

MEETING NOTICE

January 23, 2010

Shriners Hospital for Children
2425 Stockton Blvd.
Auditorium, 1st Floor
Sacramento, CA 95817

8:00 a.m.

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

- I. Pursuant to Government Code Section 11126(a)(1), the Board Will Meet in Closed Session for Evaluation and Possible Selection of Prospective Executive Officer Candidates
- II. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

10:30 a.m.

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

- III. Introductions
- IV. Approval of the October 10, 2009 Board Meeting Minutes
- V. Approval of the December 7, 2009 Examination Program Review Committee Minutes
- VI. Chairperson's Report
 - a. Appointment of Interim Executive Officer
 - b. Possible Appointment of Executive Officer
 - c. Upcoming Meeting Dates
- VII. Interim Executive Officer's Report
 - a. Budget Report
 - b. Operations Report
 - c. Personnel Update
 - d. Licensed Professional Clinical Counselor Program



Arnold Schwarzenegger
Governor

State of California
State and Consumer
Services Agency

Department of
Consumer Affairs

- e. MHSa Program Coordinator Report
- VIII. Examination Program Review Committee Report
- a. Presentation by Dr. Tracy Montez Regarding the Examination Program Review Committee's Progress
 - b. Discussion and Possible Action on Recommendation of the Examination Program Review Committee
 - 1. Discussion and Possible Legislative Action on the Recommendations of the Examination Committee
- IX. 2010 Legislation
- a. Discussion and Possible Action to Add a Retired License Status
 - b. Sunset Legislation
 - c. Omnibus Legislation
- X. 2010 Rulemaking
- a. Discussion and Possible Action Regarding Title 16, CCR Sections 1807, 1807.2, 1810, 1819.1, 1887 to 1887.14, Continuing Education Requirements: Licensed Educational Psychologists, Exceptions From and Providers
- XI. Review and Discussion of the Board's Enforcement Program
- a. Update on the Substance Abuse Coordination Committee 's Uniform Standards
 - b. Department of Consumer Affairs Enforcement Model
 - c. Retroactive Fingerprint Update
 - d. Presentation by Deputy Attorney General Christina Thomas Regarding Penal Code Section 23
- XII. Review and Possible Action of Strategic Plan
- XIII. Discussion and Possible Action Regarding Board Registrants Paying for Supervision by a Licensee
- a. Representative from the Department of Labor Standards Enforcement
- XIV. Public Comment for Items Not on the Agenda
- XV. Suggestions for Future Agenda Items

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

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

NOTICE: The meeting is accessible to persons with disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Christina Kitamura at (916) 574-7835 or send a written request to Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

DRAFT BOARD MEETING MINUTES

October 10, 2009

Hilton Los Angeles Airport Hotel
5711 West Century Blvd.
Los Angeles, CA 90045

Members Present

Renee Lonner, Chair, LCSW Member
Elise Froistad, Vice Chair, MFT Member
Gordonna (Donna) DiGiorgio, Public Member
Harry Douglas, Public Member
Judy Johnson, LEP Member
Victor Perez, Public Member

Staff Present

Paul Riches, Executive Officer
Kim Madsen, Assistant Executive Officer
Christina Kitamura, Administrative Analyst
James Maynard, Legal Counsel
Kristy Schieldge, Legal Counsel

Members Absent

None

Guest List

On file

Renee Lonner, Board Chair, called the meeting to order at 8:55 a.m.

I. Introductions

The board introduced themselves in place of roll call. A quorum was established. Board staff and audience members introduced themselves.

II. Approval of the May 21-22, 2009 Board Meeting Minutes

Ms. Lonner noted a correction on page 1, which should reflect that Ms. Lonner was absent.

Kristy Schieldge noted a correction on page 10, item J for the motion and vote taken. The vote should omit the word "unanimously" and read "The board voted (4-2) to pass the motion."

