.

## Medical Bills

**Medical bills must be submitted on a Centers for Medicare & Medicaid Services (CMS) 1500 or 1450 form and must contain:**

- Patient's name and address
- Date(s) of service
- Type(s) of service(s) provided (diagnosis and procedure)
- Billed amount
- Provider's license number, federal tax identification number (FEIN or SSN)\*, business address, telephone number, signature or signature stamp, and billing date

\* Federal Employer Identification Number or Social Security Number

# DENTAL SERVICES

**The Victim Compensation Program (VCP) may pay for treatment of injuries caused by a crime, including but not limited to:**



- Repair or replacement of broken or damaged teeth and dentures
- Temporomandibular (TMJ) disorders
- Diagnostic x-rays
- Prescriptions
- Cleaning (if necessary to provide crime-related dental procedures)

## Benefit Limitations

The maximum reimbursement per claim, including all available benefits, is \$70,000.

## Dental Bills

**Dentists should submit bills on an American Dental Association (ADA) dental claim form. Either the ADA-2000 or ADA-94 is acceptable.**

**The form must contain the following information:**

- Patient's name and address
- Date(s) of service
- Type(s) of service(s) provided (diagnosis and procedure)
- Billed amount
- Provider's license number, federal tax identification number (FEIN or SSN)\*, business address, telephone number, signature or signature stamp, and billing date

## Reimbursement Rates

- The VCP pays 75 percent of the amount billed (subject to review of usual and customary rates).
- Pre-authorization for dental services is possible. Call our Customer Service Section at **800.777.9229** for more information.

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PLEASE  
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# HEALTH INSURANCE CLAIM FORM

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12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.  SIGNED _____ DATE _____										13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.  SIGNED _____																																																																																																																																																																																																																															
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31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.)  SIGNED _____ DATE _____										32. NAME AND ADDRESS OF FACILITY WHERE SERVICES WERE RENDERED (If other than home or office)										33. PHYSICIAN'S, SUPPLIER'S BILLING NAME, ADDRESS, ZIP CODE & PHONE #  PIN# _____ GRP# _____																																																																																																																																																																																																																					

**BECAUSE THIS FORM IS USED BY VARIOUS GOVERNMENT AND PRIVATE HEALTH PROGRAMS, SEE SEPARATE INSTRUCTIONS ISSUED BY APPLICABLE PROGRAMS.**

**NOTICE: Any person who knowingly files a statement of claim containing any misrepresentation or any false, incomplete or misleading information may be guilty of a criminal act punishable under law and may be subject to civil penalties.**

#### **REFERS TO GOVERNMENT PROGRAMS ONLY**

**MEDICARE AND CHAMPUS PAYMENTS:** A patient's signature requests that payment be made and authorizes release of any information necessary to process the claim and certifies that the information provided in Blocks 1 through 12 is true, accurate and complete. In the case of a Medicare claim, the patient's signature authorizes any entity to release to Medicare medical and nonmedical information, including employment status, and whether the person has employer group health insurance, liability, no-fault, worker's compensation or other insurance which is responsible to pay for the services for which the Medicare claim is made. See 42 CFR 411.24(a). If item 9 is completed, the patient's signature authorizes release of the information to the health plan or agency shown. In Medicare assigned or CHAMPUS participation cases, the physician agrees to accept the charge determination of the Medicare carrier or CHAMPUS fiscal intermediary as the full charge, and the patient is responsible only for the deductible, coinsurance and noncovered services. Coinsurance and the deductible are based upon the charge determination of the Medicare carrier or CHAMPUS fiscal intermediary if this is less than the charge submitted. CHAMPUS is not a health insurance program but makes payment for health benefits provided through certain affiliations with the Uniformed Services. Information on the patient's sponsor should be provided in those items captioned in "Insured"; i.e., items 1a, 4, 6, 7, 9, and 11.

#### **BLACK LUNG AND FECA CLAIMS**

The provider agrees to accept the amount paid by the Government as payment in full. See Black Lung and FECA instructions regarding required procedure and diagnosis coding systems.

#### **SIGNATURE OF PHYSICIAN OR SUPPLIER (MEDICARE, CHAMPUS, FECA AND BLACK LUNG)**

I certify that the services shown on this form were medically indicated and necessary for the health of the patient and were personally furnished by me or were furnished incident to my professional service by my employee under my immediate personal supervision, except as otherwise expressly permitted by Medicare or CHAMPUS regulations.

For services to be considered as "incident" to a physician's professional service, 1) they must be rendered under the physician's immediate personal supervision by his/her employee, 2) they must be an integral, although incidental part of a covered physician's service, 3) they must be of kinds commonly furnished in physician's offices, and 4) the services of nonphysicians must be included on the physician's bills.

For CHAMPUS claims, I further certify that I (or any employee) who rendered services am not an active duty member of the Uniformed Services or a civilian employee of the United States Government or a contract employee of the United States Government, either civilian or military (refer to 5 USC 5536). For Black-Lung claims, I further certify that the services performed were for a Black Lung-related disorder.

No Part B Medicare benefits may be paid unless this form is received as required by existing law and regulations (42 CFR 424.32).

**NOTICE:** Any one who misrepresents or falsifies essential information to receive payment from Federal funds requested by this form may upon conviction be subject to fine and imprisonment under applicable Federal laws.

#### **NOTICE TO PATIENT ABOUT THE COLLECTION AND USE OF MEDICARE, CHAMPUS, FECA, AND BLACK LUNG INFORMATION (PRIVACY ACT STATEMENT)**

We are authorized by CMS, CHAMPUS and OWCP to ask you for information needed in the administration of the Medicare, CHAMPUS, FECA, and Black Lung programs. Authority to collect information is in section 205(a), 1862, 1872 and 1874 of the Social Security Act as amended, 42 CFR 411.24(a) and 424.5(a) (6), and 44 USC 3101; 41 CFR 101 et seq and 10 USC 1079 and 1086; 5 USC 8101 et seq; and 30 USC 901 et seq; 38 USC 613; E.O. 9397.

The information we obtain to complete claims under these programs is used to identify you and to determine your eligibility. It is also used to decide if the services and supplies you received are covered by these programs and to insure that proper payment is made.

The information may also be given to other providers of services, carriers, intermediaries, medical review boards, health plans, and other organizations or Federal agencies, for the effective administration of Federal provisions that require other third parties payers to pay primary to Federal program, and as otherwise necessary to administer these programs. For example, it may be necessary to disclose information about the benefits you have used to a hospital or doctor. Additional disclosures are made through routine uses for information contained in systems of records.

**FOR MEDICARE CLAIMS:** See the notice modifying system No. 09-70-0501, titled, 'Carrier Medicare Claims Record,' published in the Federal Register, Vol. 55 No. 177, page 37549, Wed. Sept. 12, 1990, or as updated and republished.

**FOR OWCP CLAIMS:** Department of Labor, Privacy Act of 1974, "Republication of Notice of Systems of Records," Federal Register Vol. 55 No. 40, Wed Feb. 28, 1990, See ESA-5, ESA-6, ESA-12, ESA-13, ESA-30, or as updated and republished.

**FOR CHAMPUS CLAIMS: PRINCIPLE PURPOSE(S):** To evaluate eligibility for medical care provided by civilian sources and to issue payment upon establishment of eligibility and determination that the services/supplies received are authorized by law.

**ROUTINE USE(S):** Information from claims and related documents may be given to the Dept. of Veterans Affairs, the Dept. of Health and Human Services and/or the Dept. of Transportation consistent with their statutory administrative responsibilities under CHAMPUS/CHAMPVA; to the Dept. of Justice for representation of the Secretary of Defense in civil actions; to the Internal Revenue Service, private collection agencies, and consumer reporting agencies in connection with recoupment claims; and to Congressional Offices in response to inquiries made at the request of the person to whom a record pertains. Appropriate disclosures may be made to other federal, state, local, foreign government agencies, private business entities, and individual providers of care, on matters relating to entitlement, claims adjudication, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil and criminal litigation related to the operation of CHAMPUS.

**DISCLOSURES:** Voluntary; however, failure to provide information will result in delay in payment or may result in denial of claim. With the one exception discussed below, there are no penalties under these programs for refusing to supply information. However, failure to furnish information regarding the medical services rendered or the amount charged would prevent payment of claims under these programs. Failure to furnish any other information, such as name or claim number, would delay payment of the claim. Failure to provide medical information under FECA could be deemed an obstruction.

It is mandatory that you tell us if you know that another party is responsible for paying for your treatment. Section 1128B of the Social Security Act and 31 USC 3801-3812 provide penalties for withholding this information.

You should be aware that P.L. 100-503, the "Computer Matching and Privacy Protection Act of 1988", permits the government to verify information by way of computer matches.

#### **MEDICAID PAYMENTS (PROVIDER CERTIFICATION)**

I hereby agree to keep such records as are necessary to disclose fully the extent of services provided to individuals under the State's Title XIX plan and to furnish information regarding any payments claimed for providing such services as the State Agency or Dept. of Health and Human Services may request.

I further agree to accept, as payment in full, the amount paid by the Medicaid program for those claims submitted for payment under that program, with the exception of authorized deductible, coinsurance, co-payment or similar cost-sharing charge.

**SIGNATURE OF PHYSICIAN (OR SUPPLIER):** I certify that the services listed above were medically indicated and necessary to the health of this patient and were personally furnished by me or my employee under my personal direction.

**NOTICE:** This is to certify that the foregoing information is true, accurate and complete. I understand that payment and satisfaction of this claim will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0008. The time required to complete this information collection is estimated to average 10 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, Attn: PRA Reports Clearance Officer, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

## Treatment Plan (Form) - Confidential

**State of California  
Treatment Plan**  
VCGCB-VOC-6015 (Revised 10-10-06)

California Victim Compensation and Government  
Claims Board (Board)

Return Form To:

**Victim Compensation Program**  
**P.O. Box 3036**  
**Sacramento, CA 95812-3036**

Or Your Local Victim/Witness Assistance Center  
Verification Unit

Claim Number:	Date Form Sent:
Victim's Name:	
Claimant's Name:	
Incident Date:	

The Victim Compensation Program (Program) has received an application or bill for mental health services. In order for the Program to verify the claimed loss and authorize payment, please complete this form and return it to the address above. Please answer the questions fully and complete the signature page at the end of the document. Use additional pages if necessary. Failure to complete this form may result in a delay or denial of payment.

In order for the Program to pay for services, the client's application must be found eligible. After this condition has been met, the Program will reimburse up to 5 initial sessions per claim before a Treatment Plan is required. Once the Treatment Plan is received, staff will review the document to determine that treatment is necessary as a direct result of the crime. *(Additional information may be needed to verify eligibility for reimbursement, which may include session notes.)* You will be notified by mail if this Treatment Plan is approved or denied. If denied, no sessions beyond the 5 initial sessions per claim may be reimbursed. If approved, this Treatment Plan will cover sessions up to the client's session limit, as shown in the chart below. For direct victims of unlawful sexual intercourse and minor derivative victims, an approved Treatment Plan will cover sessions up to the client's session limit or up to his or her \$3,000.00 statutory limit for outpatient mental health counseling, whichever comes first. *Please be advised that treatment provided to the client by another mental health provider may have been deducted from the amount of sessions available under his or her initial session limit.*

Reimbursement beyond a client's session limits requires the treating therapist to complete and submit an Additional Treatment Plan. **Additional payments will not be authorized for sessions beyond the client's limit until a completed Additional Treatment Plan has been submitted to and approved by the Program.**

### Mental Health Benefit Service Limitations *(Please check the appropriate box)*

Service Limitation	Client/Patient	Requirements
<b>40 Session Hours</b>	<input type="checkbox"/> Direct Victim	Complete Questions 1 thru 20 and 22 thru 24 ONLY
<b>30 Session Hours</b>	<input type="checkbox"/> * Direct Victim of Unlawful Sexual Intercourse ( <i>Penal Code section 261.5(d)</i> ) <input type="checkbox"/> * Derivative Minor Victim (minor at the time of the crime) <input type="checkbox"/> Derivative Victim who is a surviving parent, sibling, child, spouse, registered domestic partner, or ** fiancé (fiancée) of a homicide victim <input type="checkbox"/> Derivative Victim who was the Primary Caretaker of a Minor Direct Victim <u>at the time</u> of the crime (for up to two primary caretakers)  * <b>Not to exceed the statutory \$3,000.00 outpatient mental health limit</b> ** <b>Must have witnessed the crime</b>	Complete Questions 1 thru 20 and 22 thru 24 ONLY
<b>15 Session Hours</b>	<input type="checkbox"/> Derivative Victim who became the Primary Caretaker of a Minor Direct Victim <u>after</u> the crime with no previous relationship to the victim	Complete Questions 1 thru 11 and 17 thru 21 ONLY
	<input type="checkbox"/> Derivative Victim (Adult)	Complete Questions 1 thru 20 and 22 thru 24 ONLY

**Note: A derivative victim eligible in more than one category may use only the most favorable category.**

Session Calculations (Individual/Family Therapy)

½ Session =	Less Than 45 Minutes	1 Session =	45 to 74 minutes	1 ½ Session =	75 to 104 minutes
2 Sessions =	105 to 120 minutes				

**Group Therapy** = One group mental health counseling session is the equivalent of one-half of an individual mental health counseling session of the same length.

As required by law, the information requested must be returned to the Program within ten (10) business days and must be provided at no cost to the client, the Program, or local Victim/Witness Assistance Centers. The Program certifies that there is a signed authorization on file for the release of the information requested.

**You must complete this form to request reimbursement for sessions beyond the initial 5 sessions. Complete all questions unless it is otherwise specified.**

1. Name of Client		2. Name of Victim	
3. Client's Relationship to Victim			
4. Name of Therapist		5. Provider Organization Name	
6. License/Registration Number and Expiration Date			
7. Mark Appropriate Box for Title of Licensed/Registered Therapist (refer to #6)			
<input type="checkbox"/> LMFT <input type="checkbox"/> LCSW <input type="checkbox"/> Licensed Clinical Psychologist <input type="checkbox"/> Psychiatrist <input type="checkbox"/> Registered Psychological Assistant		<input type="checkbox"/> LMFT Intern <input type="checkbox"/> ASW <input type="checkbox"/> Registered Psychologist <input type="checkbox"/> Resident in Psychiatry <input type="checkbox"/> Other (Please specify):	
8. Name and Title of Supervising Therapist (If applicable)			
9. License Number		10. Expiration Date	
11. What is the client or caretaker's initial description of the crime for which you are providing treatment?			
12. What are the client's presenting symptoms/issues (by your observation and client report)?			

13. If this victimization was not recent, i.e., within the last 6 months, please describe what brought the client into treatment at this time.

14. Please evaluate this client with respect to the current **Diagnostic and Statistical Manual of Mental Disorders (DSM)** criteria. Evaluate on all 5 axes. Please complete this section as fully and accurately as possible.

Axis I:

Axis II:

Axis III:

Axis IV:

Axis V:

15. **If this client is six years of age or older**, please evaluate him or her on the Social and Occupational Functioning Assessment Scale (SOFAS) that is discussed in the current DSM. (Note: Rate the relational unit in which he or she resided at the time of this report). Score: \_\_\_\_\_.

Client is under 6 years of age.

Please describe your client's specific behaviors that support this rating:

16. Please evaluate the client on the Global Assessment of Relational Functioning (GARF) scale that is discussed in the current DSM. (Note: Rate the relational unit in which this client resided at the time of this report.) Score: \_\_\_\_\_.

Please provide the basis that supports this rating:

17. Please identify any of the following factors that may interfere with the client's treatment.

	No/Not Applicable	Yes
Mental status	<input type="checkbox"/>	<input type="checkbox"/>
Personal history	<input type="checkbox"/>	<input type="checkbox"/>
Support system	<input type="checkbox"/>	<input type="checkbox"/>
Justice system status	<input type="checkbox"/>	<input type="checkbox"/>
Family integrity	<input type="checkbox"/>	<input type="checkbox"/>
Economic/employment status	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

If you answered yes to any factors above, please explain.

18. What auxiliary services, e.g., collateral contacts (limited to no more than six sessions for minor victims and three sessions for adult victims), medication management, social worker, school counselor, etc., will be involved during the treatment of your client?

19. If your client has any physical and/or developmental disabilities, please indicate the nature of the disability (or disabilities) and how it might impact the treatment you provide.

No disabilities

20. Are you aware of this client having any pre-existing condition or prior mental health treatment that may impact the current treatment? If so, please explain as fully as possible.

21. If your client is a derivative victim who became the primary caretaker of a minor direct victim after the crime, with no previous relationship to the direct victim, please address the following: (You may attach additional pages if necessary.)

(a) Please describe why the treatment you are proposing is necessary for the recovery of the direct victim(s).

(b) What symptoms/behaviors exhibited by the direct victim will be the focus of your treatment for this derivative victim?

(c) What intervention(s) do you plan to address for each of the symptoms/behaviors described above?

(d) Please describe the arrangements you have made in coordinating this treatment with the treatment being provided to the direct victim.

TREATMENT PLAN

22. What symptoms/behaviors will be the focus of your treatment? Please list the symptoms/behaviors below and the intervention you plan to use to address each symptom/behavior listed.

1. Symptom/Behavior

Intervention

2. Symptom/Behavior

Intervention

3. Symptom/Behavior

Intervention

4. Symptom/Behavior

Intervention

23. By what means are you measuring progress?

24. Has this treatment plan been discussed with and consented to by the client or the client's caretaker?

\_\_\_\_ Yes \_\_\_\_ No

DECLARATION

CLIENT NAME: \_\_\_\_\_

CLAIM NUMBER: \_\_\_\_\_

If the victim's offender is convicted, the Board will request the criminal court to order the offender to pay restitution to reimburse the Board for any expenses the Board has paid for this crime. As a treating therapist you must be prepared to testify in a restitution hearing that the mental health counseling services you provided were necessary as a direct result of the crime at the percentage indicated below. **Please Note: The Board can only pay for the percentage of treatment that is necessary as a direct result of the crime.**

A. In your opinion, what percentage of your treatment is necessary as a direct result of the qualifying crime?

- 0 %
- 25%
- 50%
- 75%
- 100%
- Other: \_\_\_\_\_%

B. What type of crime is the client being treated for?

- Assault With a Deadly Weapon
- Driving Under the Influence
- Other (Do not include any confidential facts in your description of the crime.) \_\_\_\_\_
- Domestic Violence
- Hit and Run
- Child Abuse/Molest
- Homicide
- Sexual Assault
- Robbery

I declare under penalty of perjury under the laws of the State of California (Penal Code sections 72, 118, and 129) that: (1) I have read all of the questions contained on this form and, to the best of my information and belief, all my answers are true, correct and complete; and (2) all treatment submitted for reimbursement by the Board or pursuant to this form was necessary at the percentage noted above and as a direct result of the crime described above. I further understand that if I have provided any information that is false, intentionally incomplete or misleading, I may be found liable under *Government Code section 12650* for filing a false claim with the State of California and/or guilty of a misdemeanor or felony, punishable by six months or more in the county jail, up to four years in state prison, and/or fines up to ten thousand dollars (\$10,000).

I understand that mental health counseling treatment must be approved in advance. Treatment beyond the client's session limit will not be reimbursed until approved. I understand that if treatment is provided without the required approval, the Program may not reimburse those expenses.

**IMPORTANT – You MUST Provide The Required Signature(s) Below**

Treating Therapist:

Name: \_\_\_\_\_ Lic #: \_\_\_\_\_  
(Please Print Clearly)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

If Registered Intern:

Supervising Therapist's Name: \_\_\_\_\_ Lic #: \_\_\_\_\_  
(Please Print Clearly)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Tax Identification Number of person or organization in whose name payment is to be made:

\_\_\_\_\_

If you would like to be contacted by email when possible, please enter your email address below (optional).

*Additional Treatment Plan (Form) - Continuing Treatment  
(Confidential)*

**State of California  
Treatment Plan  
VCGCB-VOC-6025 (Revised 10-10-06)**

California Victim Compensation and Government  
Claims Board (Board)

Return Form To:  
  
**Victim Compensation Program  
P.O. Box 591  
Sacramento, CA 95812-0591**  
  
Or Your Local Victim/Witness Assistance Center  
Verification Unit

Claim Number:	Date Form Sent:
Victim's Name:	
Claimant's Name:	
Incident Date:	

This form must be completed if your client has reached the mental health benefit service limitations noted below and additional treatment is necessary as a direct result of the crime. No payment for the additional sessions will be authorized until the Additional Treatment Plan is reviewed and approved. You will be notified by mail of the result of the review. Further requests for additional treatment will be reviewed and may require additional information. This may include session notes or objective assessments of impairment, which may be needed to evaluate or verify this request for additional treatment.

**Mental Health Benefit Service Limitations** *(Please check the appropriate box)*

Service Limitation	Client/Patient	Requirements
<b>40 Session Hours</b>	<input type="checkbox"/> Direct Victim	Complete Entire Treatment Plan
<b>30 Session Hours</b>	<input type="checkbox"/> Direct Victim of Unlawful Sexual Intercourse <i>(Penal Code, section 261.5(d))</i> <i>(Not to exceed the statutory \$3,000.00 outpatient mental health limit)</i>	Complete Entire Treatment Plan
	<input type="checkbox"/> Surviving parent, sibling, child, spouse, registered domestic partner, or *fiancé (fiancée) of a homicide victim	
	<input type="checkbox"/> Derivative Victim that is scheduled to testify as a witness in criminal proceedings related to the qualifying crime  <i>*Must have witnessed the crime</i>	
<b>15 Session Hours</b>	<input type="checkbox"/> Derivative Minor Victim (minor at the time of the crime) <i>(Not to exceed the statutory \$3,000.00 outpatient mental health limit)</i>	Complete Questions 1 thru 11, Question 23b and Questions 24 thru 29 ONLY
	<input type="checkbox"/> Derivative Victim who was the Primary Caretaker of a Minor Direct Victim at the time of the crime (for up to two primary caretakers)	
<b>15 Session Hours</b>	<input type="checkbox"/> *Derivative Victim (Adult)  <i>*A derivative victim eligible in more than one category may use only the most favorable category</i>	Complete Questions 1 thru 11, Question 23b and Questions 24 thru 29 ONLY

**Session Calculations (Individual/Family Therapy)**

<b>Individual/Family:</b>	Session Hour = 1 Session	<b>Group:</b>	1 Session Hour = .5 (1/2) Session
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*As required by law, the information requested must be returned to the Victim Compensation Program (Program) within ten (10) business days and must be provided at no cost to the client, the Program, or local Victim/Witness Assistance Centers. The Program certifies that there is a signed authorization on file for the release of the information requested. Please answer questions fully and complete the signature page at the end of the document. Use additional pages if necessary. Failure to complete this form may result in a delay or denial of payment.*

1. Name of Client:
2. Name of Victim:
3. Client's Relationship to Victim:

4. Name of Therapist:		
5. Provider Organization Name:		
6. License/Registration Number and Expiration Date		
7. Mark Appropriate Box for Title of Licensed/Registered Therapist (refer to #6)		
LMFT LCSW Licensed Clinical Psychologist Psychiatrist	Registered Psychological Assistant LMFT Intern ASW	Registered Psychologist Resident in Psychiatry Other (Please specify):
8. Name and Title of Supervising Therapist (If applicable):		
9. License Number:		10. Expiration Date:
11. Have there been any significant changes in your understanding of the crime(s) for which this client is receiving treatment? If yes, please explain:		
<input type="checkbox"/> No Significant Changes		
12. Have there been any changes in Axes 1-4 as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) multi-axial diagnosis that you previously completed for this client? If yes, please explain:		
<input type="checkbox"/> No Changes		
13a. Please rate this client's impairment level in the following areas:		
GAF (Axis V)        _____		
SOFAS                _____		
GARF                 _____		
13b. If any of the impairment level scores are lower than the scores on your previous treatment plan(s), please explain.		

14. Have there been any event(s) since the last treatment plan you submitted which have made a significant impact on the course of your treatment? If yes, please describe:

None

15. Did this client have to testify as a witness in any criminal or dependency proceeding related to the crime?

Yes – If “yes”, please provide the date of the court proceeding: \_\_\_\_\_

No

16. Was the perpetrator of the crime released from custody?

Yes – If “yes”, please provide the date the perpetrator was released from custody: \_\_\_\_\_

No

N/A

**TREATMENT PLAN**

17. What symptoms/behaviors have been the focus of your treatment since you completed this client’s last treatment plan? On a scale from 1 to 9, with 1 representing the lowest score and 9 the highest, please rate the effectiveness of the intervention for each symptom/behavior using the scale below.

1. Symptom/Behavior:

Worsened			Remained Relatively the Same			Improved			Rating
1	2	3	4	5	6	7	8	9	

2. Symptom/Behavior:

Worsened			Remained Relatively the Same			Improved			Rating
1	2	3	4	5	6	7	8	9	

3. Symptom/Behavior:

Worsened			Remained Relatively the Same			Improved			Rating
1	2	3	4	5	6	7	8	9	

4. Symptom/Behavior:

Worsened			Remained Relatively the Same			Improved			Rating
1	2	3	4	5	6	7	8	9	

18. Please list below any symptoms/behaviors that will be added as a focus of your treatment if additional sessions are awarded.

19. Please describe the interventions you plan to use to address the symptoms/behaviors listed above (if you have already described the intervention for this symptom/behavior and plan no changes, write "same"):

20. What additional factors that were not present in the previous plan, or other changes in the case, will improve the likelihood of the client's recovery?

21. Has this treatment plan been discussed with and consented to by the client or the client's caretaker?  
 Yes  No

22. If this client is a minor, is a primary caretaker(s) involved in the treatment, and if so, what is the nature and extent of that involvement?

Not a minor

23a. Please indicate below the date your treatment began and the sessions that you have completed with this client. Please include all sessions to the present date:

Date treatment began:

Individual sessions completed: \_\_\_\_\_

Conjoint sessions completed: \_\_\_\_\_

Family sessions completed: \_\_\_\_\_

Group sessions completed: \_\_\_\_\_

23b. Percentage of treatment completed: \_\_\_\_\_

24. Have you, or do you plan to use any standardized, objective measures to assess the progress of your client's treatment?

No

Yes. Please specify the tests you expect to use:

25. Please describe why the treatment you are proposing is necessary for the recovery of the direct victim(s):

26. What symptoms/behaviors exhibited by the direct victim will be the focus of your treatment for the derivative victim?

27. What intervention(s) do you plan to address for each of the symptoms/behaviors described above?

28. Please describe the arrangements you have made in coordinating this treatment with the treatment being provided to the direct victim:

29. Is there any additional information that is important to be considered that is not addressed in this treatment plan?  
Please explain:

DECLARATION

CLIENT NAME: \_\_\_\_\_

CLAIM NUMBER: \_\_\_\_\_

If the victim's offender is convicted, the Board will request the criminal court to order the offender to pay restitution to reimburse the Board for any expenses the Board has paid for this crime. As a treating therapist you must be prepared to testify in a restitution hearing that the mental health counseling services you provided were necessary as a direct result of the crime at the percentage indicated below. **Please Note: The Board can only pay for the percentage of treatment that is necessary as a direct result of the crime.**

A. In your opinion, what percentage of your treatment is necessary as a direct result of the qualifying crime?

- 0 %
- 25%
- 50%
- 75%
- 100%
- Other: \_\_\_\_\_%

B. What type of crime is the client being treated for?

- Assault With a Deadly Weapon
- Domestic Violence
- Child Abuse/Molest
- Sexual Assault
- Robbery
- Driving Under the Influence
- Hit and Run
- Homicide
- Other (Do not include any confidential facts in your description of the crime.) \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California (Penal Code sections 72, 118, and 129) that: (1) I have read all of the questions contained on this form and, to the best of my information and belief, all my answers are true, correct and complete; and (2) all treatment submitted for reimbursement by the Board or pursuant to this form was necessary at the percentage noted above and as a direct result of the crime described above. I further understand that if I have provided any information that is false, intentionally incomplete or misleading, I may be found liable under *Government Code section 12650* for filing a false claim with the State of California and/or guilty of a misdemeanor or felony, punishable by six months or more in the county jail, up to four years in state prison, and/or fines up to ten thousand dollars (\$10,000).

I understand that mental health counseling treatment must be approved in advance. Treatment beyond the client's session limit will not be reimbursed until approved. I understand that if treatment is provided without the required approval, the Program may not reimburse those expenses.

**IMPORTANT – You MUST Provide The Required Signature(s) Below**

Treating Therapist:

Name: \_\_\_\_\_ (Please Print Clearly) Lic #: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

*If Registered Intern:*

Supervising Therapist's Name: \_\_\_\_\_ (Please Print Clearly) Lic #: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Tax Identification Number of person or organization in whose name payment is to be made:

\_\_\_\_\_

If you would like to be contacted by email when possible, please enter your email address below (optional).

\_\_\_\_\_

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

**To:** Board Members

**Date:** May 6, 2008

**From:** Paul Riches  
Executive Officer

**Telephone:** (916) 574-7840

**Subject: Report of the Policy and Advocacy Committee**

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The committee met in Encino on April 11, 2008 and made the following recommendations to the board:

- #1 – Sponsor Legislation to Clarify Unprofessional Conduct Statutes
- #2 – Support Assembly Bill 164
- #3 – Support Assembly Bill 1486 If Amended
- #4 – Support Assembly Bill 1887
- #5 – Support Assembly Bill 1922
- #6 – Oppose Assembly Bill 1925 Unless Amended
- #7 – Oppose Assembly Bill 1951
- #8 – Support Assembly Bill 2652
- #9 – Consider Senate Bill 1415
- #10 – Support Assembly Bill 2543 If Amended

### **Other Committee Items**

The committee discussed SB 1402 (Corbett) which would have required the board to post on the internet any felony conviction of a licensee. The committee recommended opposing the bill unless the language requiring disclosure of felony convictions was deleted. SB 1402 was amended April 10, 2008 to delete the provision relating to the board disclosure of felony convictions. Staff will continue to monitor this legislation but at this time the measure no longer affects board licensees.

For more information on other items considered please see the attached draft minutes.

The next meeting of the committee is scheduled for July 11, 2008 in the Bay Area.

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

**To:** Board Members

**Date:** May 19, 2008

**From:** Tracy Rhine  
Legislation Analyst

**Telephone:** (916) 574-7847

**Subject:** Clarifying Unprofessional Conduct Statutes

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### **Introduction**

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.

### **Policy and Advocacy Committee Recommendation**

The Policy and Advocacy Committee voted on April 11, 2008 to recommend Board sponsorship of legislation to address the following issues relating to unprofessional conduct.

### **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 or 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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# CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

## BILL ANALYSIS

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

**AUTHOR:** SMYTH                              **SPONSOR:** CAMFT

**RECOMMENDED POSITION:** SUPPORT

**SUBJECT:** IMMUNITY FOR MARRIAGE AND FAMILY THERAPY SCHOOLS

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### 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

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|---------|---|
| 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**

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**Introduced by Assembly Member Smyth**

January 22, 2007

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~~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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- 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, 2010, with a repeal date of January 1, 2011, unless a later enacted statute which becomes effective on or before January 1, 2011, 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 (e))
- 8) Defines "Intern" as an unlicensed person who is registered with the Board as a counselor intern. (B&P Code § 4999.12 (f))
- 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 (g))
- 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 (h))
  - 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 (i))
    - 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(j))
    - 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. Assessment shall not include the use of projective techniques in the assessment of personality, individually administered intelligence tests, neuropsychological testing, or utilization of a battery of three or more tests to determine the presence of psychosis, dementia, amnesia, cognitive impairment, or criminal behavior. (B&P Code § 4999.20 (c))
  - 14) Defines “Counseling interventions and psychotherapeutic techniques” as the application of cognitive , affective, behavioral, verbal or nonverbal, systemic or holistic counseling strategies that include principles of development, wellness, and pathology that reflect a pluralistic society. These interventions and techniques are specifically implemented in the context of a professional counseling relationship and use a variety of counseling theories and approaches. (B&P Code § 4999.20 (b))
  - 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 (k))
  - 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(l))
  - 17) Defines “Supervision” as including all of the following: (B&P Code § 4999.12(m))
    - 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 counseling interventions and psychotherapeutic techniques to identify and remediate behavioral, cognitive, mental and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. Professional counseling includes conducting assessments for the purpose of establishing treatment goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, and make well-informed, rational decisions. (B&P Code § 4999.20(a))
- 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 if the applicant began graduate study before August 1, 2012: (B&P Code § 4999.32)

- A master's or doctor's degree from an accredited or approved school that is counseling or psychotherapy in content. (B&P Code § 4999.32(b))
  - A minimum of 48 semester or 72 quarter graduate units of instruction. (B&P Code § 4999.32(c))
  - 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 orientation, ethics and law in counseling
- 30) Requires the qualifying degree referenced in # 29 to include a minimum of 12 semester units or 18 quarter units of additional coursework to develop knowledge of specific treatment issues or special population issues. (B&P Code § 4999.32(c)(2))
- 31) Requires the degree to contain the required units in seven of the nine required subject areas, but all nine 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(d)(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.
  - Applied psychotherapeutic techniques.
  - Assessment, diagnosis, prognosis and treatment.
  - Development, adjustment and maladjustment.
  - Health and wellness promotion.
  - Other recognized counseling interventions.
- 34) Requires applicants who begin study before August 1, 2012 to complete all of the following coursework or training prior to registration as an intern: (B&P Code § 4999.38(a))
- 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.
  - 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.

35) Requires the following educational qualifications for licensure as a LPC, if the applicant begins graduate study on or after August 1, 2012: (B&P Code § 4999.33)

- A master's or doctor's degree from an accredited or approved school that is counseling or psychotherapy in content, as defined, and contains not less than 60 graduate semester or 90 graduate quarter units of instruction in all of the following: (B&P Code § 4999.33(c)(1))
  - Counseling and psychotherapeutic theories and techniques
  - Human growth and development across the lifespan, including normal and abnormal behavior
  - Career development theories and techniques
  - Group counseling theories and techniques
  - Assessment and testing of individuals
  - Multicultural counseling theories and techniques
  - 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).
  - Research and evaluation
  - Professional orientation, ethics and law in counseling
  - Psychopharmacology
  - Substance abuse, co-occurring disorders
- 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 § 4999.33(c)(3))
  - 280 hours face-to-face supervised experience counseling individuals, families, or groups.
  - Applied psychotherapeutic techniques.
  - Assessment, diagnosis, prognosis and treatment.
  - Development, adjustment and maladjustment.
  - Health and wellness promotion.
  - Other recognized counseling interventions.
  - Professional writing, as specified.
  - How to find and use resources.
- Requires the degree to include a minimum of 12 semester units or 18 quarter units of additional coursework to develop knowledge of specific treatment issues or special population issues and instruction in all of the following: (B&P Code § 4999.33(c)(2), (d))
  - The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.
  - The understanding of human behavior within the social context of a representative variety of the cultures found within California.

- Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.
  - An understanding of the effects of socioeconomic status on treatment and available resources.
  - Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability and their incorporation into the psychotherapeutic process.
  - Case management, systems of care for the severely mentally ill, public and private services for the severely mentally ill, community resources for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill and collaborative treatment.
- A degree program that qualifies for licensure under this section shall do all of the following: (B&P Code § 4999.33(e))
    - Integrate the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments.
    - Integrate an understanding of various cultures and the social and psychological implications of socioeconomic position.
    - Provide the opportunity for students to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.
  - Requires the degree to contain the required units in nine of the 11 required subject areas, but all 11 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 § 4999.33(f))

36) Requires all applicants who begin graduate study on or after August 1, 2011 to complete the following coursework or training prior to registration as an intern: (B&P Code §4999.39)

- A minimum of 10 contact hours of training or coursework in human sexuality. When coursework in a master's or doctoral degree program is acquired to satisfy this requirement, it shall be considered as part of the 60 semester unit or 90 quarter unit requirement.
- A minimum of 15 hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics
- A minimum of seven contact hours of training or coursework in child abuse assessment and reporting
- A minimum of two semester units or three quarter units in California law and professional ethics for professional counselors, which shall include, but not be limited to, the following areas of study:
  - Contemporary professional ethics and statutory, regulatory, and decisional law that delineates the profession's scope of practice.
  - The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of professional counseling.
  - The current legal patterns and trends in the mental health profession.
  - The psychotherapist-client privilege, confidentiality, the client dangerous to self or others, and the treatment of minors with and without parental consent.

- A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.
  - A minimum of 10 contact hours of coursework in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging.
  - Coursework taken in fulfillment of other educational requirements for licensure as a professional counselor, or in a separate course of study, may, at the discretion of the board, fulfill the requirements listed above.
- 37) 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
- 38) 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))
- 39) 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))
- 40) 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))
- 41) 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))
- 42) 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))
- 43) Prohibits hours earned as a trainee from counting toward the 3,000 hours of post-degree internship hours. (B&P Code § 4999.36(e))
- 44) 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.
- 45) Requires a school that is preparing applicants to qualify for LPC licensure to notify each student in writing that its degree program is designed to meet licensing requirements and to certify to the Board that it has so notified its students. (B&P Code § 4999.40(a))
- 46) Requires 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))

- 47) 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 as required.
  - 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, 2010. (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 annually 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.
  - 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, 2009 and March 1, 2010, 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 that is counseling and psychotherapy in content 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 1,500 hours of direct client contact supervised by a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, a licensed physician and surgeon specializing in psychiatry, 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 **all** of the following examination(s):
  - The National Certified Counselor Examination for Licensure and Certification (NCE) OR the Certified Rehabilitation Counselor Examination (CRCE)
  - The National Clinical Mental Health Counseling Examination (NCMHCE).
  - A California jurisprudence and ethics examination, when developed by the board.

**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 "A" (above) of the grandparenting provisions (Section 4999.54) to

being valid for a six-year period from its issuance date and must be issued on or before December 1, 2010. After the six-year period, such a license will be canceled unless the licensee does both of the following during the next renewal period: (B&P Code § 4999.56)

- Obtains a licensure renewal
- Passes the examination required for licensure on or after July 1, 2010, or documents that he or she already passed those examinations

79) Provides that a license issued under “A” (above) of the grandparenting provisions shall expire one year from the last day of the month during which it was issued. (B&P Code §4999.101(a))

80) Sets forth the following requirements for renewing a license issued under “A” (of #77) of the grandparenting provisions: (B&P Code §4999.101(b))

- Apply for renewal on a form prescribed by the board and pay the renewal fee.
- Meet 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 subsequent to the license’s last renewal.

81) 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)

82) 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)

83) Requires LPCs to provide each client with accurate information about the counseling relationship and the counseling process. (B&P Code § 4999.74)

84) 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)

85) 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))

86) 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))

87) 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.

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

89) 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))

- 90) 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.
- 91) Requires continuing education to include courses directly related to the diagnosis, assessment, and treatment of clients. (B&P Code § 4999.76(g))
- 92) Requires the Board to fund the administration of its continuing education program through continuing education provider fees. (B&P Code § 4999.76(h))
- 93) 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))
- 94) 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))
- 95) Requires the Board to revoke, suspend, or fail to renew a LPC license for just cause, as enumerated in the Board's laws. (B&P Code § 4999.80(c))
- 96) Permits the Board to deny a LPC license for any of the following reasons: (B&P Code § 4999.80(c))
- The applicant knowingly made a false statement of fact required in the application.
  - The applicant has been convicted of a crime substantially related to the qualifications, functions or duties of LPC practice.
  - The applicant has committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another, substantially related to the qualifications, functions or duties of LPC practice.
  - The applicant has committed an act which would be grounds for suspension or revocation of license.
- 97) Permits the Board to deny, suspend or revoke a LPC license for any of the following reasons: (B&P Code § 4999.80(c))
- Violation of examination security requirements
  - 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.
- 98) Prohibits persons from engaging in the following acts: (B&P Code § 4999.82)
- Engaging in LPC practice without holding a valid license.
  - Representing themselves as an LPC without being licensed.
  - Using any title, words, letters, or abbreviations which may reasonably be confused with a standard of professional competence without being licensed.
  - Refusing to furnish the Board with information or records required or requested.
- 99) Establishes the intent of the Legislature that any communication made by a client to a LPC is a privileged communication. (B&P Code § 4999.84)

- 100) Establishes that any person who violates any of the provisions of LPC law is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that fine and imprisonment. (B&P Code § 4999.86)
- 101) Permits the superior court to issue an injunction or other order to restrain conduct upon request of the Board, the Attorney General, or the district attorney of the county, when any person has or is about to engage in any acts or practices which constitute an offense against LPC law. (B&P Code § 4999.88)
- 102) Permits the Board to refuse to issue any registration or license, or to suspend or revoke a registration or license of any professional counselor intern or licensed professional counselor if he or she has been guilty of unprofessional conduct. (B&P Code § 4999.90)
- 103) Defines unprofessional conduct as including, but not being limited to, any of the following: (B&P Code § 4999.90)
- The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant.
    - The Board may inquire into the circumstances surrounding the commission of the crime.
  - Securing a license or registration by fraud or deceit
  - Misrepresentation by the applicant, or a licensee in support of the applicant, on any application for licensure or registration.
  - Administering to himself or herself any controlled substance, dangerous drug, or alcoholic beverage in a manner which is dangerous or injurious to the person who is applying for or holding a license or registration, or to any other person, or to the extent that use impairs ability to safely practice as a LPC.
  - The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any controlled substance, dangerous drug, or alcoholic beverage.
  - Gross negligence or incompetence in the performance of LPC services.
  - Violating, attempting to violate, or conspiring to violate any of the laws pertaining to professional counseling.
  - Misrepresentation as to the type or status of a license or registration held.
  - Misrepresentation or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations.
  - Impersonation of another by any licensee, registrant, applicant for a license, or registrant, or allowing another person to use his or her license or registration.
  - Assisting or employing, directly or indirectly, any unlicensed or unregistered person to engage in practice for which a license or registration is required.
  - Intentionally or recklessly causing physical or emotional harm to any client.
  - The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.
  - Engaging in sexual relations with a client or a former client within two years following termination of therapy.
  - Soliciting sexual relations with a client or committing an act of sexual abuse or misconduct with a client.
  - Committing an act punishable as a sexually related crime if that act is substantially related to the qualifications, functions, or duties of a LPC.
  - Performing or holding oneself out as able to perform, or offering to perform, or permitting any supervisee to perform any professional services beyond the scope of the license.
  - Failure to maintain confidentiality except as otherwise permitted by law.

- Prior to the commencement of treatment, failing to disclose to the client the fee to be charged or the basis upon which the fee will be computed.
- Paying, accepting, or soliciting any consideration or compensation, whether monetary or otherwise, for the referral of clients.
- Advertising in a manner that is false, misleading, or deceptive.
- Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, in ways that might invalidate the test or device.
- Any conduct in the supervision of an intern or trainee that violates LPC law.
- Performing or holding oneself out as able to perform professional services beyond the scope of one's competence.
- Permitting a supervisee to hold himself or herself out as competent to perform professional services beyond the supervisee's scope of competence.
- The violation of any law governing the gaining and supervision of experience.
- Failure to keep records consistent with sound clinical judgment.
- Failure to comply with child, elder, or dependent adult abuse reporting requirements.
- Repeated acts of negligence.

104) 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))

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

106) Specifies that a LPC license issued to the following shall expire no more than 24 months after the issue date: (B&P Code § 4999.102(a))

- Licenses issued to applicants that qualified under the grandparenting provision by current licensure as a MFT or LCSW
- After January 1, 2017, licenses issued to applicants under the general grandparenting provisions
- Licenses issued pursuant to this Act after the grandparenting period.

107) Requires a LPC to do the following in order to renew an unexpired license: (B&P Code § 4999.102(b))

- Apply for renewal on a Board-issued form.
- Pay the required renewal fee.
- Certify compliance with continuing education requirements.
- Notify the Board whether he or she has been convicted of a misdemeanor or felony or whether any disciplinary action has been taken by any other regulatory or licensing Board since the last renewal.

108) Allows an expired LPC license to be renewed at any time within three years of expiration, except for licenses issued under the general grandparenting provisions (those under "A" of #77). (B&P Code § 4999.104)

109) Requires the licensee to do the following in order to renew an expired LPC license: (B&P Code § 4999.104)

- Apply for renewal on a Board-issued form.
- Pay the renewal fees that would have been paid if the license had not been delinquent.

- Pay all delinquency fees.
- Certify compliance with continuing education requirements.
- Notify the Board whether he or she has been convicted of a misdemeanor or felony or whether any disciplinary action has been taken by any other regulatory or licensing Board since the last renewal.

110) Prohibits a license that has not been renewed within three years after its expiration from being renewed, restored, reinstated or reissued. 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.

111) Establishes that a suspended license is subject to expiration and must be renewed as required, and that the renewal does not entitle the licensee to practice or engage in prohibited conduct while it remains suspended. (B&P Code § 4999.108)

112) Establishes that a revoked license is subject to expiration but may not be renewed. If it is reinstated after expiring, the licensee must pay a reinstatement fee equal to the last renewal fee plus any delinquency fee owing at the time of revocation. (B&P Code § 4999.110)

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

114) 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).