Christina Thomas noted a correction on page 13, last paragraph. Number 3 should read "Penal Code Section 23."

Donna DiGiorgio moved to approve the board meeting minutes of May 21-22, 2009 as amended. Harry Douglas seconded. The board voted unanimously (6-0) to pass the motion.

III. Approval of the April 10, 2009 Policy and Advocacy Committee Minutes

Paul Riches requested that the board members who were not appointed to the former Policy and Advocacy Committee (committee) step away from the dais while those who were appointed to the committee take action on the committee's meeting minutes.

Donna DiGiorgio moved to approve the Policy and Advocacy Committee minutes of April 10, 2009. Renee Lonner seconded. The committee voted unanimously (2-0) to pass the motion.

IV. Chairperson's Report

A. Upcoming Board and Committee Meetings

Ms. Lonner reported that the Exam Program Review Committee will meet in December.

The LCSW Committee is on a hiatus. Ms. Lonner stated that this committee is looking at the possibility of an additional license, a macro-oriented license for those who work in agencies performing non-clinical work. The LCSW Committee is looking for feedback from stakeholders.

The Policy and Advocacy Committee is no longer meeting, and those issues will be heard and addressed by the board.

Ms. Lonner talked about her visit with board staff, which was a very positive experience. In the current climate, staff remains positive and feels well supported.

Ms. Lonner announced that Sean O'Connor was named DCA Employee of the Year.

Ms. Lonner requested that the board discuss upcoming meeting dates. The board agreed to hold the winter board meeting on January 23rd in Sacramento. The board agreed to hold the spring board meeting on April 17th in San Francisco.

V. Executive Officer's Report

A. Budget Report

Paul Riches announced that the Department of Consumer Affairs, through which the Board is provided legal services, had changed the board's staff counsel. Mr. Riches introduced James Maynard as the new legal counsel for the Board. Mr. Riches thanked Kristy Schieldge for her work as the Board's legal counsel for the past several years.

Mr. Riches reported on the budget. He gave a brief description of the budget process, and indicated that the Board is currently working on the budget for fiscal year (FY) 2010-2011. Mr. Riches then spoke about the FY 2008-2009 budget, and the impact of the state's budget crisis on the board's functioning. He made specific note of the impact on the board's meeting schedule, stating that the meeting generally held in August had to be cancelled and rescheduled for October as a direct result of the absence of a state budget.

Harry Douglas asked what the board could do to continue its work without interruptions resulting from the budget crisis. He asked why the board is impacted when it generates its own revenue and does not operate out of the general fund.

Mr. Riches and Ms. Schieldge gave a background regarding the budget crisis and actions taken by the Governor towards all state agencies. They outlined the steps that Mr. Riches and the Department of Consumer Affairs took to obtain exemptions to the restrictions imposed by the Governor. Ms. Schieldge explained why the board, as a self-supporting

agency, was required to adhere to the Governor's executive orders. A brief discussion continued, with Mr. Riches noting that many of the licensing boards were feeling the negative impact of the budget crisis in the same manner as the Board of Behavioral Sciences.

Judy Johnson spoke about also having had the opportunity to meet with board staff in the same manner as Ms. Lonner had noted previously. Ms. Johnson encouraged other board members to engage in similar exchanges with board staff if possible, and expressed that such a show of support was important in the existing fiscal environment. Mr. Riches added that staff had expressed positive comments about the meetings.

Mr. Riches reported on 2009-2010 budget. He stated that the current Executive Order required state agencies to reduce expenditures by at least 15% for the upcoming fiscal year. The board's spending reduction plan was approved. As a result, the Board has committed to revert \$220,000 to its Operating Expense and Equipment budget at the end of the fiscal year. Mr. Riches explained the effect of the reduction on the Board's budget. He noted that historically the Board has finished the fiscal year with unencumbered funds in the overall budget. He added, however, that increased expenditures are anticipated in the areas of examinations and services provided by the Office of the Attorney General. Mr. Riches explained why increased expenses are expected in these two areas. He reported the Board continues to be in sound fiscal condition, but the impact of the statewide budget issues is expected to persist. He indicated that efforts are constantly underway to find ways to offset the effect of the continuing budget crisis while still maintaining performance and customer service standards.