115) 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)

116) 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))

117) 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))

118) 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))

- 119) 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)
- 120) 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)
- 121) Requires the licensing program to be supported from fees assessed to applicants, interns and licensees. (B&P Code § 4999.122)
- 122) 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)
- 123) Does not require the Board to implement the program until funds have been appropriated. (B&P Code § 4999.122)
- 124) 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) **Previous Board Position and New Committee Recommendation.** The Board previously voted to support this bill. However, the Policy and Advocacy Committee voted at the April 11, 2008 meeting to recommend to the full board a new position of support only if the bill is amended to make education requirements for licensure as an LPC consistent with those proposed for MFTs in SB 1218 (Correa). This is discussed further below.
- 4) **Educational Requirements.** SB 1218 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. The proposed changes to MFT education in SB 1218 include the following:

- 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
- Infusion of 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

- Added 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:
  - Case management
  - Working with the severely mentally ill
  - Collaborative treatment
  - Disaster and trauma response
- Degree program content to include instruction in:
  - Evidence based and best practices
  - End-of-life and grief
  - Co-occurring mental health and substance use disorders
  - Behavioral addiction
  - Psychosexual dysfunction
  - Differences in legal and ethical standards for different types of work settings
  - Licensing law and licensing process
- 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), instead to be completed prior to registration as an intern and within the degree program.

9) **Recent Amendments to this Bill.** AB 1486 was amended May 8, 2008 to address issues raised at the April 11, 2008 Policy and Advocacy Committee meeting relating to the new education requirements proposed in SB 1218. The language in the current version of this bill closely parallels the proposed MFT education changes and reflects the sponsor's willingness to address the board's concerns.

Outlined below are several outstanding issues and suggested amendments. In order for the educational requirements for LPC licensure to be consistent with those proposed for MFTs, all coursework currently allowed to be completed outside of the degree must be required as part of the degree (see the first suggested amendment).

#### 10) Suggested Amendments.

- **B&P Code section 4999.39:** Move all additional coursework to section 4999.33, and require these courses, such as child abuse assessment and reporting, to be taken within the degree program, without specific hour requirements.
- **B&P Code section 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 section 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 section 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.

- **B&P Code section 4999.101(d):** Delete errant reference to section 4999.64 and replace with reference to section 4999.54

**10) Support and Opposition (As of July 10, 2007).**

*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**

2008

May 8 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.

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.

AMENDED IN SENATE MAY 8, 2008  
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**

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

February 23, 2007

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An act to amend Sections 728, 805, and 4990 of, ~~and~~ to add Chapter 16 (commencing with Section 4999.10) to Division 2 of, *and to repeal Sections 4999.56 and 4999.101 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 *and makes*

*the provision establishing the board inoperative on July 1, 2009, and repealed on January 1, 2010.* 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 *and would make the provision establishing the board inoperative on July 1, 2010, and repealed on January 1, 2011.* 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 board to issue~~ licenses to individuals meeting certain criteria who apply between October 1, ~~2008~~ 2009, and March 31, ~~2009~~, to individuals who ~~meet certain criteria~~ 2010. The bill would authorize the board to begin accepting applications for intern registration on January 1, ~~2009~~ 2010, and for professional counselor licensure on January 1, ~~2010~~ 2011. 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 ~~subject to a civil penalty not to exceed \$3,500 for each violation in a civil action brought by a public prosecutor~~ a misdemeanor. *By creating a new crime, the bill would impose a state-mandated local program.*

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, *professional counselor trainees, and unlicensed professional counselor interns* 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

1 a psychotherapist is authorized to provide under his or her scope  
2 of practice, or that the psychotherapist represents to the patient as  
3 being within his or her scope of practice, until the  
4 psychotherapist-patient relationship is terminated.

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

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

9 (1) "Peer review body" includes:

10 (A) A medical or professional staff of any health care facility  
11 or clinic licensed under Division 2 (commencing with Section  
12 1200) of the Health and Safety Code or of a facility certified to  
13 participate in the federal Medicare Program as an ambulatory  
14 surgical center.

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

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

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

31 (2) "Licentiate" means a physician and surgeon, podiatrist,  
32 clinical psychologist, marriage and family therapist, clinical social  
33 worker, licensed professional counselor, or dentist. "Licentiate"  
34 also includes a person authorized to practice medicine pursuant to  
35 Section 2113.

36 (3) "Agency" means the relevant state licensing agency having  
37 regulatory jurisdiction over the licentiates listed in paragraph (2).

38 (4) "Staff privileges" means any arrangement under which a  
39 licentiate is allowed to practice in or provide care for patients in  
40 a health facility. Those arrangements shall include, but are not

1 limited to, full staff privileges, active staff privileges, limited staff  
2 privileges, auxiliary staff privileges, provisional staff privileges,  
3 temporary staff privileges, courtesy staff privileges, locum tenens  
4 arrangements, and contractual arrangements to provide professional  
5 services, including, but not limited to, arrangements to provide  
6 outpatient services.

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

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

15 (7) “805 report” means the written report required under  
16 subdivision (b).

17 (b) The chief of staff of a medical or professional staff or other  
18 chief executive officer, medical director, or administrator of any  
19 peer review body and the chief executive officer or administrator  
20 of any licensed health care facility or clinic shall file an 805 report  
21 with the relevant agency within 15 days after the effective date of  
22 any of the following that occur as a result of an action of a peer  
23 review body:

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

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

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

32 (c) The chief of staff of a medical or professional staff or other  
33 chief executive officer, medical director, or administrator of any  
34 peer review body and the chief executive officer or administrator  
35 of any licensed health care facility or clinic shall file an 805 report  
36 with the relevant agency within 15 days after any of the following  
37 occur after notice of either an impending investigation or the denial  
38 or rejection of the application for a medical disciplinary cause or  
39 reason:

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

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

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

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

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

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

19 The information to be reported in an 805 report shall include the  
20 name and license number of the licentiate involved, a description  
21 of the facts and circumstances of the medical disciplinary cause  
22 or reason, and any other relevant information deemed appropriate  
23 by the reporter.

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

31 If another peer review body is required to file an 805 report, a  
32 health care service plan is not required to file a separate report  
33 with respect to action attributable to the same medical disciplinary  
34 cause or reason. If the Medical Board of California or a licensing  
35 agency of another state revokes or suspends, without a stay, the  
36 license of a physician and surgeon, a peer review body is not  
37 required to file an 805 report when it takes an action as a result of  
38 the revocation or suspension.

39 (g) The reporting required by this section shall not act as a  
40 waiver of confidentiality of medical records and committee reports.

1 The information reported or disclosed shall be kept confidential  
2 except as provided in subdivision (c) of Section 800 and Sections  
3 803.1 and 2027, provided that a copy of the report containing the  
4 information required by this section may be disclosed as required  
5 by Section 805.5 with respect to reports received on or after  
6 January 1, 1976.

7 (h) The Medical Board of California, the Osteopathic Medical  
8 Board of California, and the Dental Board of California shall  
9 disclose reports as required by Section 805.5.

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

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

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

30 (l) Except as otherwise provided in subdivision (k), any failure  
31 by the administrator of any peer review body, the chief executive  
32 officer or administrator of any health care facility, or any person  
33 who is designated or otherwise required by law to file an 805  
34 report, shall be punishable by a fine that under no circumstances  
35 shall exceed fifty thousand dollars (\$50,000) per violation. The  
36 fine may be imposed in any civil or administrative action or  
37 proceeding brought by or on behalf of any agency having  
38 regulatory jurisdiction over the person regarding whom the report  
39 was or should have been filed. If the person who is designated or  
40 otherwise required to file an 805 report is a licensed physician and

1 surgeon, the action or proceeding shall be brought by the Medical  
 2 Board of California. The fine shall be paid to that agency but not  
 3 expended until appropriated by the Legislature. The amount of the  
 4 fine imposed, not exceeding fifty thousand dollars (\$50,000) per  
 5 violation, shall be proportional to the severity of the failure to  
 6 report and shall differ based upon written findings, including  
 7 whether the failure to file caused harm to a patient or created a  
 8 risk to patient safety; whether the administrator of any peer review  
 9 body, the chief executive officer or administrator of any health  
 10 care facility, or any person who is designated or otherwise required  
 11 by law to file an 805 report exercised due diligence despite the  
 12 failure to file or whether they knew or should have known that an  
 13 805 report would not be filed; and whether there has been a prior  
 14 failure to file an 805 report. The amount of the fine imposed may  
 15 also differ based on whether a health care facility is a small or  
 16 rural hospital as defined in Section 124840 of the Health and Safety  
 17 Code.

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

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

28 4990. (a) There is in the Department of Consumer Affairs, a  
 29 Board of Behavioral Sciences that consists of 15 members  
 30 composed as follows:

- 31 (1) Two state licensed clinical social workers.
  - 32 (2) One state licensed educational psychologist.
  - 33 (3) Two state licensed marriage and family therapists.
  - 34 (4) Two licensed professional counselors.
  - 35 (5) Eight public members.
- 36 (b) Each member, except the eight public members, shall have  
 37 at least two years of experience in his or her profession.
- 38 (c) Each member shall reside in the State of California.
- 39 (d) The Governor shall appoint six of the public members and  
 40 the seven licensed members with the advice and consent of the

1 Senate. The Senate Committee on Rules and the Speaker of the  
2 Assembly shall each appoint a public member.

3 (e) Each member of the board shall be appointed for a term of  
4 four years. A member appointed by the Speaker of the Assembly  
5 or the Senate Committee on Rules shall hold office until the  
6 appointment and qualification of his or her successor or until one  
7 year from the expiration date of the term for which he or she was  
8 appointed, whichever first occurs. Pursuant to Section 1774 of the  
9 Government Code, a member appointed by the Governor shall  
10 hold office until the appointment and qualification of his or her  
11 successor or until 60 days from the expiration date of the term for  
12 which he or she was appointed, whichever first occurs.

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

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

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

21 (i) This section shall become inoperative on July 1, ~~2009~~ 2010,  
22 and, as of January 1, ~~2010~~ 2011, is repealed, unless a later enacted  
23 statute, that is enacted before January 1, ~~2010~~ 2011, deletes or  
24 extends the dates on which it becomes inoperative and is repealed.

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

27

28 CHAPTER 16. LICENSED PROFESSIONAL COUNSELORS

29

30 Article 1. Administration

31

32 4999.10. This chapter constitutes, and may be cited as, the  
33 Licensed Professional Counselor Act.

34 4999.12. For purposes of this chapter, the following terms have  
35 the following meanings:

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

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

1 (c) “Approved” means a school, college, or university that  
2 possessed unconditional approval by the Bureau for Private  
3 Postsecondary and Vocational Education at the time of the  
4 applicant’s graduation from the school, college, or university.

5 (d) “Applicant” means an unlicensed person who has completed  
6 a master’s or doctoral degree program, as specified in Section  
7 4999.32 or 4999.33, *as applicable*, and whose application for  
8 registration as an intern is pending or who is in the examination  
9 process, or an unlicensed person who has completed the  
10 requirements for licensure specified in this chapter, is no longer  
11 registered with the board as an intern, and is currently in the  
12 examination process.

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

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

18 (g) “Counselor trainee” means an unlicensed person who is  
19 currently enrolled in a master’s or doctoral degree program, as  
20 specified in Section 4999.32 or 4999.33, *as applicable*, that is  
21 designed to qualify him or her for licensure under this chapter, and  
22 who has completed no less than 12 semester units or 18 quarter  
23 units of coursework in any qualifying degree program.

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

26 (1) Has documented two years of clinical experience as a  
27 licensed professional counselor, licensed marriage and family  
28 therapist, licensed clinical psychologist, licensed clinical social  
29 worker, or licensed physician and surgeon who is certified in  
30 psychiatry by the American Board of Psychiatry and Neurology.

31 (2) Has received professional training in supervision.

32 (3) Has not provided therapeutic services to the counselor trainee  
33 or intern.

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

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

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

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

4 (j) “Advertising” or “advertise” includes, but is not limited to,  
5 the issuance of any card, sign, or device to any person, or the  
6 causing, permitting, or allowing of any sign or marking on, or in,  
7 any building or structure, or in any newspaper or magazine or in  
8 any directory, or any printed matter whatsoever, with or without  
9 any limiting qualification. It also includes business solicitations  
10 communicated by radio or television broadcasting. Signs within  
11 church buildings or notices in church bulletins mailed to a  
12 congregation shall not be construed as advertising within the  
13 meaning of this chapter.

14 ~~(k) “Assessment” means selecting, administering, scoring, and~~  
15 ~~interpreting tests, instruments, and other tools and methods~~  
16 ~~designed to measure an individual’s attitudes, abilities, aptitudes,~~  
17 ~~achievements, interests, personal characteristics, disabilities, and~~  
18 ~~mental, emotional, and behavioral concerns and development and~~  
19 ~~the use of methods and techniques for understanding human~~  
20 ~~behavior in relation to coping with, adapting to, or ameliorating~~  
21 ~~changing life situations, as part of the counseling process.~~

22 ~~(l) “Counseling interventions” means the application of~~  
23 ~~cognitive, affective, behavioral, or holistic counseling strategies~~  
24 ~~that include principles of development, wellness, and pathology~~  
25 ~~that reflect a pluralistic society. Such interventions are specifically~~  
26 ~~implemented in the context of a professional counseling~~  
27 ~~relationship and use a variety of counseling theories and~~  
28 ~~approaches.~~

29 ~~(m)~~

30 (k) “Referral” means evaluating and identifying the needs of a  
31 client to determine whether it is advisable to refer the client to  
32 other specialists, informing the client of that judgment, and  
33 communicating that determination as requested or deemed  
34 appropriate to referral sources.

35 ~~(n)~~

36 (l) “Research” means a systematic effort to collect, analyze, and  
37 interpret quantitative and qualitative data that describes how social  
38 characteristics, behavior, emotion, cognitions, disabilities, mental  
39 disorders, and interpersonal transactions among individuals and  
40 organizations interact.

1 (e)

2 (m) “Supervision” includes the following:

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

6 (2) Reviewing client or patient records, monitoring and  
7 evaluating assessment, diagnosis, and treatment decisions of the  
8 counselor trainee.

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

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

14 (5) That amount of direct observation, or review of audio or  
15 videotapes of counseling or therapy, as deemed appropriate by the  
16 supervisor.

17 4999.14. The board shall do all of the following:

18 (a) Communicate information about its activities, the  
19 requirements and qualifications for licensure, and the practice of  
20 professional counseling to the relevant educational institutions,  
21 supervisors, professional associations, applicants, counselor  
22 trainees, interns, and the public.

23 (b) Develop policies and procedures to assist educational  
24 institutions in meeting the educational qualifications of ~~Section~~  
25 ~~4999.32 Sections 4999.32 and 4999.33.~~

26  
27 Article 2. Scope of Practice

28  
29 4999.20. (a) Professional counseling means the application of  
30 ~~psychotherapeutic techniques and mental health or human~~  
31 ~~developmental principles through assessment, cognitive, affective,~~  
32 ~~behavioral, verbal or nonverbal, or systemic intervention strategies,~~  
33 ~~consistent with scope and coursework and training required in~~  
34 ~~subdivision (e) of Section 4999.32, and Sections 4999.38 and~~  
35 ~~4999.46 that address wellness, personal growth, adjustment to~~  
36 ~~disability, crisis intervention, as well as pathology, and empower~~  
37 ~~individuals to deal adequately with life situations, reduce stress,~~  
38 ~~experience growth, and make well-informed, rational decisions.~~

39 (b) ~~Professional counselors are restricted to the use of specific~~  
40 ~~methods, techniques, or modalities for which they have the~~

1 ~~appropriate education and training and may only engage in~~  
2 ~~assessment activities for which they are qualified by education~~  
3 ~~and training. Professional counselors shall refer clients to other~~  
4 *counseling interventions and psychotherapeutic techniques to*  
5 *identify and remediate behavioral, cognitive, mental, and emotional*  
6 *issues, including personal growth, adjustment to disability, crisis*  
7 *intervention, and psychosocial and environmental problems.*  
8 *Professional counseling includes conducting assessments for the*  
9 *purpose of establishing treatment goals and objectives to empower*  
10 *individuals to deal adequately with life situations, reduce stress,*  
11 *experience growth, and make well-informed, rational decisions.*

12 (b) *“Counseling interventions and psychotherapeutic*  
13 *techniques” means the application of cognitive, affective,*  
14 *behavioral, verbal or nonverbal, systemic or holistic counseling*  
15 *strategies that include principles of development, wellness, and*  
16 *pathology that reflect a pluralistic society. These interventions*  
17 *and techniques are specifically implemented in the context of a*  
18 *professional counseling relationship and use a variety of*  
19 *counseling theories and approaches.*

20 (c) *“Assessment” means selecting, administering, scoring, and*  
21 *interpreting tests, instruments, and other tools and methods*  
22 *designed to measure an individual’s attitudes, abilities, aptitudes,*  
23 *achievements, interests, personal characteristics, disabilities, and*  
24 *mental, emotional, and behavioral concerns and development and*  
25 *the use of methods and techniques for understanding human*  
26 *behavior in relation to coping with, adapting to, or ameliorating*  
27 *changing life situations, as part of the counseling process.*  
28 *“Assessment” shall not include the use of projective techniques*  
29 *in the assessment of personality, individually administered*  
30 *intelligence tests, neuropsychological testing, or utilization of a*  
31 *battery of three or more tests to determine the presence of*  
32 *psychosis, dementia, amnesia, cognitive impairment, or criminal*  
33 *behavior.*

34 (d) *Professional counselors shall refer clients to other licensed*  
35 *health care professionals when they identify issues beyond their*  
36 *own scope of education, training, and experience.*

37 4999.22. (a) Nothing in this chapter shall prevent qualified  
38 persons from doing work of a psychosocial nature consistent with  
39 the standards and ethics of their respective professions. However,  
40 these qualified persons shall not hold themselves out to the public

1 by any title or description of services incorporating the words  
2 “licensed professional counselor” and shall not state that they are  
3 licensed to practice professional counseling, unless they are  
4 otherwise licensed to provide counseling services.

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

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

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

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

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

Article 3. Licensure

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:~~

*4999.32. (a) This section shall apply to applicants for licensure who began graduate study before August 1, 2012.*

*(b) To qualify for a license, applicants shall possess a master’s or doctoral degree that is counseling or psychotherapy in content and that meets the requirements of this section, obtained from an accredited or approved institution, as defined in Section 4999.12. For purposes of this subdivision, a degree is “counseling or psychotherapy in content” if, except as provided in subdivision (d), it contains the supervised practicum or field study experience described in paragraph (3) of subdivision (c) and the coursework listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c).*

*(c) Except as provided in subdivision (d), the degree described in subdivision (b) shall contain not less than 48 graduate semester or 72 graduate quarter units of instruction, which 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, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to*

1 *assist in selection of appropriate counseling interventions, models*  
2 *of counseling consistent with current professional research and*  
3 *practice, development of a personal model of counseling, and*  
4 *multidisciplinary responses to crises, emergencies, and disasters.*

5 (B) Human growth and development across the lifespan,  
6 including normal and abnormal behavior *and an understanding of*  
7 *developmental crises, disability, psychopathology, and situational*  
8 *and environmental factors that affect both normal and abnormal*  
9 *behavior.*

10 (C) Career development theories and techniques, *including*  
11 *career development decisionmaking models and interrelationships*  
12 *among and between work, family, and other life roles and factors,*  
13 *including the role of multicultural issues in career development.*

14 (D) Group counseling theories and techniques, *including*  
15 *principles of group dynamics, group process components,*  
16 *developmental stage theories, therapeutic factors of group work,*  
17 *group leadership styles and approaches, pertinent research and*  
18 *literature, group counseling methods, and evaluation of*  
19 *effectiveness.*

20 (E) Assessment, appraisal, and testing of individuals, *including*  
21 *basic concepts of standardized and nonstandardized testing and*  
22 *other assessment techniques, norm-referenced and*  
23 *criterion-referenced assessment, statistic concepts, social and*  
24 *cultural factors related to assessment and evaluation of individuals*  
25 *and groups, and ethical strategies for selecting, administering,*  
26 *and interpreting assessment instruments and techniques in*  
27 *counseling.*

28 (F) Multicultural counseling theories and techniques, *including*  
29 *counselors' roles in developing cultural self-awareness, identity*  
30 *development, promoting cultural social justice, individual and*  
31 *community strategies for working with and advocating for diverse*  
32 *populations, and counselors' roles in eliminating biases and*  
33 *prejudices, and processes of intentional and unintentional*  
34 *oppression and discrimination.*

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

39 (H) Research and evaluation, *including studies that provide an*  
40 *understanding of research methods, statistical analysis, the use*

1 *of research to inform evidence-based practice, the importance of*  
2 *research in advancing the profession of counseling, and statistical*  
3 *methods used in conducting research, needs assessment, and*  
4 *program evaluation.*

5 (I) Professional orientation, ethics, and law in counseling,  
6 *including professional ethical standards and legal considerations,*  
7 *licensing law and process, regulatory laws that delineate the*  
8 *profession's scope of practice, counselor-client privilege,*  
9 *confidentiality, the client dangerous to self or others, treatment of*  
10 *minors with or without parental consent, relationship between*  
11 *practitioner's sense of self and human values, functions and*  
12 *relationships with other human service providers, strategies for*  
13 *collaboration, and advocacy processes needed to address*  
14 *institutional and social barriers that impede access, equity, and*  
15 *success for clients.*

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

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

22 ~~(A) An applicant whose degree is deficient in the required areas~~  
23 ~~of study or in the required units pursuant to this section may satisfy~~  
24 ~~the requirements by successfully completing postmaster's or~~  
25 ~~postdoctoral degree coursework at an accredited or approved~~  
26 ~~institution.~~

27 ~~(B) Coursework taken to meet deficiencies in the required areas~~  
28 ~~of study listed in subparagraphs (A) to (I), inclusive, of paragraph~~  
29 ~~(1) shall be the equivalent of three semester units or four and~~  
30 ~~one-half quarter units of study. Coursework taken beyond the~~  
31 ~~required areas of study shall include counseling modalities or~~  
32 ~~treatment with special populations.~~

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

36 ~~(2) A minimum of 12 semester units or 18 quarter units of~~  
37 ~~coursework to develop knowledge of specific treatment issues or~~  
38 ~~special populations.~~

39 ~~(4)~~

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

- 5 (A) Applied psychotherapeutic techniques.
- 6 (B) Assessment.
- 7 (C) Diagnosis.
- 8 (D) Prognosis.
- 9 (E) Treatment.
- 10 (F) Issues of development, adjustment, and maladjustment.
- 11 (G) Health and wellness promotion.
- 12 (H) Other recognized counseling interventions.

13 (I) A minimum of 150 hours of face-to-face supervised  
14 experience counseling individuals, families, or groups. ~~On January~~  
15 ~~1, 2013, the minimum number of hours of face-to-face supervised~~  
16 ~~experience shall increase to 280 hours.~~

17 *(d) (1) An applicant whose degree is deficient in no more than*  
18 *two of the required areas of study listed in subparagraphs (A) to*  
19 *(I), inclusive, of paragraph (1) of subdivision (c) or in the required*  
20 *number of units pursuant to this section may satisfy the*  
21 *requirements by successfully completing postmaster's or*  
22 *postdoctoral degree coursework at an accredited or approved*  
23 *institution, as defined in Section 4999.12.*

24 *(2) Coursework taken to meet deficiencies in the required areas*  
25 *of study listed in subparagraphs (A) to (I), inclusive, of paragraph*  
26 *(1) of subdivision (c) shall be the equivalent of three semester units*  
27 *or four and one-half quarter units of study.*

28 *(3) The board shall make the final determination as to whether*  
29 *a degree meets all requirements, including, but not limited to,*  
30 *course requirements, regardless of accreditation.*

31 *4999.33. (a) This section shall apply to applicants for licensure*  
32 *as a professional counselor who began graduate study on or after*  
33 *August 1, 2012.*

34 *(b) To qualify for a license, applicants shall possess a master's*  
35 *or doctoral degree that is counseling or psychotherapy in content*  
36 *and that meets the requirements of this section, obtained from an*  
37 *accredited or approved institution, as defined in Section 4999.12.*  
38 *For purposes of this subdivision, a degree is "counseling or*  
39 *psychotherapy in content" if, except as provided in subdivision*  
40 *(f), it contains the supervised practicum or field study experience*

1 *described in paragraph (3) of subdivision (c) and the courses listed*  
2 *in subparagraphs (A) to (K), inclusive, of paragraph (1) of*  
3 *subdivision (c).*

4 *(c) Except as provided in subdivision (f), the degree described*  
5 *in subdivision (b) shall contain not less than 60 graduate semester*  
6 *or 90 graduate quarter units of instruction, which shall include*  
7 *all of the following:*

8 *(1) The equivalent of at least three semester units or four and*  
9 *one-half quarter units of graduate study in all of the following*  
10 *areas:*

11 *(A) Counseling and psychotherapeutic theories and techniques,*  
12 *including the counseling process in a multicultural society, an*  
13 *orientation to wellness and prevention, counseling theories to*  
14 *assist in selection of appropriate counseling interventions, models*  
15 *of counseling consistent with current professional research and*  
16 *practice, development of a personal model of counseling, and*  
17 *multidisciplinary responses to crises, emergencies, and disasters.*

18 *(B) Human growth and development across the lifespan,*  
19 *including normal and abnormal behavior and an understanding*  
20 *of developmental crises, disability, psychopathology, and*  
21 *situational and environmental factors that affect both normal and*  
22 *abnormal behavior.*

23 *(C) Career development theories and techniques, including*  
24 *career development decisionmaking models and interrelationships*  
25 *among and between work, family and other life roles and factors,*  
26 *including the role of multicultural issues in career development.*

27 *(D) Group counseling theories and techniques, including*  
28 *principles of group dynamics, group process components, group*  
29 *developmental stage theories, therapeutic factors of group work,*  
30 *group leadership styles and approaches, pertinent research and*  
31 *literature, group counseling methods, and evaluation of*  
32 *effectiveness.*

33 *(E) Assessment, appraisal, and testing of individuals, including*  
34 *basic concepts of standardized and nonstandardized testing and*  
35 *other assessment techniques, norm-referenced and*  
36 *criterion-referenced assessment, statistic concepts, social and*  
37 *cultural factors related to assessment and evaluation of individuals*  
38 *and groups, and ethical strategies for selecting, administering,*  
39 *and interpreting assessment instruments and techniques in*  
40 *counseling.*

1 (F) *Multicultural counseling theories and techniques, including*  
2 *counselors' roles in developing cultural self-awareness, identity*  
3 *development, promoting cultural social justice, individual and*  
4 *community strategies for working with and advocating for diverse*  
5 *populations, and counselors' roles in eliminating biases and*  
6 *prejudices, and processes of intentional and unintentional*  
7 *oppression and discrimination.*

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

12 (H) *Research and evaluation, including studies that provide an*  
13 *understanding of research methods, statistical analysis, the use*  
14 *of research to inform evidence-based practice, the importance of*  
15 *research in advancing the profession of counseling, and statistical*  
16 *methods used in conducting research, needs assessment, and*  
17 *program evaluation.*

18 (I) *Professional orientation, ethics, and law in counseling,*  
19 *including professional ethical standards and legal considerations,*  
20 *licensing law and process, regulatory laws that delineate the*  
21 *profession's scope of practice, counselor-client privilege,*  
22 *confidentiality, the client dangerous to self or others, treatment of*  
23 *minors with or without parental consent, relationship between*  
24 *practitioner's sense of self and human values, functions and*  
25 *relationships with other human service providers, strategies for*  
26 *collaboration, and advocacy processes needed to address*  
27 *institutional and social barriers that impede access, equity, and*  
28 *success for clients.*

29 (J) *Psychopharmacology, including the biological bases of*  
30 *behavior, the range of current psychopharmacological*  
31 *interventions in terms of mental disorder diagnostic categories,*  
32 *including antidepressants, antianxiety, mood stabilizers, and*  
33 *antipsychotics, the diagnosis and pharmacological treatment of*  
34 *several of the most commonly encountered classes of psychiatric*  
35 *disorders, and clinical, theoretical, and ethical considerations.*

36 (K) *Substance abuse, cooccurring disorders, and addiction,*  
37 *including major approaches to identification, evaluation, treatment,*  
38 *and prevention of substance abuse and addiction, legal and medical*  
39 *aspects of substance abuse, populations at risk, the role of support*  
40 *persons, support systems, and community resources.*

- 1 (2) A minimum of 12 semester units or 18 quarter units of  
2 coursework to develop knowledge of specific treatment issues or  
3 special populations.
- 4 (3) Not less than six semester units or nine quarter units of  
5 supervised practicum or field study experience, or the equivalent,  
6 in a clinical or counseling setting that provides a range of  
7 professional counseling experience, including the following:
- 8 (A) Applied psychotherapeutic techniques.
  - 9 (B) Assessment.
  - 10 (C) Diagnosis.
  - 11 (D) Prognosis.
  - 12 (E) Treatment.
  - 13 (F) Issues of development, adjustment, and maladjustment.
  - 14 (G) Health and wellness promotion.
  - 15 (H) Professional writing including documentation of services,  
16 treatment plans, and progress notes.
  - 17 (I) How to find and use resources.
  - 18 (J) Other recognized counseling interventions.
  - 19 (K) A minimum of 280 hours of face-to-face supervised  
20 experience counseling individuals, families, or groups.
- 21 (d) The 60 graduate semester units or 90 graduate quarter units  
22 of instruction required pursuant to subdivision (c) shall, in addition  
23 to meeting the requirements of subdivision (c), include instruction  
24 in all of the following:
- 25 (1) The understanding of human behavior within the social  
26 context of socioeconomic status and other contextual issues  
27 affecting social position.
  - 28 (2) The understanding of human behavior within the social  
29 context of a representative variety of the cultures found within  
30 California.
  - 31 (3) Cultural competency and sensitivity, including a familiarity  
32 with the racial, cultural, linguistic, and ethnic backgrounds of  
33 persons living in California.
  - 34 (4) An understanding of the effects of socioeconomic status on  
35 treatment and available resources.
  - 36 (5) Multicultural development and cross-cultural interaction,  
37 including experiences of race, ethnicity, class, spirituality, sexual  
38 orientation, gender, and disability and their incorporation into  
39 the psychotherapeutic process.

1 (6) Case management, systems of care for the severely mentally  
 2 ill, public and private services for the severely mentally ill,  
 3 community resources for victims of abuse, disaster and trauma  
 4 response, advocacy for the severely mentally ill and collaborative  
 5 treatment. The instruction required in this paragraph may be  
 6 provided either in credit level coursework or through extension  
 7 programs offered by the degree-granting institution.

8 (e) A degree program that qualifies for licensure under this  
 9 section shall do all of the following:

10 (1) Integrate the principles of mental health recovery-oriented  
 11 care and methods of service delivery in recovery-oriented practice  
 12 environments.

13 (2) Integrate an understanding of various cultures and the social  
 14 and psychological implications of socioeconomic position.

15 (3) Provide the opportunity for students to meet with various  
 16 consumers and family members of consumers of mental health  
 17 services to enhance understanding of their experience of mental  
 18 illness, treatment, and recovery.

19 (f) (1) An applicant whose degree is deficient in no more than  
 20 two of the required areas of study listed in subparagraphs (A) to  
 21 (K), inclusive, of paragraph (1) of subdivision (c) or in the required  
 22 number of units pursuant to this section may satisfy the  
 23 requirements by successfully completing postmaster's or  
 24 postdoctoral degree coursework at an accredited or approved  
 25 institution, as defined in Section 4999.12.

26 (2) Coursework taken to meet deficiencies in the required areas  
 27 of study listed in subparagraphs (A) to (K), inclusive, of paragraph  
 28 (1) of subdivision (c) shall be the equivalent of three semester units  
 29 or four and one-half quarter units of study.

30 (3) The board shall make the final determination as to whether  
 31 a degree meets all requirements, including, but not limited to,  
 32 course requirements, regardless of accreditation.

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

36 (a) Lawfully and regularly provides counseling and  
 37 psychotherapy.

38 (b) Provides oversight to ensure that the counselor trainee's  
 39 work at the setting meets the practicum and field study experience

1 and requirements set forth in this chapter and is within the scope  
2 of practice for licensed professional counselors.

3 (c) Is not a private practice.

4 (d) Experience may be gained by the counselor trainee solely  
5 as part of the position for which the counselor trainee volunteers  
6 or is employed.

7 4999.36. (a) A counselor trainee may perform activities and  
8 services provided that the activities and services constitute part of  
9 the counselor trainee’s supervised course of study and that the  
10 person is designated by the title “counselor trainee.”

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

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

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

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

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

37 4999.38. (a) All applicants *who began graduate study before*  
38 *August 1, 2012*, shall complete the following coursework or  
39 training prior to registration as an intern:

1 (1) Instruction in alcoholism and other chemical substance  
2 dependency as specified by regulation. When coursework in a  
3 master's or doctoral degree program is acquired to satisfy this  
4 requirement, it shall be considered as part of the 48 semester unit  
5 or 72 quarter unit requirement in subdivision ~~(b)~~ (c) of Section  
6 4999.32. This paragraph applies to those individuals who began  
7 graduate study on or after January 1, 1986.

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

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

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

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

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

38 (A) Contemporary professional ethics and statutory, regulatory,  
39 and decisional law that delineates the profession's scope of  
40 practice.

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

3 (C) The current legal patterns and trends in the mental health  
4 professions.

5 (D) The ~~psychotherapist-patient~~ *psychotherapist-client* privilege,  
6 confidentiality, the ~~patient~~ *client* dangerous to self or others, and  
7 the treatment of minors with and without parental consent.

8 (E) A recognition and exploration of the relationship between  
9 a practitioner's sense of self and human values and his or her  
10 professional behavior and ethics.

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

16 (b) Coursework taken in fulfillment of other educational  
17 requirements for licensure as a professional counselor, or in a  
18 separate course of study, may, at the discretion of the board, fulfill  
19 the requirements of subdivision (a).

20 *4999.39. (a) All applicants who began graduate school on or*  
21 *after August 1, 2012, shall complete the following coursework or*  
22 *training prior to registration as an intern:*

23 *(1) A minimum of 10 contact hours of training or coursework*  
24 *in human sexuality as specified in Section 25, and any regulations*  
25 *promulgated thereunder. When coursework in a master's or*  
26 *doctoral degree program is acquired to satisfy this requirement,*  
27 *it shall be considered as part of the 60 semester unit or 90 quarter*  
28 *unit requirement in subdivision (c) of Section 4999.33.*

29 *(2) A minimum of 15 hours of coursework in spousal or partner*  
30 *abuse assessment, detection, and intervention strategies, including*  
31 *knowledge of community resources, cultural factors, and same*  
32 *gender abuse dynamics.*

33 *(3) A minimum of seven contact hours of training or coursework*  
34 *in child abuse assessment and reporting as specified in Section 28*  
35 *and any regulations adopted thereunder.*

36 *(4) A minimum of two semester units or three quarter units in*  
37 *California law and professional ethics for professional counselors,*  
38 *which shall include, but not be limited to, the following areas of*  
39 *study:*

1 (A) *Contemporary professional ethics and statutory, regulatory,*  
2 *and decisional law that delineates the profession's scope of*  
3 *practice.*

4 (B) *The therapeutic, clinical, and practical considerations*  
5 *involved in the legal and ethical practice of professional*  
6 *counseling.*

7 (C) *The current legal patterns and trends in the mental health*  
8 *profession.*

9 (D) *The psychotherapist-client privilege, confidentiality, the*  
10 *client dangerous to self or others, and the treatment of minors with*  
11 *and without parental consent.*

12 (E) *A recognition and exploration of the relationship between*  
13 *a practitioner's sense of self and human values and his or her*  
14 *professional behavior and ethics.*

15 (5) *A minimum of 10 contact hours of coursework in aging and*  
16 *long-term care, which may include, but is not limited to, the*  
17 *biological, social, and psychological aspects of aging.*

18 (b) *Coursework taken in fulfillment of other educational*  
19 *requirements for licensure as a professional counselor, or in a*  
20 *separate course of study, may, at the discretion of the board, fulfill*  
21 *the requirements of subdivision (a).*

22 4999.40. (a) Each educational institution preparing applicants  
23 to qualify for licensure shall notify each of its students by means  
24 of its public documents or otherwise in writing that its degree  
25 program is designed to meet the requirements of Section 4999.32  
26 or 4999.33 and shall certify to the board that it has so notified its  
27 students.

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

37 4999.42. (a) To qualify for registration as an intern, an  
38 applicant shall have all of the following qualifications:

39 (1) The applicant shall have earned a master's or doctoral degree  
40 as specified in Section 4999.32 or 4999.33, as applicable, and

1 shall have completed the coursework or training specified in  
2 Section 4999.38 or 4999.39, as applicable.

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

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

10 (b) The board shall begin accepting applications for intern  
11 registration on January 1, ~~2009~~ 2010.

12 4999.44. (a) An intern may be credited with supervised  
13 experience completed in any setting that meets all of the following  
14 requirements:

15 (1) Lawfully and regularly provides counseling or  
16 psychotherapy.

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

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

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

25 4999.45. An intern employed under this chapter shall:

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

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

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

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

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

36 (f) When no further renewals are possible, an applicant may  
37 apply for and obtain a new intern registration if the applicant meets  
38 the educational requirements for registration in effect at the time  
39 of the application for a new intern registration. An applicant issued  
40 a subsequent intern registration pursuant to this subdivision may

1 be employed or volunteer in any allowable work setting except  
2 private practice.

3 4999.46. (a) Each applicant for licensure shall complete  
4 experience under the general supervision of an approved supervisor  
5 as defined in Section 4999.12.

6 (b) The experience shall include the following:

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

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

12 (B) Not less than 1,750 hours of direct counseling with  
13 individuals or groups in a clinical or counseling setting using a  
14 variety of psychotherapeutic techniques and recognized counseling  
15 interventions within the scope of practice of licensed professional  
16 counselors.

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

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

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

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

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

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

30 (c) An applicant shall register with the board as an intern in  
31 order to be credited for postdegree hours of experience toward  
32 licensure. Postdegree hours of experience shall be credited toward  
33 licensure, provided that the applicant applies for intern registration  
34 within 90 days of the granting of the qualifying degree and is  
35 registered as an intern by the board.

36 (d) All applicants and interns shall be at all times under the  
37 supervision of a supervisor who shall be responsible for ensuring  
38 that the extent, kind, and quality of counseling performed is  
39 consistent with the training and experience of the person being  
40 supervised, and who shall be responsible to the board for

1 compliance with all laws, rules, and regulations governing the  
2 practice of professional counseling. At no time shall a supervisor  
3 supervise more than two interns.

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

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

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

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

16 4999.47. (a) Counselor trainees, interns, and applicants shall  
17 perform services as an employee or as a volunteer, not as an  
18 independent contractor.

19 The requirements of this chapter regarding gaining hours of  
20 experience and supervision are applicable equally to employees  
21 and volunteers.

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

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

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

34 (e) The board may audit an intern or applicant who receives  
35 reimbursement for expenses and the intern or applicant shall have  
36 the burden of demonstrating that the payments received were for  
37 reimbursement of expenses actually incurred.

38 (f) Counselor trainees, interns, and applicants shall only perform  
39 services at the place where their employer regularly conducts  
40 business and services, which may include other locations, as long

1 as the services are performed under the direction and control of  
 2 the employer and supervisor in compliance with the laws and  
 3 regulations pertaining to supervision. Counselor trainees, interns,  
 4 and applicants shall have no proprietary interest in the employer's  
 5 business.

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

17 4999.48. The board shall adopt regulations regarding the  
 18 supervision of interns which may include, but not be limited to,  
 19 the following:

- 20 (a) Supervisor qualifications.
- 21 (b) Continuing education requirements of supervisors.
- 22 (c) Registration or licensing of supervisors, or both.
- 23 (d) General responsibilities of supervisors.
- 24 (e) The board's authority in cases of noncompliance or gross  
 25 or repeated negligence by supervisors.

26 4999.50. (a) The board may issue a professional counselor  
 27 license to any person who meets all of the following requirements:

28 (1) He or she has received a master's or doctoral degree ~~in~~  
 29 ~~counseling, or a closely related degree, as provided in Section~~  
 30 ~~4999.32, from an institution that is accredited or approved.~~  
 31 *described in Section 4999.32 or 4999.33, as applicable.*

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

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

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

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

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

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

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

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

18 (d) The board shall begin accepting applications for licensure  
19 on January 1, ~~2010~~ 2011.

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

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

28 (c) (1) It is the intent of the Legislature that national licensing  
29 examinations, such as the National Counselor Examination for  
30 Licensure and Certification (NCE) and the National Clinical Mental  
31 Health Counselor Examination (NCMHCE), be evaluated by the  
32 board as requirements for licensure as a professional counselor.

33 (2) The board shall evaluate various national examinations in  
34 order to determine whether they meet the prevailing standards for  
35 the validation and use of licensing and certification tests in  
36 ~~California, as determined by the Office of Examination Resources~~  
37 ~~of the Department of Consumer Affairs.~~ *California.*

38 (3) Examinations shall measure knowledge and abilities  
39 demonstrably important to the safe, effective practice of the  
40 profession.

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

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

14 (e) The board shall not deny any applicant whose application  
15 for licensure is complete, admission to the examinations, nor shall  
16 the board postpone or delay any applicant's examinations or delay  
17 informing the candidate of the results of the examinations, solely  
18 upon the receipt by the board of a complaint alleging acts or  
19 conduct that would constitute grounds to deny licensure.

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

26 (g) Notwithstanding Section 135, the board may deny any  
27 applicant who has previously failed an examination permission to  
28 retake that examination pending completion of the investigation  
29 of any complaints against the applicant.

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

37 (i) Notwithstanding any other provision of law, the board may  
38 destroy all examination materials two years following the date of  
39 an examination.

1 4999.54. Notwithstanding Section 4999.50, the board may  
2 issue a license to any person who submits an application for a  
3 license between October 1, ~~2008~~ 2009, and March 31, ~~2009~~ 2010,  
4 provided that all documentation is submitted within 12 months of  
5 the board's evaluation of the application, and provided he or she  
6 meets one of the following sets of criteria:

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

8 (1) Has a master's or doctoral degree ~~in counseling, or a closely~~  
9 ~~related degree~~, from a school, college, or university as specified  
10 ~~in Section 4999.32. Closely related degrees are degrees that include~~  
11 ~~the minimum core coursework required in this section. If the in~~  
12 ~~Section 4999.32, that is counseling or psychotherapy in content.~~  
13 *If the person's degree does not include all the graduate coursework*  
14 *in all nine subject areas as required by paragraph (1) of subdivision*  
15 *(c) of Section 4999.32, a person shall provide documentation that*  
16 *he or she has completed the required coursework ~~postdegree~~ prior*  
17 *to licensure. A qualifying degree must include the supervised*  
18 *practicum or field study experience as required in paragraph ~~(4)~~*  
19 *(3) of subdivision (c) of Section 4999.32.*

20 (A) A counselor educator whose degree contains at least seven  
21 of the nine required courses shall be given credit for a course not  
22 contained in the degree if the counselor educator provides  
23 documentation that he or she has taught the equivalent of the  
24 required course in a graduate program in counseling or a related  
25 area.

26 (B) Degrees issued prior to 1996 shall include a minimum of  
27 30 semester units or 45 quarter units and at least five of the nine  
28 required courses specified in paragraph (1) of subdivision (c) of  
29 Section 4999.32. The total number of units shall be no less than  
30 48 semester units or 72 quarter units.

31 (C) Degrees issued in 1996 and after shall include a minimum  
32 of 48 semester units or 72 quarter units and at least seven of the  
33 nine courses specified in paragraph (1) of subdivision (c) of Section  
34 4999.32.

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

36 (3) Has at least two years, full-time or the equivalent, postdegree  
37 counseling experience, that includes at least ~~1,000~~ 1,500 hours of  
38 direct client contact experience supervised by a licensed ~~mental~~  
39 ~~health professional~~ *marriage and family therapist, a licensed*  
40 *clinical social worker, a licensed psychologist, a licensed physician*

1 *and surgeon specializing in psychiatry, or a master’s level*  
2 *counselor or therapist who is certified by a national certifying or*  
3 *registering organization, including, but not limited to, the National*  
4 *Board for Certified Counselors or the Commission on*  
5 *Rehabilitation Counselor Certification.*

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

7 (A) The National Counselor Examination for Licensure and  
8 Certification or the Certified Rehabilitation Counselor  
9 Examination.

10 (B) The National Clinical Mental Health Counselor  
11 Examination.