Mr. Riches reviewed the analysis of the fund condition for fiscal year 2009-2010. He spoke about the projected fund conditions for the next three fiscal years, and discussed the different factors that could or will impact those projections.

Janlee Wong, National Association of Social Workers (NASW), asked for clarification regarding certain aspects of the budget process. Mr. Riches responded to those questions.

A discussion about budget-related issues continued among meeting participants.

B. Operations Report

Mr. Riches reported on board operations and performance. He spoke briefly about the performance challenges experienced as a result of furloughs and changes in workload. He noted that despite these challenges, improved performance had been noted in several areas.

Cashiering Unit is showing great progress. The cashiering process has been streamlined to reduce the turn-around time of applications and renewals. New applications are processed through the cashiering unit within 3-4 days. Renewals are getting turned around in less than ten days, down significantly from the nearly 40-day turnaround time noted in late 2007. Mr. Riches complimented staff for their efforts in making the much-needed improvements.

Mr. Riches spoke briefly about the Enforcement Unit workload. He deferred in-depth discussion to agenda item VI, which pertained specifically to the board's Enforcement Program.

With respect to the Licensing Unit, Mr. Riches noted high numbers reported on the MFT desk. This is due to the regularly high numbers of applications received, and in large part to an MFT evaluator being promoted to the Enforcement Unit. The vacancy has been filled, however it generally takes about 6-8 months to fill a vacancy and get the new employee fully trained. During this training period, the numbers always rise. Similarly, evaluators' workloads also increase at the time of program completion when graduates are ready to join the workforce and gain experience required for licensure.

Meeting participants briefly discussed possible resources available to assist with the heavy workload.

The customer satisfaction survey was discussed by Mr. Riches. He reported the survey is very valuable in monitoring the board's overall performance. According to the survey, the board has been very successful in providing service to consumers. Mr. Riches lauded the efforts of board staff, in general and in particular when facing hurdles related to the ongoing state fiscal crisis.

The board adjourned for a break at 10:35 a.m. and reconvened at 10:52 a.m.

C. Retroactive Fingerprint Update

Mr. Riches provided a brief background of the retroactive fingerprint project. He reported regulations adopted earlier in the year require the submission of fingerprints by licensees and registrants who had not previously submitted fingerprints to the board. The individuals identified as being affected by this requirement are required to submit their fingerprints prior to their next renewal date occurring on or after October 31, 2009. Mr. Riches emphasized the requirement is not a condition of renewal, but failure to comply with the requirement can result in issuance of a citation and fine or other action by the board. He reported that to date, the response to the requirement has been less adverse than anticipated. Mr. Riches stated that four new staff had been hired for this project: two staff persons to process the fingerprints and two staff persons to handle the resulting background checks. He noted that action is taken as determined necessary upon review of the conviction documents.

Mr. Riches briefly touched on the issue of statute of limitations, and how it could impact the board's ability to pursue disciplinary action due to a criminal conviction.

A meeting participant asked about what action the board would take if an individual were to be convicted of a crime after being licensed. How would the board know about the conviction? Mr. Riches responded that once an individual has submitted fingerprints to the board, the individual is noted in the system. If he or she is subsequently arrested the board is notified, generally within 24-48 hours by the Department of Justice. Mr. Riches stated that the subsequent arrest notification component of the fingerprinting process is extremely valuable to the board in its efforts to ensure consumer safety and protection.

Mr. Riches responded to questions from two meeting participants by providing clarification regarding the retroactive fingerprint project. Mr. Wong offered the services of NASW in relaying the message to licensees and registrants regarding the new fingerprinting requirement.