12 (C) *A California jurisprudence and ethics examination, when*  
13 *developed by the board.*

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

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

20 4999.56. (a) A license issued under subdivision (a) of Section  
21 4999.54 shall be issued on or before December 1, 2010. That  
22 license shall be valid for six years from the issuance date of the  
23 initial license provided that the license is annually renewed during  
24 that period pursuant to Section 4999.101. After this six-year period,  
25 it shall be canceled unless the licensee obtains a licensure renewal.  
26 The board shall begin accepting applications for licensure renewal  
27 on January 1, 2010. A person applying for licensure renewal shall  
28 pass the examinations specified in Section 4999.52, which are  
29 required for licensure on and after July 1, 2009, or document that  
30 he or she has already passed those examinations; the licensee does  
31 both of the following within the next renewal period:

32 (1) Obtains a licensure renewal as provided in Section 4999.101.

33 (2) Passes the examinations required for licensure on or after  
34 July 1, 2010, as set forth in Section 4999.52, or documents that  
35 he or she has already passed those examinations.

36 (b) Upon failure to meet the requirements set forth in this  
37 section, a license issued pursuant to subdivision (a) of Section  
38 4999.54 shall be canceled and the person shall be required to meet  
39 the requirements listed in Section 4999.50 to obtain a new license.

1     (c) *This section shall remain in effect only until January 1, 2017,*  
2 *and as of that date is repealed, unless a later enacted statute, that*  
3 *is enacted before January 1, 2017, deletes or extends that date.*

4  
5             Article 4. Practice Requirements

6  
7     4999.70. A licensee shall display his or her license in a  
8 conspicuous place in his or her primary place of practice.

9     4999.72. Any licensed professional counselor who conducts a  
10 private practice under a fictitious business name shall not use any  
11 name that is false, misleading, or deceptive, and shall inform the  
12 patient, prior to the commencement of treatment, the name and  
13 license designation of the owner or owners of the practice.

14     4999.74. Licensed professional counselors shall provide to  
15 each client accurate information about the counseling relationship  
16 and the counseling process.

17     4999.76. (a) (1) Except as provided in *paragraph (2) and*  
18 *subdivision (c), the board shall not renew any license pursuant to*  
19 *this chapter unless the applicant certifies to the board, on a form*  
20 *prescribed by the board, that he or she has completed not less than*  
21 *36 hours of approved continuing education in or relevant to the*  
22 *field of professional counseling in the preceding two years, as*  
23 *determined by the board.*

24     (2) *Except as provided in subdivision (c), the board shall not*  
25 *renew a license issued pursuant to subdivision (a) of Section*  
26 *4999.54 unless the applicant certifies to the board, on a form*  
27 *prescribed by the board, that he or she has completed not less than*  
28 *18 hours of approved continuing education in or relevant to the*  
29 *field of professional counseling in the preceding year, as*  
30 *determined by the board. This paragraph shall become inoperative*  
31 *on January 1, 2017.*

32     (b) The board shall have the right to audit the records of any  
33 applicant to verify the completion of the continuing education  
34 requirement. Applicants shall maintain records of completed  
35 continuing education coursework for a minimum of two years and  
36 shall make these records available to the board for auditing  
37 purposes upon request.

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

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

3 (1) A school, college, or university that ~~meets the requirements~~  
4 ~~set forth in subdivision (a) of Section 4999.32. Nothing in this is~~  
5 *accredited or approved, as defined in Section 4999.12. Nothing*  
6 *in this* paragraph shall be construed as requiring coursework to be  
7 offered as part of a regular degree program.

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

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

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

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

26 (2) Significant recent developments in the discipline of  
27 professional counseling.

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

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

33 (h) The board shall, by regulation, fund the administration of  
34 this section through continuing education provider fees to be  
35 deposited in the Behavioral Sciences Fund. The fees related to the  
36 administration of this section shall be sufficient to meet, but shall  
37 not exceed, the costs of administering the corresponding provisions  
38 of this section. For the purposes of this subdivision, a provider of  
39 continuing education as described in paragraph (1) of subdivision  
40 (d) shall be deemed to be an approved provider.

1 (i) The continuing education requirements of this section shall  
2 fully comply with the guidelines for mandatory continuing  
3 education established by the Department of Consumer Affairs  
4 pursuant to Section 166.

5  
6 Article 5. Enforcement  
7

8 4999.80. In order to carry out the provisions of this chapter,  
9 the board shall do all of the following:

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

12 (b) Investigate complaints concerning the conduct of any  
13 licensed professional counselor.

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

19 4999.82. It shall be unlawful for any person to engage in any  
20 of the following acts:

21 (a) Engage in the practice of professional counseling, as defined  
22 in Section 4999.20, without first having complied with the  
23 provisions of this chapter and without holding a valid license as  
24 required by this chapter.

25 (b) Represent himself or herself by the title “licensed  
26 professional counselor,” “LPC,” “licensed counselor,” or  
27 “professional counselor” without being duly licensed according  
28 to the provisions of this chapter.

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

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

35 4999.84. It is the intent of the Legislature that any  
36 communication made by a person to a licensed professional  
37 counselor in the course of professional services shall be deemed  
38 a privileged communication.

39 ~~4999.86. The violation of any provision of this chapter is~~  
40 ~~subject to a civil penalty, not to exceed three thousand five hundred~~

1 dollars (\$3,500) for each violation, that may be recovered in a civil  
2 action brought by a public prosecutor.

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

16 The proceedings under this section shall be governed by Chapter  
17 3 (commencing with Section 525) of Title 7 of Part 2 of the Code  
18 of Civil Procedure.

19 4999.90. The board may refuse to issue any registration or  
20 license, or may suspend or revoke the registration or license of  
21 any intern or licensed professional counselor, if the applicant,  
22 licensee, or registrant has been guilty of unprofessional conduct.  
23 Unprofessional conduct includes, but is not limited to, the  
24 following:

25 (a) The conviction of a crime substantially related to the  
26 qualifications, functions, or duties of a licensee or registrant under  
27 this chapter. The record of conviction shall be conclusive evidence  
28 only of the fact that the conviction occurred. The board may inquire  
29 into the circumstances surrounding the commission of the crime  
30 in order to fix the degree of discipline or to determine if the  
31 conviction is substantially related to the qualifications, functions,  
32 or duties of a licensee or registrant under this chapter. A plea or  
33 verdict of guilty or a conviction following a plea of nolo contendere  
34 made to a charge substantially related to the qualifications,  
35 functions, or duties of a licensee or registrant under this chapter  
36 shall be deemed to be a conviction within the meaning of this  
37 section. The board may order any license or registration suspended  
38 or revoked, or may decline to issue a license or registration when  
39 the time for appeal has elapsed, or the judgment of conviction has  
40 been affirmed on appeal, or, when an order granting probation is

1 made suspending the imposition of sentence, irrespective of a  
2 subsequent order under Section 1203.4 of the Penal Code allowing  
3 the person to withdraw a plea of guilty and enter a plea of not  
4 guilty, or setting aside the verdict of guilty, or dismissing the  
5 accusation, information, or indictment.

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

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

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

30 (e) Violating, attempting to violate, or conspiring to violate any  
31 of the provisions of this chapter or any regulation adopted by the  
32 board.

33 (f) Misrepresentation as to the type or status of a license or  
34 registration held by the person, or otherwise misrepresenting or  
35 permitting misrepresentation of his or her education, professional  
36 qualifications, or professional affiliations to any person or entity.

37 (g) Impersonation of another by any licensee, registrant, or  
38 applicant for a license or registration, or, in the case of a licensee  
39 or registrant, allowing any other person to use his or her license  
40 or registration.

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

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

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

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

14 (t) Permitting a counselor trainee or intern under one's  
15 supervision or control to perform, or permitting the counselor  
16 trainee or intern to hold himself or herself out as competent to  
17 perform, professional services beyond the counselor trainee's or  
18 intern's level of education, training, or experience.

19 (u) The violation of any statute or regulation of the standards  
20 of the profession, and the nature of the services being rendered,  
21 governing the gaining and supervision of experience required by  
22 this chapter.

23 (v) Failure to keep records consistent with sound clinical  
24 judgment, the standards of the profession, and the nature of the  
25 services being rendered.

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

28 (x) Failing to comply with the elder and dependent adult abuse  
29 reporting requirements of Section 15630 of the Welfare and  
30 Institutions Code.

31 (y) Repeated acts of negligence.

32

33

#### Article 6. Revenue

34

35 4999.100. (a) An intern registration shall expire one year from  
36 the last day of the month in which it was issued.

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

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

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

1 (3) Notify the board whether he or she has been convicted, as  
 2 defined in Section 490, of a misdemeanor or felony, or whether  
 3 any disciplinary action has been taken by any regulatory or  
 4 licensing board in this or any other state, subsequent to the  
 5 registrant’s last renewal.  
 6 4999.101. (a) A license issued under subdivision (a) of Section  
 7 4999.54 shall expire one year from the last day of the month during  
 8 which it was issued.  
 9 (b) To renew an unexpired license, the licensee, on or before  
 10 the expiration date of the license, shall do all of the following:  
 11 (1) Apply for renewal on a form prescribed by the board.  
 12 (2) Pay a renewal fee prescribed by the board.  
 13 (3) Certify compliance with the continuing education  
 14 requirements set forth in Section 4999.76.  
 15 (4) Notify the board whether he or she has been convicted, as  
 16 defined in Section 490, of a misdemeanor or felony, or whether  
 17 any disciplinary action has been taken by any regulatory or  
 18 licensing board in this or any other state, subsequent to the  
 19 licensee’s last renewal.  
 20 (c) The board shall begin accepting applications for licensure  
 21 renewal on January 1, 2011.  
 22 (d) If a license issued under subdivision (a) of Section 4999.64  
 23 is not renewed on or before the expiration date of the license, the  
 24 license shall be cancelled and the person shall be required to meet  
 25 the requirements set forth in Section 4999.50 in order to obtain a  
 26 new license.  
 27 (e) This section shall remain in effect only until January 1, 2017,  
 28 and as of that date is repealed, unless a later enacted statute, that  
 29 is enacted before January 1, 2017, deletes or extends that date.  
 30 4999.102. (a) Licenses issued under ~~this chapter~~ Section  
 31 4999.50 or subdivision (b) or (c) of Section 4999.54 and, on and  
 32 after January 1, 2017, licenses issued under subdivision (a) of  
 33 Section 4999.54 shall expire no more than 24 months after the  
 34 issue date. The expiration date of the original license shall be set  
 35 by the board.  
 36 (b) To renew an unexpired license, the licensee, on or before  
 37 the expiration date of the license, shall do all of the following:  
 38 (1) Apply for a renewal on a form prescribed by the board.  
 39 (2) Pay a two-year renewal fee prescribed by the board.

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

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

8 4999.104. ~~A license that has~~ *Licenses issued under Section*  
9 *4999.50 or subdivision (b) or (c) of Section 4999.54 and, on and*  
10 *after January 1, 2017, licenses issued under subdivision (a) of*  
11 *Section 4999.54 that have expired may be renewed at any time*  
12 *within three years of expiration. To renew an expired license, the*  
13 *licensee shall do all of the following:*

14 (a) File an application for renewal on a form prescribed by the  
15 board.

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

18 (c) Pay all delinquency fees.

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

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

26 4999.106. A license that is not renewed within three years after  
27 its expiration may not be renewed, restored, reinstated, or reissued,  
28 except that a former licensee may apply for and obtain a new  
29 license if he or she complies with all of the following:

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

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

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

35 4999.108. A suspended license is subject to expiration and  
36 shall be renewed as provided in this article, but that renewal does  
37 not entitle the licensee, while it remains suspended and until it is  
38 reinstated, to engage in the activity to which the license relates, or  
39 in any other activity or conduct in violation of the order or  
40 judgment by which it was suspended.

1 4999.110. A revoked license is subject to expiration as provided  
2 in this article, but it may not be renewed. If it is reinstated after its  
3 expiration, the licensee shall, as a condition precedent to its  
4 reinstatement, pay a reinstatement fee in an amount equal to the  
5 renewal fee in effect on the last regular renewal date before the  
6 date on which it is reinstated, plus the delinquency fee, if any,  
7 accrued at the time of its revocation.

8 4999.112. (a) A licensed professional counselor may apply to  
9 the board to request that his or her license be placed on inactive  
10 status. A licensee who holds an inactive license shall do all of the  
11 following:

- 12 (1) Pay a biennial fee of one-half of the active renewal fee.
- 13 (2) Be exempt from continuing education requirements.
- 14 (3) Not engage in the practice of professional counseling in this  
15 state.
- 16 (4) Otherwise be subject to this chapter.

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

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

32 4999.114. The board shall report each month to the Controller  
33 the amount and source of all revenue received pursuant to this  
34 chapter and at the same time deposit the entire amount thereof in  
35 the State Treasury for credit to the Behavioral Sciences Fund.

36 4999.116. (a) The moneys credited to the Behavioral Sciences  
37 Fund under Section 4999.114 shall, upon appropriation by the  
38 Legislature, be used for the purposes of carrying out and enforcing  
39 the provisions of this chapter.

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

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

10 4999.118. A licensee or registrant shall give written notice to  
11 the board of a name change within 30 days after each change,  
12 giving both the old and new names. A copy of the legal document  
13 authorizing the name change, such as a court order or marriage  
14 certificate, shall be submitted with the notice.

15 4999.120. The board shall assess fees for the application for  
16 and the issuance and renewal of licenses and for the registration  
17 of interns to cover administrative and operating expenses of the  
18 board related to this chapter.

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

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

27 11165.7. (a) As used in this article, “mandated reporter” is  
28 defined as any of the following:

- 29 (1) A teacher.
- 30 (2) An instructional aide.
- 31 (3) A teacher’s aide or teacher’s assistant employed by any  
32 public or private school.
- 33 (4) A classified employee of any public school.
- 34 (5) An administrative officer or supervisor of child welfare and  
35 attendance, or a certificated pupil personnel employee of any public  
36 or private school.
- 37 (6) An administrator of a public or private day camp.
- 38 (7) An administrator or employee of a public or private youth  
39 center, youth recreation program, or youth organization.

- 1 (8) An administrator or employee of a public or private  
2 organization whose duties require direct contact and supervision  
3 of children.
- 4 (9) Any employee of a county office of education or the  
5 California Department of Education, whose duties bring the  
6 employee into contact with children on a regular basis.
- 7 (10) A licensee, an administrator, or an employee of a licensed  
8 community care or child day care facility.
- 9 (11) A Head Start program teacher.
- 10 (12) A licensing worker or licensing evaluator employed by a  
11 licensing agency as defined in Section 11165.11.
- 12 (13) A public assistance worker.
- 13 (14) An employee of a child care institution, including, but not  
14 limited to, foster parents, group home personnel, and personnel of  
15 residential care facilities.
- 16 (15) A social worker, probation officer, or parole officer.
- 17 (16) An employee of a school district police or security  
18 department.
- 19 (17) Any person who is an administrator or presenter of, or a  
20 counselor in, a child abuse prevention program in any public or  
21 private school.
- 22 (18) A district attorney investigator, inspector, or local child  
23 support agency caseworker unless the investigator, inspector, or  
24 caseworker is working with an attorney appointed pursuant to  
25 Section 317 of the Welfare and Institutions Code to represent a  
26 minor.
- 27 (19) A peace officer, as defined in Chapter 4.5 (commencing  
28 with Section 830) of Title 3 of Part 2, who is not otherwise  
29 described in this section.
- 30 (20) A firefighter, except for volunteer firefighters.
- 31 (21) A physician, surgeon, psychiatrist, psychologist, dentist,  
32 resident, intern, podiatrist, chiropractor, licensed nurse, dental  
33 hygienist, optometrist, marriage, family and child counselor,  
34 clinical social worker, or any other person who is currently licensed  
35 under Division 2 (commencing with Section 500) of the Business  
36 and Professions Code.
- 37 (22) Any emergency medical technician I or II, paramedic, or  
38 other person certified pursuant to Division 2.5 (commencing with  
39 Section 1797) of the Health and Safety Code.

1 (23) A psychological assistant registered pursuant to Section  
2 2913 of the Business and Professions Code.

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

6 (25) An unlicensed marriage, family, and child therapist intern  
7 registered under Section 4980.44 of the Business and Professions  
8 Code.

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

11 (27) A coroner.

12 (28) A medical examiner, or any other person who performs  
13 autopsies.

14 (29) A commercial film and photographic print processor, as  
15 specified in subdivision (e) of Section 11166. As used in this  
16 article, “commercial film and photographic print processor” means  
17 any person who develops exposed photographic film into negatives,  
18 slides, or prints, or who makes prints from negatives or slides, for  
19 compensation. The term includes any employee of such a person;  
20 it does not include a person who develops film or makes prints for  
21 a public agency.

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

27 (31) An animal control officer or humane society officer. For  
28 the purposes of this article, the following terms have the following  
29 meanings:

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

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

37 (32) A clergy member, as specified in subdivision (d) of Section  
38 11166. As used in this article, “clergy member” means a priest,  
39 minister, rabbi, religious practitioner, or similar functionary of a  
40 church, temple, or recognized denomination or organization.

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

3 (34) Any employee of any police department, county sheriff's  
4 department, county probation department, or county welfare  
5 department.

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

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

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

12 (38) A licensed professional counselor, as defined in Section  
13 4999.12 of the Business and Professions Code.

14 (39) *A professional counselor trainee, as defined in subdivision*  
15 *(g) of Section 4999.12 of the Business and Professions Code.*

16 (40) *An unlicensed professional counsel intern registered*  
17 *pursuant to Section 4999.42 of the Business and Professions Code.*

18 (b) Except as provided in paragraph (35) of subdivision (a),  
19 volunteers of public or private organizations whose duties require  
20 direct contact with and supervision of children are not mandated  
21 reporters but are encouraged to obtain training in the identification  
22 and reporting of child abuse and neglect and are further encouraged  
23 to report known or suspected instances of child abuse or neglect  
24 to an agency specified in Section 11165.9.

25 (c) Employers are strongly encouraged to provide their  
26 employees who are mandated reporters with training in the duties  
27 imposed by this article. This training shall include training in child  
28 abuse and neglect identification and training in child abuse and  
29 neglect reporting. Whether or not employers provide their  
30 employees with training in child abuse and neglect identification  
31 and reporting, the employers shall provide their employees who  
32 are mandated reporters with the statement required pursuant to  
33 subdivision (a) of Section 11166.5.

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

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

1 (f) Public and private organizations are encouraged to provide  
2 their volunteers whose duties require direct contact with and  
3 supervision of children with training in the identification and  
4 reporting of child abuse and neglect.

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

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# CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

## BILL ANALYSIS

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

**AUTHOR:** BEALL                              **SPONSOR:** AUTHOR

**RECOMMENDED POSITION:** SUPPORT

**SUBJECT:** MENTAL HEALTH PARITY

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### **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

May 14, 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 Foundation<sup>1</sup> 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 Association<sup>2</sup>, "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 co-payments. This could lead to a decrease in insured residents and an increase in use of

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<sup>1</sup> Lake, et. al. (2002)

<sup>2</sup> "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.<sup>3</sup>

- 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

- Apr. 30 In committee: Set, first hearing. Referred to APPR. suspense file.
- Apr. 16 From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 12. Noes 5.) (April 15).
- 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

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<sup>3</sup> “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.<sup>1</sup> 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 plan<sup>2</sup>. 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).<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup>

## 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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

### 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.<sup>14</sup>

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..."<sup>15</sup> 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.<sup>16</sup>[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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<sup>3</sup> Ibid.

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

<sup>5</sup> 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>.

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<sup>8</sup> Ibid.

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<sup>11</sup> Ziegler, Jan, “The Realities of Mental Health Parity in the U.S.” Business & Health 18, no. 7 (2000): 16–21.

<sup>12</sup> Rand, “How Does Managed Care Affect the Cost of Mental Health Services?” RAND Health Research Highlights, 1998, [http://www.rand.org/pubs/research\\_briefs/RB4515/index1.html](http://www.rand.org/pubs/research_briefs/RB4515/index1.html) (accessed Nov. 13, 2005).

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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 abuse<sup>1</sup>, defined in the *Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV)*<sup>2</sup> 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.”<sup>3</sup>

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 disorders<sup>4</sup>. 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

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<sup>1</sup> 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.

<sup>2</sup> The DSM-IV is available at [www.psych.org/research/dor/dsm/index.cfm](http://www.psych.org/research/dor/dsm/index.cfm). Mental disorders included in subsequent editions of the DSM-IV would be covered.

<sup>3</sup> 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.

<sup>4</sup> 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 Act<sup>5</sup> 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.<sup>6</sup>

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](http://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

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<sup>5</sup> 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.

<sup>6</sup> 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
<b>Coverage</b>				
<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%
<b>Utilization</b>				
<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%
<b>Average Cost Per Service</b>				
<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)

	<b>Before Mandate</b>	<b>After Mandate</b>	<b>Increase/ Decrease</b>	<b>Change After Mandate</b>
<b>Expenditures</b>				
<i><b>Non-SMI Disorders</b></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
<b>Total annual expenditures</b>	<b>\$69,556,000,000</b>	<b>\$69,619,000,000</b>	<b>\$63,047,000</b>	<b>0.09%</b>
<i><b>Substance Use Disorders (including nicotine)</b></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
<b>Total annual expenditures</b>	<b>\$69,556,000,000</b>	<b>\$69,603,000,000</b>	<b>\$46,900,000</b>	<b>0.07%</b>

**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
<b>Total annual expenditures</b>	<b>\$69,556,000,000</b>	<b>\$69,666,000,000</b>	<b>\$109,933,000</b>	<b>0.16%</b>

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**

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**Introduced by Assembly Member Beall**

February 7, 2008

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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

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

**AUTHOR:** HERNANDEZ                      **SPONSOR:** CAMFT

**RECOMMENDED POSITION:** SUPPORT

**SUBJECT:** MARRIAGE AND FAMILY THERAPISTS: PEER REVIEW

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### 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  
 Apr. 24 Referred to Com. on B., P. & E.D.  
 Apr. 14 In Senate. Read first time. To Com. on RLS. for assignment.  
 Apr. 14 Read third time, passed, and to Senate. (Ayes 76. Noes 0).

Apr. 3 Read second time. To Consent Calendar.  
Apr. 2 From committee: Do pass. To Consent Calendar. (April 1).  
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.