D. Legislation Update

Mr. Riches provided the status of current legislation that is being sponsored or monitored by the board.

He reported that Senate Bill 33 (Correa) had been signed by the Governor. Mr. Riches indicated that the new statute contains significant changes relating to the educational and supervised experience requirements relating to Marriage and Family Therapist (MFT) licensure. The board is currently in the process of revising forms and publications, training staff, and taking other steps necessary for implementation of the new requirements. Mr. Riches provided a brief overview of the changes and the implementation dates for those changes.

Mr. Douglas asked about the role of the state in determining educational requirements for a graduate degree. Mr. Riches, Donna DiGiorgio, and others provided clarification regarding the board's involvement with specific respect to the MFT requirements.

Mr. Riches then provided the status of SB 819 and SB 821, both Omnibus Bills. He indicated that both bills are awaiting action by the Governor.

The next legislation discussed by Mr. Riches was SB 788, which would establish licensure for Professional Clinical Counselors in California. The board continues to support this bill as it has in the past. Mr. Riches indicated that if the legislation passes, the impact on the board would be significant. He briefly described how the board would be affected. This legislation is also awaiting action by the Governor.

Mr. Wong asked for clarification regarding the funding for the Licensed Professional Clinical Counselor program. Mr. Riches confirmed Mr. Wong's understanding of the legislation regarding funding.

E. Regulation Update

Mr. Riches reported that efforts to file a large, multi-faceted regulatory package met delays due to a policy change pertaining to the regulatory process. He indicated that staff is working to make the adjustments necessary to move forward with the proposed regulatory changes.

Mr. Riches also reported there are minor changes needed to the advertising guidelines. He indicated that those changes would be addressed once the new process is figured out.

F. Personnel Update

Mr. Riches referred the audience to the personnel update provided in the meeting materials.

G. Review of Board Publications

Mr. Riches presented the library of board publications that were created over the past couple of years. Mr. Riches briefly described each publication and noted those that were translated in Spanish and Korean. Mr. Riches asked the public to provide places and contacts where these publications can be displayed, made available to consumers, and can be used most effectively.

Ms. Johnson recommended that the publications be sent to county agencies that can be accessed via 211. She explained that this is the county social services output agency for nearly everything.

H. Review of Bibliography for Senate Bill 33 Curriculum Changes

Mr. Riches reported that during the work of the MFT Education Committee, consistent feedback was received regarding the need for a bibliography addressing recovery-oriented practice. He indicated that an agreement was entered into with CSU Northridge to develop such a document. Mr. Riches referred meeting participants to the bibliography, and encouraged the audience and board members to review the numerous resources outlined in the document. He indicated that the bibliography would soon be posted on the board's website.

Board members commented favorably about the thorough compilation of information.

VI. Review and Discussion of the Board's Enforcement Program

Mr. Riches gave a presentation illustrating the enforcement program. He reported that he and Ms. Lonner attended a meeting during the summer with Department of Consumer Affairs' administration and representatives from the State and Consumer Services Agency regarding enforcement. He noted the department's concern that the public and some boards were not aware in sufficient detail about the nature of the enforcement programs. Mr. Riches stated that the board historically has been open about its enforcement program.

Mr. Riches' presentation provided data from several fiscal years, from 2001-2002 through 2008-2009. The areas highlighted included: 1) the number of conviction complaints and consumer complaints received; 2) conviction and consumer complaint processing times; disposition of complaints; 3) the number of field investigations pursued and closed; 4) average complaint processing time; 5) investigative analysts; 6) disciplinary activity for consumer and conviction filings and cases referred to the Attorney General's office; 7) disciplinary actions for consumer and conviction cases; 8) the enforcement budget, enforcement expenditures vs. non-enforcement expenditures; 9) board staffing, enforcement positions vs. non-enforcement positions.