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**ASSEMBLY BILL**

**No. 1922**

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**Introduced by Assembly Member Hernandez**

February 12, 2008

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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

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**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

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### **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 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))
- 5) Permits FTB to defer or cancel any license suspension based on a demonstration of financial hardship by the licensee, and if the licensee agrees to an acceptable payment arrangement. (RTC §19265(b)(1))
- 6) 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))
- 7) Requires state governmental licensing entities to provide the information required by this section to FTB when needed. (RTC §19265(a)(3))
- 8) States that this bill shall apply to state tax liens based on notices of proposed assessment that are mailed to taxpayers more than 60 days after the enactment date of this bill and tax liens based on other amounts that become due and payable more than 60 days after the date of enactment of this bill. (RTC §19265(e))
- 9) States that implementation of this bill is contingent on the appropriation of funds in the Budget Act. (RTC §19265(d))
- 10) Expresses that it is the understanding and intent of the Legislature that consistent with the decision in *Crum v. Vincent* (8<sup>th</sup> 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.
- 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 out weigh 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 amending this bill to allow the board to suspend the licenses of individuals with outstanding tax liabilities based on the model currently used for individuals in violation of a judgment or order for child support (Family Code § 17520). The Department of Consumer Affairs and the Board already have a process in place that allows the Board to receive information regarding individuals out of compliance with child support orders, and, in turn, requires the board to take action against those licensees, including suspension or denial of licensure. This model, if applied to licensees and applicants for licensure with outstanding tax liabilities, will provide a mechanism by which to collect due revenue to the state while also allowing the board to retain its regulatory and enforcement functions.

- 9) Policy and Advocacy Committee Recommendation.** On April 11, 2008 the Policy and Advocacy Committee voted to recommend to the board an oppose position on this bill unless the measure is amended to delete the current language and instead model the bill on the existing practice for child support obligations set forth in Family Code section 17520 (see above discussion).

**10) Support and Opposition.**

*Support:*

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

*Opposition:*

California Taxpayers' Association

**11) History**

2008

Apr. 28 Re-referred to Com. on APPR.

Apr. 23 Read second time and amended.

Apr. 22 From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 6. Noes 3.) (April 14).

Apr. 14 In committee: Set, first hearing. Referred to REV. & TAX. suspense

	file.
Apr. 8	Re-referred to Com. on REV. & TAX.
Apr. 7	From committee chair, with author's amendments: Amend, and re-refer to Com. on REV. & TAX. Read second time and amended.
Apr. 2	From committee: Do pass, and re-refer to Com. on REV. & TAX. Re-referred. (Ayes 6. Noes 3. Page 4426.) (April 1).
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.

**Attachments**

Crum v. Vincent (8<sup>th</sup> Cir. 2007) 593F3d 988  
 Family Code Section 17520

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

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No. 06-3471

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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.	*	

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

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Before COLLOTON, HANSEN, and GRUENDER, Circuit Judges.

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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 court<sup>1</sup> 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,

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<sup>1</sup>The 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.<sup>2</sup> 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,

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<sup>2</sup> 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.<sup>3</sup>

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.

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<sup>3</sup>Crum 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.

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

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**Family Code Section 17520.** (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business,

occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes any individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's

licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review to the local child support agency who certified the applicant's name. A request for review pursuant to this section shall be resolved in the same manner and timeframe provided for resolution of a complaint pursuant to Section 17800. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within the time specified in Section 17800.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the

applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

- (1) Judicial review of the local child support agency's decision not to issue a release.
- (2) A judicial determination of compliance.
- (3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (l) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(l) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support

agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed.

The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section.

These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

- (1) The number of delinquent obligors certified by district attorneys under this section.
- (2) The number of support obligors who also were applicants or licensees subject to this section.
- (3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.
- (4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (l).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other provision of law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

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AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1925**

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**Introduced by Assembly Member Eng**

February 12, 2008

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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: professional or occupational licenses.

The Personal Income Tax Law and the Bank and Corporation Tax Law 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 individual licensee of that entity. The bill would require the

Franchise Tax Board, if an individual licensee fails to pay taxes for which a notice of state tax lien has been recorded, *as specified*, 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.

1 (1) Until the debts covered by this section are satisfied, the  
2 qualifying person and any other personnel of record named on a  
3 license that has been suspended under this section shall be  
4 prohibited from serving in any capacity that is subject to licensure  
5 under this chapter, but shall be permitted to act in the capacity of  
6 a nonsupervising bona fide employee.

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

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

18 (c) (1) In the case of outstanding final liabilities assessed by  
19 the Franchise Tax Board, this section shall be operative within 60  
20 days after the Contractors' State License Board has provided the  
21 Franchise Tax Board with the information required under Section  
22 30, relating to licensing information that includes the federal  
23 employee identification number or social security number.

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

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

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

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

1 entity. If any licensee has failed to pay taxes, including any  
 2 penalties, interest, and any applicable fees, imposed under Part 10  
 3 (commencing with Section 17001), Part 11 (commencing with  
 4 Section 23001), or this part, for which a notice of state tax lien has  
 5 been recorded in any county recorder’s office in this state, pursuant  
 6 to Chapter 14 (commencing with Section 7150) of Division 7 of  
 7 Title 1 of the Government Code, the Franchise Tax Board shall  
 8 mail a notice of suspension to the applicable state governmental  
 9 licensing entity and to the licensee. The rights, powers, and  
 10 privileges of any licensee whose professional or occupational  
 11 license, certificate, registration, or permit has been suspended  
 12 pursuant to this section shall be subject to the same prohibitions,  
 13 limitations, and restrictions as if the professional or occupational  
 14 license, certificate, registration, or permit were suspended by the  
 15 state 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”~~ “*Financial hardship*” means financial hardship  
11 *within the meaning of Section 19008*, as determined by the  
12 Franchise Tax Board, where ~~the licensee is suspension of a license~~  
13 *will result in the licensee being financially unable to pay any part*  
14 *of the amount described in subdivision (a) and the license is unable*  
15 *to qualify for an installment payment arrangement as provided for*  
16 *by Section 19008. In order to establish the existence of a financial*  
17 *hardship, the licensee shall submit any information, including*  
18 *information related to reasonable business and personal expenses,*  
19 *requested by the Franchise Tax Board for the purpose of making*  
20 *that determination.*

21 (2) “License” includes a certificate, registration, or any other  
22 authorization to engage in a profession or occupation issued by a  
23 state governmental licensing entity.

24 (3) “Licensee” means an individual authorized by a license,  
25 certificate, registration, or other authorization to engage in a  
26 profession or occupation issued by a state governmental licensing  
27 entity.

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

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

39 ~~(e) (1) For an assessment for which a notice of state tax lien~~  
40 ~~has been recorded in a county recorder’s office in this state,~~

1 pursuant to Chapter 14 (commencing with Section 7150) of  
2 Division 7 of Title 1 of the Government Code, prior to January 1,  
3 2009, the Franchise Tax Board shall mail a notice to any licensee  
4 who would be affected by this section.

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

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

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

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

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

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

34 (e) *This section shall apply to state tax liens based on notices*  
35 *of proposed assessment that are mailed to taxpayers more than*  
36 *60 days after the enactment date of the act adding this section and*  
37 *state tax liens based on other amounts that become due and*  
38 *payable, within the meaning of Section 19221, more than 60 days*  
39 *after the date of enactment of the act adding this section.*

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

3 19571. (a) The Franchise Tax Board may disclose to state  
4 governmental licensing entities information regarding suspension  
5 of licensees pursuant to Section 19265.

6 (b) Neither the state governmental licensing entity, nor any  
7 officer, employee, or agent, or former officer, employee, or agent  
8 of a state governmental licensing entity, may disclose or use any  
9 information obtained from the Franchise Tax Board, pursuant to  
10 this section, except to inform the public of the suspension of a  
11 license pursuant to Section 19265.

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

14 SEC. 5. The Legislature hereby finds and declares the  
15 following:

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

28 (b) To prevent financial hardship, Section 19265 of the Revenue  
29 and Taxation Code, as added by this act, grants a delinquent  
30 taxpayer the opportunity for an additional hearing for financial  
31 hardship prior to the suspension of a professional or occupational  
32 license. ~~An opportunity for a limited hearing is also provided to a  
33 delinquent taxpayer if a suspension would be based on an  
34 assessment for which a notice of a state tax lien was recorded prior  
35 to the effective date of this act.~~ *license.*

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# CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

## BILL ANALYSIS

**BILL NUMBER: AB 1951**

**VERSION: AMENDED APRIL 8, 2008**

**AUTHOR: HAYASHI**

**SPONSOR: BAY AREA SUICIDE AND CRISIS INTERVENTION ALLIANCE**

**RECOMMENDED POSITION: OPPOSE**

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

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 for Continuing Education Courses.** 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) **Policy and Advocacy Committee Recommendation.** On April 11, 2008, the Policy and Advocacy Committee voted to recommend to the full board an oppose position on this bill. The committee stated that ongoing education relating to suicide prevention is important, but expressed the following concerns with this legislation:
  - A. As it relates to the CE requirement, by mandating CE in suicide prevention the board may be requiring an individual to take CE that may not be pertinent to their practice and in doing so, eliminating time that could have been utilized on other, also important, CE issue areas that may better serve the practitioner and his or her clients.
  - B. Board licensees currently have some, or all, of the training required in this bill included in current curriculum. Though a course title may not specify inclusion of suicide intervention coursework, the basic underlying skills are included in the education as a whole.

- C. Board licensees are already mandated to take special CE and coursework and, by adding yet another special education mandate, the board would further be managing practitioners that should, on a professional basis, be able to acknowledge what their specific needs and educational deficiencies are, and address those accordingly.

## 8) Staff 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:

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:

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:

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 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.~~

## **9) 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

## **10) History**

2008

Apr. 17	Read second time. To third reading.
Apr. 16	From committee: Do pass. (Ayes 12. Noes 5.) (April 16).
Apr. 9	Re-referred to Com. on APPR.
Apr. 8	Read second time and amended.
Apr. 7	From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 6. Noes 2.) (April 1).
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 APRIL 8, 2008  
AMENDED IN ASSEMBLY MARCH 11, 2008  
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1951**

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

February 13, 2008

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An act to add Sections 2089.8, 2190.6, 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;~~ *who begins graduate school on or after January 1, 2010, to complete 6 hours of training in suicide prevention, assessment, intervention, and postintervention strategies, as specified. Commencing January 1, 2011,*

*the bill would require a licensed psychologist, marriage and family therapist, educational psychologist, or clinical social worker who began graduate school prior to January 1, 2010, to complete that coursework as a condition of license renewal.*

*Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires an applicant for that license to complete a medical curriculum providing instruction in specified subjects. Under existing law, the board is required to adopt and administer standards for the continuing education of licensed physicians and surgeons.*

*This bill would require an applicant for licensure as a physician and surgeon intending to specialize in psychiatry who begins medical school on or after January 1, 2010, to complete 6 hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies, as specified. Commencing January 1, 2011, the bill would require a licensed physician and surgeon specializing in psychiatry who began medical school prior to January 1, 2010, to complete that coursework as a condition of license renewal.*

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 2089.8 is added to the Business and
- 2     Professions Code, to read:
- 3     2089.8. (a) An applicant for licensure as a physician and
- 4     surgeon intending to specialize in psychiatry who began medical
- 5     school on or after January 1, 2010, shall complete, as a condition
- 6     of licensure, a minimum of six hours of coursework in suicide
- 7     prevention, assessment, intervention, and postintervention
- 8     strategies. This coursework shall also include training in
- 9     community resources and an understanding of cultural factors
- 10    that promote help-seeking behavior.
- 11    (b) The coursework required by this section shall be obtained
- 12    from one of the following:
- 13    (1) An approved medical school, as provided in Section 2084.
- 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.

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

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

8 (c) Coursework taken in fulfillment of other educational  
9 requirements for licensure pursuant to this chapter, or in a  
10 separate course of study, may, at the discretion of the board, fulfill  
11 the requirements of this section.

12 (d) An applicant shall submit to the board evidence acceptable  
13 to the board of the applicant's satisfactory completion of the  
14 coursework required by subdivision (a).

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

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

20 SEC. 2. Section 2190.6 is added to the Business and Professions  
21 Code, to read:

22 2190.6. (a) A physician and surgeon specializing in psychiatry  
23 who began medical school prior to January 1, 2010, shall complete  
24 a minimum of six hours of continuing education coursework in  
25 suicide prevention, assessment, intervention, and postintervention  
26 strategies during his or her first renewal period after the operative  
27 date of this section. The coursework shall also include training in  
28 community resources and an understanding of cultural factors  
29 that promote help-seeking behavior.

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

32 (1) An approved medical school, as provided in Section 2084.

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

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

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

38 (5) A course offered by a nationally certified nonprofit agency,  
39 including, but not limited to, a crisis center or a suicide prevention  
40 hotline, provided that the agency is a continuing education

1 provider, has at least five years of experience conducting suicide  
2 prevention training, and is approved by the board.

3 (c) A licensee shall submit to the board evidence acceptable to  
4 the board of the licensee’s satisfactory completion of the  
5 coursework required by subdivision (a).

6 (d) A person seeking to meet the requirements of this section  
7 may submit to the board a certificate evidencing completion of  
8 equivalent coursework in suicide prevention, assessment,  
9 intervention, and postintervention strategies taken prior to the  
10 operative date of this section, or proof of equivalent teaching or  
11 practice experience. The board, in its discretion, may accept that  
12 certification as meeting the requirements of this section.

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

16 (f) The board may not renew an applicant’s license until the  
17 applicant has met the requirements of this section.

18 (g) Continuing education courses taken pursuant to this section  
19 shall be applied to the required minimum number of continuing  
20 education hours established by regulation.

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

22 ~~SECTION 4.~~

23 SEC. 3. Section 2915.8 is added to the Business and Professions  
24 Code, to read:

25 2915.8. (a) An applicant for licensure as a psychologist who  
26 began graduate study on or after January 1, 2010, shall complete,  
27 as a condition of licensure, a minimum of six hours of coursework  
28 in suicide prevention, assessment, intervention, and  
29 postintervention strategies. This coursework shall also include  
30 training in community resources and an understanding of cultural  
31 factors that promote help-seeking behavior.

32 (b) ~~Coursework~~The coursework required by this section shall  
33 be obtained from one of the following sources:

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

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

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

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

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

6 (c) Coursework taken in fulfillment of other educational  
7 requirements for licensure pursuant to this chapter, or in a separate  
8 course of study, may, at the discretion of the board, fulfill the  
9 requirements of this section.

10 (d) An applicant shall submit to the board evidence acceptable  
11 to the board of the applicant's satisfactory completion of the  
12 coursework required by subdivision (a).

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

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

18 ~~SEC. 2.~~

19 *SEC. 4.* Section 2915.9 is added to the Business and Professions  
20 Code, to read:

21 2915.9. (a) A licensee who began graduate study prior to  
22 January 1, 2010, shall complete a minimum of six hours of  
23 continuing education coursework in suicide prevention, assessment,  
24 intervention, and postintervention strategies during his or her first  
25 renewal period after the operative date of this section. The  
26 coursework shall also include training in community resources  
27 and an understanding of cultural factors that promote help-seeking  
28 behavior.

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

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

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

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

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

38 (5) A course offered by a nationally certified nonprofit agency,  
39 including, but not limited to, a crisis center or a suicide prevention  
40 hotline, provided that the agency is a continuing education

1 provider, has at least five years of experience conducting suicide  
2 prevention training, and is approved by the board.

3 (c) A licensee shall submit to the board evidence acceptable to  
4 the board of the licensee's satisfactory completion of the  
5 coursework required by subdivision (a).

6 (d) A person seeking to meet the requirements of this section  
7 may submit to the board a certificate evidencing completion of  
8 equivalent coursework in suicide prevention, assessment,  
9 intervention, and postintervention strategies taken prior to the  
10 operative date of this section, or proof of equivalent teaching or  
11 practice experience. The board, in its discretion, may accept that  
12 certification as meeting the requirements of this section.

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

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

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

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

22 ~~SEC. 3.~~

23 *SEC. 5.* Section 4980.415 is added to the Business and  
24 Professions Code, to read:

25 4980.415. (a) An applicant for licensure as a marriage and  
26 family therapist who began graduate study on or after January 1,  
27 2010, shall complete, as a condition of licensure, a minimum of  
28 six hours of coursework in suicide prevention, assessment,  
29 intervention, and postintervention strategies. This coursework shall  
30 also include training in community resources and an understanding  
31 of cultural factors that promote help-seeking behavior.

32 (b) ~~Coursework~~ *The coursework* required by this section shall  
33 be obtained from one of the following sources:

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

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

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

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

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

6 (c) Coursework taken in fulfillment of other educational  
7 requirements for licensure pursuant to this chapter, or in a separate  
8 course of study, may, at the discretion of the board, fulfill the  
9 requirements of this section.

10 (d) An applicant shall submit to the board evidence acceptable  
11 to the board of the applicant's satisfactory completion of the  
12 coursework required by subdivision (a).

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

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

18 ~~SEC. 4.~~

19 *SEC. 6.* Section 4980.416 is added to the Business and  
20 Professions Code, to read:

21 4980.416. (a) A licensee who began graduate study prior to  
22 January 1, 2010, shall complete a minimum of six hours of  
23 continuing education coursework in suicide prevention, assessment,  
24 intervention, and postintervention strategies during his or her first  
25 renewal period after the operative date of this section. The  
26 coursework shall also include training in community resources  
27 and an understanding of cultural factors that promote help-seeking  
28 behavior.

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

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

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

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

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

38 (5) A course offered by a nationally certified nonprofit agency,  
39 including, but not limited to, a crisis center or a suicide prevention  
40 hotline, provided that the agency is a continuing education

1 provider, has at least five years of experience conducting suicide  
2 prevention training, and is approved by the board.

3 (c) A licensee shall submit to the board evidence acceptable to  
4 the board of the licensee’s satisfactory completion of the  
5 coursework required by subdivision (a).

6 (d) A person seeking to meet the requirements of this section  
7 may submit to the board a certificate evidencing completion of  
8 equivalent coursework in suicide prevention, assessment,  
9 intervention, and postintervention strategies taken prior to the  
10 operative date of this section, or proof of equivalent teaching or  
11 practice experience. The board, in its discretion, may accept that  
12 certification as meeting the requirements of this section.

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

16 (f) The board may not renew an applicant’s license until the  
17 applicant has met the requirements of this section.

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

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

22 ~~SEC. 5.~~

23 *SEC. 7.* Section 4989.23 is added to the Business and  
24 Professions Code, to read:

25 4989.23. (a) An applicant for licensure as an educational  
26 psychologist who began graduate study on or after January 1, 2010,  
27 shall complete, as a condition of licensure, a minimum of six hours  
28 of coursework in suicide prevention, assessment, intervention, and  
29 postintervention strategies. This coursework shall also include  
30 training in community resources and an understanding of cultural  
31 factors that promote help-seeking behavior.

32 (b) ~~Coursework~~ *The coursework* required by this section shall  
33 be obtained from one of the following sources:

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

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

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

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

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

6 (c) Coursework taken in fulfillment of other educational  
7 requirements for licensure pursuant to this chapter, or in a separate  
8 course of study, may, at the discretion of the board, fulfill the  
9 requirements of this section.

10 (d) An applicant shall submit to the board evidence acceptable  
11 to the board of the applicant's satisfactory completion of the  
12 coursework required by subdivision (a).

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

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

18 ~~SEC. 6.~~

19 *SEC. 8.* Section 4989.35 is added to the Business and  
20 Professions Code, to read:

21 4989.35. (a) A licensee who began graduate study prior to  
22 January 1, 2010, shall complete a minimum of six hours of  
23 continuing education coursework in suicide prevention, assessment,  
24 intervention, and postintervention strategies during his or her first  
25 renewal period after the operative date of this section. The  
26 coursework shall also include training in community resources  
27 and an understanding of cultural factors that promote help-seeking  
28 behavior.

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

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

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

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

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

38 (5) A course offered by a nationally certified nonprofit agency,  
39 including, but not limited to, a crisis center or a suicide prevention  
40 hotline, provided that the agency is a continuing education

1 provider, has at least five years of experience conducting suicide  
 2 prevention training, and is approved by the board.

3 (c) A licensee shall submit to the board evidence acceptable to  
 4 the board of the ~~person's~~ *licensee's* satisfactory completion of the  
 5 coursework required by subdivision (a).

6 (d) A person seeking to meet the requirements of this section  
 7 may submit to the board a certificate evidencing completion of  
 8 equivalent coursework in suicide prevention, assessment,  
 9 intervention, and postintervention strategies taken prior to the  
 10 operative date of this section, or proof of equivalent teaching or  
 11 practice experience. The board, in its discretion, may accept that  
 12 certification as meeting the requirements of this section.

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

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

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

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

22 ~~SEC. 7.~~

23 *SEC. 9.* Section 4996.27 is added to the Business and  
 24 Professions Code, to read:

25 4996.27. (a) An applicant for licensure as a licensed clinical  
 26 social worker who began graduate study on or after January 1,  
 27 2010, shall complete, as a condition of licensure, a minimum of  
 28 six hours of coursework in suicide prevention, assessment,  
 29 intervention, and postintervention strategies. This coursework shall  
 30 also include training in community resources and an understanding  
 31 of cultural factors that promote help-seeking behavior.

32 (b) ~~Coursework~~ *The coursework* required by this section shall  
 33 be obtained from one of the following sources:

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

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

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

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

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

6 (c) Coursework taken in fulfillment of other educational  
7 requirements for licensure pursuant to this chapter, or in a separate  
8 course of study, may, at the discretion of the board, fulfill the  
9 requirements of this section.

10 (d) An applicant shall submit to the board evidence acceptable  
11 to the board of the ~~person's~~ *applicant's* satisfactory completion of  
12 the coursework required by subdivision (a).

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

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

18 ~~SEC. 8.~~

19 *SEC. 10.* Section 4996.275 is added to the Business and  
20 Professions Code, to read:

21 4996.275. (a) A licensee who began graduate study prior to  
22 January 1, 2010, shall complete a minimum of six hours of  
23 continuing education coursework in suicide prevention, assessment,  
24 intervention, and postintervention strategies during his or her first  
25 renewal period after the operative date of this section. The  
26 coursework shall also include training in community resources  
27 and an understanding of cultural factors that promote help-seeking  
28 behavior.

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

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

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

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

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

38 (5) A course offered by a nationally certified nonprofit agency,  
39 including, but not limited to, a crisis center or a suicide prevention  
40 hotline, provided that the agency is a continuing education

- 1 provider, has at least five years of experience conducting suicide  
2 prevention training, and is approved by the board.
- 3 (c) A licensee shall submit to the board evidence acceptable to  
4 the board of the ~~person's~~ *licensee's* satisfactory completion of the  
5 coursework required by subdivision (a).
- 6 (d) A person seeking to meet the requirements of this section  
7 may submit to the board a certificate evidencing completion of  
8 equivalent coursework in suicide prevention, assessment,  
9 intervention, and postintervention strategies taken prior to the  
10 operative date of this section, or proof of equivalent teaching or  
11 practice experience. The board, in its discretion, may accept that  
12 certification as meeting the requirements of this section.
- 13 (e) A licensee may request an exemption from this section if he  
14 or she practices in an area where the training required by this  
15 section is not needed.
- 16 (f) The board may not renew an applicant's license until the  
17 applicant has met the requirements of this section.
- 18 (g) Continuing education courses taken pursuant to this section  
19 shall be applied to the 36 hours of approved continuing education  
20 required in Section 4996.22.
- 21 (h) This section shall become operative on January 1, 2011.

# CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

## BILL ANALYSIS

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**BILL NUMBER:** AB 2652                      **VERSION:** INTRODUCED APRIL 14, 2008

**AUTHOR:** ANDERSON                      **SPONSOR:** CAMFT

**RECOMMENDED POSITION:** SUPPORT

**SUBJECT:** MARRIAGE AND FAMILY THERAPIST INTERN EXPERIENCE

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### **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, if that person is working within his or her scope of practice. (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

May 7	In committee: Hearing postponed by committee.
Apr. 23	In committee: Hearing postponed by committee.
Apr. 15	Re-referred to Com. on APPR.
Apr. 14	Read second time and amended.
Apr. 10	From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (April 9).
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.

AMENDED IN ASSEMBLY APRIL 14, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2652**

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**Introduced by Assembly Member Anderson**

February 22, 2008

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An act to amend Section 5068.5 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 2652, as amended, Anderson. Prisoners: professional mental health providers: marriage and family therapists.

Existing law requires any person employed or under contract to provide mental health diagnostic; *or* 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. *The bill would provide that such person is limited to working within his or her scope of practice.*

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:

1 5068.5. (a) Notwithstanding any other provision of law, except  
2 as provided in subdivision (b), any person employed or under  
3 contract to provide diagnostic, treatment, or other mental health  
4 services in the state or to supervise or provide consultation on these  
5 services in the state correctional system shall be a physician and  
6 surgeon, a psychologist, or other health professional, licensed to  
7 practice in this state.

8 (b) Notwithstanding Section 5068 or Section 704 of the Welfare  
9 and Institutions Code, the following persons are exempt from the  
10 requirements of subdivision (a), so long as they continue in  
11 employment in the same class and in the same department:

12 (1) Persons employed on January 1, 1985, as psychologists to  
13 provide diagnostic or treatment services including those persons  
14 on authorized leave but not including intermittent personnel.

15 (2) Persons employed on January 1, 1989, to supervise or  
16 provide consultation on the diagnostic or treatment services  
17 including persons on authorized leave but not including intermittent  
18 personnel.

19 (c) The requirements of subdivision (a) may be waived in order  
20 for a person to gain qualifying experience for licensure as a  
21 psychologist, clinical social worker, or marriage and family  
22 therapist in this state in accordance with Section 1277 of the Health  
23 and Safety Code. *A person gaining qualifying experience for*  
24 *licensure as a marriage and family therapist is limited to working*  
25 *within his or her scope of practice.*

# CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

## BILL ANALYSIS

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**BILL NUMBER:** SB 1415                      **VERSION:** AS AMENDED APRIL 22, 2008

**AUTHOR:** KUEHL                              **SPONSOR:** AUTHOR

**RECOMMENDED POSITION:** NONE

**SUBJECT:** PATIENT RECORDS: MAINTENANCE AND STORAGE

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### **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 provide a statement to be signed by a patient at the time an initial patient record is created that discloses the intended retention period of the record. (HSC § 123106(a))
- 2) Defines a health care provider for the provisions of this bill as the following: (HSC §123105)
  - a) A podiatrist;
  - b) A dentist;
  - c) An optometrist; and,
  - d) A chiropractor
- 3) Requires the health care provider to notify the patient at least 60 days in advance of destroying the patient's records if that date is earlier than the period specified in the signed statement. (HSC § 123106(b))
- 4) Exempts from the provisions of this bill records of a health care provider created for a patient who is referred to the provider solely for diagnostic evaluation. (HCS § 123106(c))
- 5) Applies the provisions of this bill to patient records created on and after January 1, 2009 and to patients who are not minors at the time the record is created. (HCS 123106 (d) &(e))

**Comment:**

1) **Recent amendments.** This bill previously included provisions relating to license retention procedures for board licensees. This bill was substantially amended April 10, 2008 and no longer affects board licensees.

2) **Support and Opposition.**

*Unknown at this time.*

3) **History**

2008

May 1	Read second time. To third reading.
Apr. 30	From committee: Do pass. (Ayes 4. Noes 1. Page 3626.)
Apr. 22	From committee with author's amendments. Read second time. Amended. Re-referred to Com. on JUD.
Apr. 17	From committee: Do pass, but first be re-referred to Com. on JUD. (Ayes 11. Noes 0. Page 3490.) Re-referred to Com. on JUD. Set for hearing April 29.
Apr. 10	From committee with author's amendments. Read second time.

Apr. 7 Amended. Re-referred to Com. on HEALTH.  
Hearing postponed by committee. Set for hearing April 16.  
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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AMENDED IN SENATE APRIL 22, 2008

AMENDED IN SENATE APRIL 10, 2008

**SENATE BILL**

**No. 1415**

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**Introduced by Senator Kuehl**

February 21, 2008

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An act to add Section 123106 to the Health and Safety Code, relating to patient records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1415, as amended, 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, at the time the initial patient record is created, to ~~obtain a signed statement from the patient~~ *provide a statement to be signed by the patient*, or the patient's representative, that sets forth the patient's rights, as specified, and the intended retention period for the records, as specified in applicable law or by the health care provider's retention policy.

This bill would ~~also require the certain health care provider providers that plan to destroy patient records earlier than the period specified in the signed statement~~, no fewer than 60 days before a patient's records are to be destroyed, to notify the patient that his or her records are

scheduled to be destroyed, when they are scheduled to be destroyed, and set forth the patient's rights, as specified.

*This bill would provide that the above provisions shall only apply to patient records created on and after January 1, 2009. It would also provide that the above provisions shall not apply to patients who are minors at the time the patient record is created.*

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,~~ (5), (6), (8), and (9) of subdivision (a) of  
5 Section 123105, who creates patient records, as defined in  
6 subdivision (d) of Section 123105, ~~shall, at the time the initial~~  
7 ~~patient record is created, obtain a signed statement from~~ shall, at  
8 *the time the initial patient record is created, provide a statement*  
9 *to be signed by the patient, or the patient's representative, that sets*  
10 *forth both of the following:*

11 (1) The patient's rights under this chapter to inspect his or her  
12 medical records, obtain copies of his or her medical records, and  
13 dispute incomplete or incorrect items.

14 (2) The intended retention period for the records' as specified  
15 in applicable law or by the health care provider's retention policy.

16 (b) ~~No~~ *If a health care provider, as defined in subdivision (a),*  
17 *plans to destroy patient records earlier than the period specified*  
18 *in the signed statement, the health care provider shall, no fewer*  
19 *than 60 days before a patient's records are to be destroyed, the*  
20 ~~health care provider shall~~ *notify the patient, via certified first-class*  
21 *mail, electronic mail, or both, to the patient's last known mailing*  
22 *or electronic mail address, or both. The notification shall inform*  
23 *the patient that his or her records are scheduled to be destroyed*  
24 *and the date of the proposed destruction of records. The notification*  
25 *shall also inform the patient of his or her rights under this chapter*  
26 *to inspect his or her medical records and to obtain copies of medical*  
27 *records.*

28 (c) *The records of a health care provider, as defined in*  
29 *subdivision (a), created for a patient who is referred to the provider*

1 *solely for a diagnostic evaluation shall not be subject to this section*  
2 *if the provider does not provide treatment to the patient and reports*  
3 *the results of the diagnostic evaluation to the patient's referring*  
4 *provider.*

5 *(d) This section shall only apply to patient records created on*  
6 *and after January 1, 2009.*

7 *(e) This section shall not apply to patients who are minors at*  
8 *the time the patient record is created.*

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# CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

## BILL ANALYSIS

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**BILL NUMBER:** AB 2543                      **VERSION:** AMENDED APRIL 23, 2008

**AUTHOR:** BERG                                      **SPONSOR:** AUTHOR

**RECOMMENDED POSITION:** SUPPORT OF AMENDED

**SUBJECT:** GERIATRIC AND GERONTOLOGY WORKFORCE EXPANSION ACT

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### **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, marriage and family therapist (MFT), and Licensed Clinical Social Worker (LCSW) 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) or registered MFT interns 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 ASW or MFT intern 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, ASW or MFT intern 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, ASW or MFT intern 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, ASW or MFT intern 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, ASWs or MFT interns 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, registered ASW or registered MFT intern 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, social worker, or to be registered as an ASW or MFT intern 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) **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.
- 4) **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.
- 5) **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.
- 6) **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.

- 7) **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.
- 8) **Recent amendments.** This bill, as amended April 23, 2008, addressed some issues previously outlined and discussed at the Policy and Advocacy Committee meeting on April 11, 2008. MFT Interns were added to the bill, making them eligible for loan assistance. Additionally, references to “health profession” and “social work” have been replaced with reference to “mental health professions.”
- 9) **Policy and Advocacy Committee Recommendation.** At the April 11, 2008 Policy and Advocacy Committee meeting, the committee made the following position recommendation to the board: Support AB 2543 if it is amended to delete the current language which creates two separate programs for board licensees and instead establish an additional ten dollar (\$10) surcharge within the current Licensed Mental Health Service Provider Education Program (Health and Safety Code §128454) that shall be directed to program applicants specializing in gerontology.

#### 10) Staff Suggested Amendments.

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 the reference to “social work degree” in HSC section 128559.4(a)(2) to “mental health related degree”
- iii) 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.
- iv) 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 Council  
 UCLA Department of Social Welfare, School of Public Affairs

*Opposition:*

None on file

**12) History**

2008

Apr. 24	Re-referred to Com. on APPR.
Apr. 23	Read second time and amended.
Apr. 22	From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 12. Noes 4.) (April 15).
Apr. 8	Re-referred to Com. on HEALTH.
Apr. 7	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Apr. 2	From committee: Do pass, and re-refer to Com. on HEALTH. Re-referred. (Ayes 7. Noes 1. Page 4426.) (April 1).
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.

**Health Safety Code Section 128454.**

(a) There is hereby created the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation.

(b) For purposes of this article, the following definitions shall apply:

(1) "Licensed mental health service provider" means a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to Section 2910 of the Business and Professions **Code**, or employed pursuant to a State Department of Mental Health waiver pursuant to Section 5751.2 of the Welfare and Institutions **Code**, marriage and family therapist, marriage and family therapist intern, licensed clinical social worker, and associate clinical social worker.

(2) "Mental health professional shortage area" means an area designated as such by the Health Resources and Services Administration (HRSA) of the United States Department of Health and Human Services.

(c) Commencing January 1, 2005, any licensed mental health service provider, including a mental health service provider who is employed at a publicly funded mental health facility or a public or nonprofit private mental health facility that contracts with a county mental health entity or facility to provide mental health services, who provides direct patient care in a publicly funded facility or a mental health professional shortage area may apply for grants under the program to reimburse his or her educational loans related to a career as a licensed mental health service provider.

(d) The Health Professions Education Foundation shall make recommendations to the director of the office concerning all of the following:

(1) A standard contractual agreement to be signed by the director and any licensed mental health service provider who is serving in a publicly funded facility or a mental health professional shortage area that would require the licensed mental health service provider who receives a grant under the program to work in the publicly funded facility or a mental health professional shortage area for at least one year.

(2) The maximum allowable total grant amount per individual licensed mental health service provider.

(3) The maximum allowable annual grant amount per individual licensed mental health service provider.

(e) The Health Professions Education Foundation shall develop the program, which shall comply with all of the following requirements:

(1) The total amount of grants under the program per individual licensed mental health service provider shall not exceed the amount of educational loans related to a career as a licensed mental health service provider incurred by that provider.

(2) 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 groups.

(3) A loan forgiveness grant may be provided in installments proportionate to the amount of the service obligation that has been completed.

(4) The number of persons who may be considered for the program shall be limited by the funds made available pursuant to Section 128458.

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

AMENDED IN ASSEMBLY MARCH 25, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2543**

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**Introduced by Assembly Member Berg**  
**(~~Coauthor: Assembly Member De La Torre~~ Coauthors: Assembly**  
**Members De La Torre and Dymally)**

February 22, 2008

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An act to add Sections 2815.2, ~~4984.75~~, 4984.76, and 4996.66 to the Business and Professions Code, and to 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.

(1) Existing law provides for the licensure *or registration* and regulation of nurses, *licensed and associate clinical* social workers, ~~and~~ marriage and family therapists, *and marriage and family therapy interns* 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 nurses, *licensed and associate clinical social workers*, ~~and~~ marriage and family therapists, *and registered marriage and family therapy interns* 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, as specified, for deposit into the continuously appropriated 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, *licensed or associate clinical social workers*, ~~or~~ marriage and family therapists, *or licensed marriage and family therapy interns* 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 *appropriate policy and fiscal committees of 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.

1 SEC. 2. The Legislature finds and declares all of the following:

2 (a) The population of California is aging at an exponential rate  
3 with Californians who are 65 years of age or over reaching 6.5  
4 million by 2010, which is over 14 percent of the total population,  
5 and reaching over 9 million by 2020.

6 (b) The greatest growth within the aging population will be  
7 those who are 85 years of age or older who will, by 2030, comprise  
8 one in five of California's older residents.

9 (c) As California ages, it will become more racially and  
10 ethnically diverse, with African Americans, Latinos, and Asian  
11 Americans exceeding 40 percent of the older adult population,  
12 many of whom were born outside the United States; meaning,  
13 therefore, that there is a greater need for those providing services  
14 to older adults to be bilingual or multilingual.

15 (d) 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 older adults and those with disabilities  
18 live as independent from institutions as much as possible and as  
19 long as possible.

20 (e) It is the policy of the Mello-Granlund Older Californians  
21 Act (Division 8.5 (commencing with Section 9000) of the Welfare  
22 and Institutions Code) that to live independently, older Californians  
23 must have an array of home and community-based services, in  
24 conjunction with the federal Older Americans Act (42 U.S.C. Sec.  
25 3001 et seq.), that support a quality of life and saves taxpayer  
26 dollars in contrast to the cost of institutionalization.

27 (f) In order to sustain an independent lifestyle for older adults,  
28 there must be trained gerontologists and health care professionals  
29 trained in geriatrics to address the social and health needs of older  
30 adults as they age.

31 (g) At present, California faces a severe shortage of professional  
32 and paraprofessional gerontologists and geriatricians needed to  
33 operate programs and provide services for older adults. Currently,  
34 there is only one board-certified physician geriatrician per 4,000  
35 Californians who are 65 years of age or older; and currently, only  
36 5 percent of social workers are trained in gerontology or geriatrics,  
37 yet 62 percent of licensed social workers have, or have had, care  
38 management responsibilities.

39 (h) Incentives for recruiting students into training for careers in  
40 gerontology and geriatrics must be developed in order to fill the

1 gap between workforce supply and demand lest the state incur the  
2 greater cost of institutionalization and the quality of life for older  
3 Californians suffers.

4 (i) Student loan forgiveness programs are a proven method of  
5 inducing health care professionals to pursue stipulated career fields  
6 for a specified time in exchange for loan assistance.

7 SEC. 3. Section 2815.2 is added to the Business and Professions  
8 Code, to read:

9 2815.2. In addition to the fees charged for initial issuance or  
10 biennial renewal of a license pursuant to Section 2815, and at the  
11 time those fees are charged, the board shall charge each applicant  
12 or licensee an additional fee of ten dollars (\$10) for the purposes  
13 of the California Geriatric Registered Nurses Loan Assistance  
14 Program of 2008 (Article 5 (commencing with Section 128305)  
15 of Chapter 4 of Part 3 of Division 107 of the Health and Safety  
16 Code). Payment of this ten-dollar (\$10) fee shall be made at the  
17 time of application for initial licensure or biennial renewal. All  
18 fees collected pursuant to this section shall be deposited in the  
19 Geriatric Registered Nurses Account, as provided in Section  
20 128305.4 of the Health and Safety Code.

21 SEC. 4. Section ~~4984.75~~ 4984.76 is added to the Business and  
22 Professions Code, to read:

23 ~~4984.75.~~

24 4984.76. In addition to the fees charged for initial issuance or  
25 biennial renewal of a license pursuant to Section 4984.7, and at  
26 the time those fees are charged, the board shall charge each  
27 applicant or licensee an additional fee of ten dollars (\$10) for the  
28 purposes of the California Geriatric Social Workers and Marriage  
29 and Family Therapists Loan Assistance Program of 2008 (Article  
30 6 (commencing with Section 128310) of Chapter 4 of Part 3 of  
31 Division 107 of the Health and Safety Code). Payment of this  
32 ten-dollar (\$10) fee shall be made at the time of application for  
33 initial licensure or biennial renewal. All fees collected pursuant to  
34 this section shall be deposited in the Geriatric Social Workers and  
35 Marriage and Family Therapists Account, as provided in Section  
36 128310.4 of the Health and Safety Code.

37 SEC. 5. Section 4996.66 is added to the Business and  
38 Professions Code, to read:

39 4996.66. In addition to the fees charged for initial issuance or  
40 biennial renewal of a license pursuant to Section 4996.3, and at

1 the time those fees are charged, the board shall charge each  
2 applicant or licensee an additional fee of ten dollars (\$10) for the  
3 purposes of the California Geriatric Social Workers and Marriage  
4 and Family Therapists Loan Assistance Program of 2008 (Article  
5 6 (commencing with Section 128310) of Chapter 4 of Part 3 of  
6 Division 107 of the Health and Safety Code). Payment of this  
7 ten-dollar (\$10) fee shall be made at the time of application for  
8 initial licensure or biennial renewal. All fees collected pursuant to  
9 this section shall be deposited in the Geriatric Social Workers and  
10 Marriage and Family Therapists Account, as provided in Section  
11 128310.4 of the Health and Safety Code.

12 SEC. 6. Article 5 (commencing with Section 128305) is added  
13 to Chapter 4 of Part 3 of Division 107 of the Health and Safety  
14 Code, to read:

15

16 Article 5. California Geriatric Registered Nurses Loan  
17 Assistance Program of 2008  
18

19

19 128305. There is hereby established in the Office of Statewide  
20 Health Planning and Development, the California Geriatric  
21 Registered Nurses Loan Assistance Program of 2008.

22 128305.1. It is the intent of this article that the office, in  
23 consultation with the board, the medical community, including  
24 representatives of ethnic minority groups, medical schools, health  
25 advocates, primary care clinics, public hospitals and health care  
26 systems, statewide agencies administering state and federally  
27 funded health programs targeting communities of older  
28 Californians, and members of the public with health care issue-area  
29 expertise, shall develop and implement the California Geriatric  
30 Registered Nurses Loan Assistance Program of 2008.

31 128305.2. For purposes of this article, the following terms have  
32 the following meanings:

33 (a) "Account" means the Geriatric Registered Nurses Account  
34 that is contained within the fund.

35 (b) "Board" means the Board of Registered Nursing.

36 (c) "Fund" means the Board of Registered Nursing Fund.

37 (d) "Geriatrics" means the practice of nursing, with training in,  
38 and application to, older adults who are 65 years of age or older  
39 or those with disabilities.

1 (e) “Office” means the Office of Statewide Health Planning and  
2 Development.

3 (f) “Program” means the California Geriatric Registered Nurses  
4 Loan Assistance Program of 2008.

5 128305.3. (a) Program applicants shall possess a current valid  
6 license to practice registered nursing in this state issued by the  
7 board pursuant to Section 2742 of the Business and Professions  
8 Code.

9 (b) The office shall develop the guidelines for selection and  
10 placement of applicants. The guidelines shall do all of the  
11 following:

12 (1) Provide priority consideration to applicants who are trained  
13 in, and practice, geriatric nursing, including, but not limited to,  
14 nurses with doctorate degrees in gerontology, geriatric nurse  
15 practitioners, and geriatric nurse clinicians, and who can meet the  
16 cultural and linguistic needs and demands of diverse populations  
17 of older Californians.

18 (2) Give preference to applicants who have completed a  
19 residency in nursing.

20 (3) Seek to place the most qualified applicants under this section  
21 in the areas with the greatest need.

22 (4) Include a factor ensuring geographic distribution of  
23 placements.

24 (5) Ensure that applicants may not discriminate against those  
25 who cannot pay for medical services or those who are funded, in  
26 part or in whole, by Medicare or Medi-Cal.

27 (c) Program participants shall be working in, or have a signed  
28 agreement with, an eligible practice setting. The program  
29 participant shall have full-time status, as defined by the office. The  
30 office may establish exemptions to this requirement on a  
31 case-by-case basis.

32 (d) Program participants shall commit to a minimum of three  
33 years of service in a geriatric care setting. Leaves of absence shall  
34 be permitted for serious illnesses, pregnancy, or other natural  
35 causes. The office shall develop the process for determining the  
36 maximum permissible length of an absence and the process for  
37 reinstatement. Loan repayment shall be deferred until the nurse is  
38 back to full-time status.

1 (e) The office shall develop the process to reconcile the loan  
2 should a nurse be unable to complete his or her three-year  
3 obligation.

4 (f) The office shall develop a process for outreach to potentially  
5 eligible applicants.

6 (g) The office may adopt any other standards of eligibility,  
7 placement, or termination appropriate to achieve the aim of  
8 providing competent health care services in geriatrics.

9 128305.4. (a) The Geriatric Registered Nurses Account is  
10 hereby created in the fund.

11 (b) Funding for the account shall be from fees paid at the time  
12 of initial licensure or renewal pursuant to Section 2815.2 of the  
13 Business and Professions Code.

14 (c) Funds placed into the account shall be used by the office to  
15 repay the loans of program participants pursuant to agreements  
16 made under the program.

17 (1) Funds paid out for loan repayment may have a funding match  
18 from foundation or other private sources.

19 (2) Loan repayments shall not exceed thirty thousand dollars  
20 (\$30,000) per program participant.

21 (3) Loan repayments shall not exceed the amount of the  
22 educational loans incurred by the program participant.

23 (d) Notwithstanding Section 11005 of the Government Code,  
24 the office may seek and receive matching funds from foundations  
25 and private sources to be placed into the account. The office also  
26 may contract with an exempt foundation for the receipt of matching  
27 funds to be transferred to the account for use by this program.

28 128305.5. The terms of loan repayment granted under this  
29 article shall be as follows:

30 (a) After a program participant has completed one year of  
31 providing services as a registered nurse in a geriatric setting, the  
32 office shall provide up to seven thousand five hundred dollars  
33 (\$7,500) for loan repayment.

34 (b) After a program participant has completed two consecutive  
35 years of providing services as a registered nurse in a geriatric  
36 setting, the office shall provide up to an additional ten thousand  
37 dollars (\$10,000) of loan repayment, for a total loan repayment of  
38 up to seventeen thousand five hundred dollars (\$17,500).

39 (c) After a program participant has completed three consecutive  
40 years of providing services as a registered nurse in a geriatric

1 setting, the office shall provide up to a maximum of an additional  
2 twelve thousand five hundred dollars (\$12,500) of loan repayment,  
3 for a total loan repayment of up to thirty thousand dollars  
4 (\$30,000).

5 128305.6. (a) On and after January 1, 2010, applications from  
6 registered nurses for program participation may be submitted.

7 (b) The office may work in conjunction with the Health  
8 Professions Education Foundation for the implementation and  
9 administration of this program.

10 (c) The office may promulgate emergency regulations to  
11 implement the program. *The initial adoption of emergency*  
12 *regulations and one readoption of the initial regulations shall be*  
13 *deemed to be an emergency and necessary for the immediate*  
14 *preservation of the public peace, health and safety, and general*  
15 *welfare. Subsequent regulations shall meet the requirements of*  
16 *the Administrative Procedures Act (Chapter 3.5 (commencing with*  
17 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
18 *Code).*

19 SEC. 7. Article 6 (commencing with Section 128310) is added  
20 to Chapter 4 of Part 3 of Division 107 of the Health and Safety  
21 Code, to read:

22  
23 Article 6. California Geriatric Social Workers and Marriage  
24 and Family Therapists Loan Assistance Program of 2008  
25

26 128310. There is hereby established in the Office of Statewide  
27 Health Planning and Development, the California Geriatric Social  
28 Workers and Marriage and Family Therapists Loan Assistance  
29 Program of 2008.

30 128310.1. It is the intent of this article that the office, in  
31 consultation with the board, the medical community, including  
32 representatives of ethnic minority groups, schools of social work,  
33 *marriage and family counseling programs of study*, health  
34 advocates, primary care clinics, public hospitals and health care  
35 systems, statewide agencies administering state and federally  
36 funded health programs targeting communities of older  
37 Californians, and members of the public with health care issue-area  
38 expertise, shall develop and implement the California Geriatric  
39 Social Workers and Marriage and Family Therapists Loan  
40 Assistance Program of 2008.

1 128310.2. For purposes of this article, the following terms have  
2 the following meanings:

3 (a) “Account” means the Geriatric Social Workers and Marriage  
4 and Family Therapists Account that is contained within the fund.

5 (b) “Board” means the Board of Behavioral Sciences.

6 (c) “Fund” means the Behavioral Sciences Fund.

7 (d) “Geriatrics” means the practice of social work or marriage  
8 and family therapy, with training in, and application to, older adults  
9 who are 65 years of age or older or those with disabilities.

10 (e) “Office” means the Office of Statewide Health Planning and  
11 Development.

12 (f) “Program” means the California Geriatric Social Workers  
13 and Marriage and Family Therapists Loan Assistance Program of  
14 2008.

15 128310.3. (a) Program applicants shall be registered associate  
16 clinical social workers *or registered marriage and family therapy*  
17 *interns* receiving supervision or shall possess a current valid license  
18 to practice social work or marriage and family therapy in this state  
19 issued by the board pursuant to Section 4980.30 or 4996.1 of the  
20 Business and Professions Code.

21 (b) The office shall develop the guidelines for selection and  
22 placement of applicants. The guidelines shall do all of the  
23 following:

24 (1) Provide priority consideration to applicants who are trained  
25 in, and practice, geriatric social work or marriage and family  
26 therapy, and who can meet the cultural and linguistic needs and  
27 demands of diverse populations of older Californians.

28 (2) Provide priority consideration to applicants who have  
29 recently obtained their license to practice marriage and family  
30 therapy or clinical social work ~~or~~ *are* a registered associate  
31 clinical social worker *or registered marriage and family therapy*  
32 *intern* receiving supervision.

33 (3) Give preference to applicants who have completed an  
34 internship in geriatric social work or marriage and family therapy.

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.

1 (6) Ensure that applicants may not discriminate against those  
2 who cannot pay for medical services or those who are funded, in  
3 part or in whole, by Medicare or Medi-Cal.

4 (c) Program participants shall be working in, or have a signed  
5 agreement with, an eligible practice setting. The program  
6 participant shall have full-time status, as defined by the office. The  
7 office may establish exemptions to this requirement on a  
8 case-by-case basis.

9 (d) Program participants shall commit to a minimum of three  
10 years of service in a geriatric care setting. Leaves of absence shall  
11 be permitted for serious illnesses, pregnancy, or other natural  
12 causes. The office shall develop the process for determining the  
13 maximum permissible length of an absence and the process for  
14 reinstatement. Loan repayment shall be deferred until the  
15 participant is back to full-time status.

16 (e) The office shall develop the process to reconcile the loan  
17 should a participant be unable to complete his or her three-year  
18 obligation.

19 (f) The office shall develop a process for outreach to potentially  
20 eligible applicants.

21 (g) The office may adopt any other standards of eligibility,  
22 placement, or termination appropriate to achieve the aim of  
23 providing competent social services in geriatrics.

24 128310.4. (a) The Geriatric Social Workers and Marriage and  
25 Family Therapists Account is hereby created in the fund.

26 (b) Funding for the account shall be from fees paid at the time  
27 of initial licensure or renewal pursuant to Sections ~~4984.75~~ 4984.76  
28 and 4996.66 of the Business and Professions Code.

29 (c) Funds placed into the account shall be used by the office to  
30 repay the loans of program participants pursuant to agreements  
31 made under the program.

32 (1) Funds paid out for loan repayment may have a funding match  
33 from foundation or other private sources.

34 (2) Loan repayments shall not exceed thirty thousand dollars  
35 (\$30,000) per program participant.

36 (3) Loan repayments shall not exceed the amount of the  
37 educational loans incurred by the program participant.

38 (d) Notwithstanding Section 11005 of the Government Code,  
39 the office may seek and receive matching funds from foundations  
40 and private sources to be placed into the account. The office also

1 may contract with an exempt foundation for the receipt of matching  
2 funds to be transferred to the account for use by this program.

3 128310.5. The terms of loan repayment granted under this  
4 article shall be as follows:

5 (a) After a program participant has completed one year of  
6 providing services as a licensed marriage and family therapist *or*  
7 *a registered marriage and family therapy intern*, or a licensed or  
8 associate clinical social worker in a geriatric setting, the office  
9 shall provide up to seven thousand five hundred dollars (\$7,500)  
10 for loan repayment.

11 (b) After a program participant has completed two consecutive  
12 years of providing services as a licensed marriage and family  
13 therapist *or a registered marriage and family therapy intern*, or a  
14 licensed or associate clinical social worker in a geriatric setting,  
15 the office shall provide up to an additional ten thousand dollars  
16 (\$10,000) of loan repayment, for a total loan repayment of up to  
17 seventeen thousand five hundred dollars (\$17,500).

18 (c) After a program participant has completed three consecutive  
19 years of providing services as a licensed marriage and family  
20 therapist *or a registered marriage and family therapy intern*, or a  
21 licensed or associate clinical social worker in a geriatric setting,  
22 the office shall provide up to a maximum of an additional twelve  
23 thousand five hundred dollars (\$12,500) of loan repayment, for a  
24 total loan repayment of up to thirty thousand dollars (\$30,000).

25 128310.6. (a) On and after January 1, 2010, applications from  
26 marriage and family therapists, *registered marriage and family*  
27 *therapy interns*, registered associate social workers, and licensed  
28 social workers for program participation may be submitted.

29 (b) The office may work in conjunction with the Health  
30 Professions Education Fund in the implementation and  
31 administration of this program.

32 (c) The office may promulgate emergency regulations to  
33 implement the program. *The initial adoption of emergency*  
34 *regulations and one readoption of the initial regulations shall be*  
35 *deemed to be an emergency and necessary for the immediate*  
36 *preservation of the public peace, health and safety, and general*  
37 *welfare. Subsequent regulations shall meet the requirements of*  
38 *the Administrative Procedures Act (Chapter 3.5 (commencing with*  
39 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
40 *Code).*

1 SEC. 8. Section 128552 of the Health and Safety Code is  
2 amended to read:

3 128552. For purposes of this article, the following definitions  
4 shall apply:

5 (a) “Account” means the Medically Underserved Account for  
6 Physicians established within the Health Professions Education  
7 Fund pursuant to this article.

8 (b) “Foundation” means the Health Professions Education  
9 Foundation.

10 (c) “Fund” means the Health Professions Education Fund.

11 (d) “Medi-Cal threshold languages” means primary languages  
12 spoken by limited-English-proficient (LEP) population groups  
13 meeting a numeric threshold of 3,000, eligible LEP Medi-Cal  
14 beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP  
15 beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal  
16 beneficiaries residing in two contiguous ZIP Codes.

17 (e) “Medically underserved area” means an area defined as a  
18 health professional shortage area in Part 5 of Subchapter A of  
19 Chapter 1 of Title 42 of the Code of Federal Regulations or an  
20 area of the state where unmet priority needs for physicians exist  
21 as determined by the California Healthcare Workforce Policy  
22 Commission pursuant to Section 128225.

23 (f) “Medically underserved population” means the Medi-Cal  
24 program, Healthy Families Program, and uninsured populations.

25 (g) “Office” means the Office of Statewide Health Planning and  
26 Development (OSHPD).

27 (h) “Physician Volunteer Program” means the Physician  
28 Volunteer Registry Program established by the Medical Board of  
29 California.

30 (i) “Practice setting” means either of the following:

31 (1) A community clinic as defined in subdivision (a) of Section  
32 1204 and subdivision (c) of Section 1206, a clinic owned or  
33 operated by a public hospital and health system, or a clinic owned  
34 and operated by a hospital that maintains the primary contract with  
35 a county government to fulfill the county’s role pursuant to Section  
36 17000 of the Welfare and Institutions Code, which is located in a  
37 medically underserved area and at least 50 percent of whose  
38 patients are from a medically underserved population.

1 (2) A medical practice located in a medically underserved area  
2 and at least 50 percent of whose patients are from a medically  
3 underserved population.

4 (j) “Primary specialty” means family practice, internal medicine,  
5 pediatrics, geriatrics, or obstetrics/gynecology.

6 (k) “Program” means the Steven M. Thompson Physician Corps  
7 Loan Repayment Program.

8 (l) “Selection committee” means a minimum three-member  
9 committee of the board, that includes a member that was appointed  
10 by the Medical Board of California.

11 SEC. 9. Section 128553 of the Health and Safety Code is  
12 amended to read:

13 128553. (a) Program applicants shall possess a current valid  
14 license to practice medicine in this state issued pursuant to Section  
15 2050 of the Business and Professions Code.

16 (b) The foundation, in consultation with those identified in  
17 subdivision (b) of Section 123551, shall use guidelines developed  
18 by the Medical Board of California for selection and placement  
19 of applicants until the office adopts other guidelines by regulation.

20 (c) The guidelines shall meet all of the following criteria:

21 (1) Provide priority consideration to applicants that are best  
22 suited to meet the cultural and linguistic needs and demands of  
23 patients from medically underserved populations and who meet  
24 one or more of the following criteria:

25 (A) Speak a Medi-Cal threshold language.

26 (B) Come from an economically disadvantaged background.

27 (C) Have received significant training in cultural and  
28 linguistically appropriate service delivery.

29 (D) Have three years of experience working in medically  
30 underserved areas or with medically underserved populations.

31 (E) Have recently obtained a license to practice medicine.

32 (2) Include a process for determining the needs for physician  
33 services identified by the practice setting and for ensuring that the  
34 practice setting meets the definition specified in subdivision (h)  
35 of Section 128552.

36 (3) Give preference to applicants who have completed a  
37 three-year residency in a primary specialty.

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 (d) (1) The foundation may appoint a selection committee that  
4 provides policy direction and guidance over the program and that  
5 complies with the requirements of subdivision (l) of Section  
6 128552.

7 (2) The selection committee may fill up to 20 percent of the  
8 available positions with program applicants from specialties outside  
9 of the primary care specialties.

10 (3) The selection committee shall fill 15 percent of the available  
11 positions with program applicants that agree to practice in a  
12 geriatric care setting. Priority consideration shall be given to  
13 applicants who are trained in, and practice, geriatrics, and who can  
14 meet the cultural and linguistic needs and demands of diverse  
15 populations of older Californians.

16 (e) Program participants shall meet all of the following  
17 requirements:

18 (1) Shall be working in or have a signed agreement with an  
19 eligible practice setting.

20 (2) Shall have full-time status at the practice setting. Full-time  
21 status shall be defined by the board and the selection committee  
22 may establish exemptions from this requirement on a case-by-case  
23 basis.

24 (3) Shall commit to a minimum of three years of service in a  
25 medically underserved area. Leaves of absence shall be permitted  
26 for serious illness, pregnancy, or other natural causes. The selection  
27 committee shall develop the process for determining the maximum  
28 permissible length of an absence and the process for reinstatement.  
29 Loan repayment shall be deferred until the physician is back to  
30 full-time status.

31 (f) The office shall adopt a process to reconcile the loan should  
32 a physician be unable to complete his or her three-year obligation.

33 (g) The foundation, in consultation with those identified in  
34 subdivision (b) of Section 128551, shall develop a process for  
35 outreach to potentially eligible applicants.

36 (h) The foundation may recommend to the office any other  
37 standards of eligibility, placement, and termination appropriate to  
38 achieve the aim of providing competent health care services in  
39 approved practice settings.

1 SEC. 10. Chapter 6 (commencing with Section 128559) is  
2 added to Part 3 of Division 107 of the Health and Safety Code, to  
3 read:

4  
5 CHAPTER 6. CALIFORNIA GERIATRIC AND GERONTOLOGY  
6 STUDENT LOAN ASSISTANCE PROGRAM OF 2008  
7

8 128559. This chapter shall be known and may be cited as the  
9 California Geriatric and Gerontology Student Loan Assistance  
10 Program of 2008.

11 128559.1. It is the intent of this chapter that the Office of  
12 Statewide Health Planning and Development, in consultation with  
13 the Medical Board of California, state allied health professional  
14 and behavioral sciences licensing boards, postsecondary schools  
15 of health sciences and social work, health advocates representing  
16 diverse ethnic communities, primary care clinics, public hospitals  
17 and health care systems, statewide agencies administering state  
18 and federally funded programs targeting treatment and services  
19 for older adults, and members of the public with health care  
20 issue-area expertise, shall develop and implement the program.

21 128559.2. (a) There is hereby established in the Office of  
22 Statewide Health Planning and Development, the California  
23 Geriatric and Gerontology Student Loan Assistance Program of  
24 2008.

25 (b) The Office of Statewide Health Planning and Development  
26 shall operate the program in accordance with, but not limited to,  
27 the following:

28 (1) Increased efforts in educating students trained in geriatrics  
29 and gerontology of the need for health care and social work  
30 professionals to meet the demands of the exponential increase in  
31 the older adult population, and of programs that are available that  
32 provide incentives, financial and otherwise, to practice in settings  
33 and areas in need.

34 (2) Strategic collaboration with California postsecondary schools  
35 of health sciences and social work, *and marriage and family*  
36 *therapy programs of study*, to better prepare health care  
37 professionals and social workers to meet the distinctive cultural  
38 and medical needs of California's older adult populations.

39 (3) Establish, encourage, and expand programs for students of  
40 the health care and ~~social work~~ *mental health* professions for

1 mentoring at primary and secondary schools, and college levels  
2 to increase the number of students entering the studies of health  
3 professions and social work with a concentration in geriatrics or  
4 gerontology.

5 (4) Administer financial or other incentives to encourage new  
6 or experienced health care professionals and social workers to  
7 practice in the fields of geriatrics and gerontology.

8 128559.3. For purposes of this chapter:

9 (a) “Office” means the Office of Statewide Health Planning and  
10 Development.

11 (b) “Program” means the California Geriatric and Gerontology  
12 Student Loan Assistance Program of 2008.

13 128559.4. (a) The office shall administer the program. Any  
14 individual enrolled in an institution of postsecondary education  
15 participating in the programs set forth in this chapter may be  
16 eligible to receive a conditional warrant for loan repayment, to be  
17 redeemed upon becoming employed as a licensed health  
18 professional, marriage and family therapist *or registered marriage*  
19 *and family therapy intern*, or social worker or registered associate  
20 social worker in a setting serving primarily older adult populations.  
21 In order to be eligible to receive a conditional loan repayment  
22 warrant, an applicant shall satisfy all of the following conditions:

23 (1) The applicant has been judged by his or her postsecondary  
24 institution to have outstanding ability on the basis of criteria that  
25 may include, but not be limited to, any of the following:

26 (A) Grade point average.

27 (B) Test scores.

28 (C) Faculty evaluations.

29 (D) Interviews.

30 (E) Other recommendations.

31 (2) In order to meet the costs associated with obtaining a health  
32 professional or social work degree, the applicant has received, or  
33 is approved to receive, a loan under one or more of the following  
34 designated loan programs:

35 (A) The Federal Family Education Loan Program (10 U.S.C.  
36 Sec. 1071 et seq.).

37 (B) Any loan program approved by the Student Aid  
38 Commission.

39 (3) The applicant has agreed to provide services as a licensed  
40 health professional, marriage and family therapist, or social worker,

1 or to be registered as an associate clinical social worker with  
2 satisfactory progress toward licensure, for up to three consecutive  
3 years, after obtaining a license or associate registration from the  
4 applicable state health professional or behavioral sciences licensing  
5 board, in a setting providing health or social services primarily to  
6 older adults.

7 (4) The applicant has agreed that he or she shall not discriminate  
8 against any patient or client who cannot pay for services or those  
9 who are funded, in part or in whole, by Medicare or Medi-Cal.

10 (b) The office shall ensure that priority consideration be given  
11 to applicants who are best suited to meet the cultural and linguistic  
12 needs and demands of geriatric populations and who meet one or  
13 more of the following criteria:

14 (1) Have received significant training in cultural and  
15 linguistically appropriate service delivery.

16 (2) Have done a clinical rotation or social work internship, of  
17 at least two semesters, serving older adult populations.

18 (c) A person participating in the program pursuant to this chapter  
19 shall not receive more than one warrant.

20 (d) The office shall adopt rules and regulations regarding the  
21 reallocation of warrants if a participating institution is unable to  
22 utilize its allocated warrants or is unable to distribute them within  
23 a reasonable time period.

24 128559.5. (a) The office shall develop the process to redeem  
25 an applicant's warrant and commence loan repayment.

26 (b) The office shall distribute student applications to participate  
27 in the program to postsecondary institutions eligible to participate  
28 in the state and federal financial aid programs and that have a  
29 program of professional preparation for health care professionals,  
30 social workers, or marriage and family therapists.

31 (c) Each participating institution shall sign an institutional  
32 agreement with the office, certifying its intent to administer the  
33 program according to all applicable published rules, regulations,  
34 and guidelines, and shall make special efforts to notify students  
35 regarding the availability of the program particularly to  
36 economically disadvantaged students.

37 (d) To the extent feasible, the office and each participating  
38 institution shall coordinate this program with other existing  
39 programs designed to recruit or encourage students to enter the

1 health care, social work, or marriage and family therapy profession.

2 These programs shall include, but not be limited to, the following:

3 (1) The Song-Brown Family Physician Training Act (Article 1  
4 (commencing with Section 128200) of Chapter 4).

5 (2) The Health Education and Academic Loan Act (Article 2  
6 (commencing with Section 128250) of Chapter 4).

7 (3) The National Health Service Corps.

8 128559.6. (a) The office shall administer the program and  
9 shall adopt rules and regulations for that purpose. The rules and  
10 regulations shall include, but not be limited to, provisions regarding  
11 the period of time for which a warrant shall remain valid, the  
12 reallocation of warrants that are not utilized, and the development  
13 of projections for funding purposes.

14 (b) The office shall work in conjunction with lenders  
15 participating in federal or similar loan programs to develop a  
16 streamlined application process for participation in the program.

17 128559.7. (a) The office shall establish a fund to utilize for  
18 the purposes of this chapter.

19 (b) The office may seek matching funds from foundations and  
20 private sources. The office may also contract with an exempt  
21 foundation for the receipt of matching funds to be transferred to  
22 the fund for use by this program.

23 (c) The provisions of this chapter shall not become operative  
24 unless appropriate funding, as determined by the office, is made  
25 available.

26 128559.8. (a) On or before January 31 of each year, the office  
27 shall provide an annual report to the *appropriate policy and fiscal*  
28 *committees of the* Legislature regarding the program that includes  
29 all of the following:

30 (1) The number of program participants by profession.

31 (2) Practice locations.

32 (3) The amount expended for the program.

33 (4) Information on annual performance reviews by the practice  
34 setting and program participants.

35 (5) An evaluation of the program's effectiveness in improving  
36 access to health and social services for older adults.

37 (6) Recommendations for maintaining or expanding the program.

38 (b) This section shall become operative on January 1, 2010.

1     SEC. 11. Sections 8 and 9 of this act shall become operative  
2     only if Assembly Bill 2439 of the 2007–08 Regular Session is  
3     enacted and becomes effective on or before January 1, 2009.

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**To:** Board Members  
**From:** Tracy Rhine  
Legislative Analyst  
**Date:** May 19, 2008  
**Telephone:** (916) 574-7847  
**Subject:** Review of Board Sponsored Legislation and Monitored Two-Year Bills

## BOARD-SPONSORED LEGISLATION

### **AB 1897 (Emmerson)**

AB 1897 authorizes the Board to continue to accept degrees conferred by schools approved by BPPVE through December 31, 2011, if a successor agency does not become operative before that date. Additionally, this bill will allow the Board to accept degrees from universities accredited by entities that are equivalent to WASC, as determined by the United States Department of Education until legislation is enacted to reestablish the Private Postsecondary and Vocational Education Reform Act.

### **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**  
(language not currently in legislation )

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:** Board Members

**Date:** May 13, 2008

**From:** Tracy Rhine  
Legislative Analyst

**Telephone:** (916) 574-7847

**Subject:** Rulemaking Update

## APPROVED REGULATORY PROPOSALS

### Title 16, CCR, Sections 1887.2(a) and 1887.3(a) Continuing Education Self-Study

Licenses 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.**