Mr. Riches noted that the enforcement process begins with receipt of a complaint; he outlined the various types of complaints that are generally received. A significant increase was noted in the areas of consumer complaints and conviction-related complaints. Mr. Riches emphasized that the board has a considerable burden of proof when pursuing action against a licensee or registrant; the board must show clear and convincing evidence that unprofessional conduct has occurred. He indicated that with respect to action taken based on convictions, that burden of proof has already been met. However, he noted that when investigating allegations of inappropriate practice, it is often difficult to obtain documentation or other evidence necessary to prove the alleged misconduct. He noted that this is due in part to the private, often one-on-one nature of the professions overseen by the board. As a result, investigations frequently take quite a bit of time to meet the burden of proof. He reported an unusual, difficult to understand phenomenon pertaining to an increase in the number of consumer complaints received as compared to the natural growth in the licensee population.

Mr. Riches next spoke about the impact of the retroactive fingerprinting project on the number of complaints opened by the board. He anticipated a significant growth in this area as well. At the time of the meeting, approximately half of the licensee population had submitted fingerprints for background checks. Mr. Riches noted that due to the screening process that takes place through the educational institutions, training sites, and at other times en route to licensure, it is rare for an initial application to reveal a previously unknown criminal history. He

stated that the bulk of the board's work in this area comes from subsequent arrest reports, and he expects the fingerprinting of the remaining licensee population to result in an increase in the enforcement workload over time.

The question was raised about whether the board has a mechanism in place to enforce compliance with the fingerprinting requirement. Mr. Riches explained that regulations require that on renewal, licensees who have not previously done so must submit to the fingerprinting process for the board. Failure to comply with the requirement can lead to citation and fine and possible disciplinary action by the board.

Mr. Wong asked if the board had performed any kind of comparison of the number of complaints received overall and the number of complaints received by other professional licensing boards. Mr. Riches indicated that no such comparison had been completed to date.

Mr. Riches went on to discuss length of time it takes to process a complaint, i.e., from receipt of the complaint through disciplinary action being finalized. He stated a time frame that is fairly consistent among licensing boards is 2-3 years. Mr. Riches referred meeting participants to data specific to the board in the meeting materials. He noted a significant increase in the length of time it takes to process a consumer complaint, and attributed that rise to how and by whom the board's investigations were being conducted. He stated that staff has for many years conducted preliminary investigations of complaints, but has had to rely on the services of the Department of Consumer Affairs Division of Investigation (DOI) to conduct interviews and perform other more in-depth investigations. Mr. Riches added that DOI conducts investigations for many of the boards and bureaus within the department, with investigators carrying a heavy caseload that resulted in long periods needed to complete an investigation of a complaint. He explained that investigators with DOI are sworn peace officers. As a result, the process required to fill a vacant investigator position is lengthier due to the time required for completion of necessary background checks.

Tina Thomas, Office of the Attorney General, spoke positively about the timely manner in which the board handles issues that come up and require immediate attention. Mr. Riches added that historically the board has worked complaints sufficiently, prior to referring to DOI, so that when the matter was sent for further investigation, there was specific information being requested versus starting the investigation from scratch.

The next topic discussed by Mr. Riches involved disposition of complaints. He noted that a significant number of complaints received by the board are not pursued through the disciplinary process for a variety of reasons. These reasons include jurisdiction, lack of access to records due to the issue of confidentiality, lack of witnesses, and other inability to support the required burden of proof – clear and convincing evidence. He stated that approximately 3% of the complaints received by the board result in disciplinary action.

Mr. Wong asked about the amount of the board's resources that are used in working those cases that do not result in disciplinary action. Mr. Riches responded that quite a bit of the board's resources were spent on such cases. He added that while the bulk of the complaints received by the board ultimately cannot be pursued through the disciplinary process, each complaint is owed a thorough review prior to making the determination that the matter will be closed.

A meeting participant asked if any of the cases that cannot be pursued by the board are referred to the professional associations for possible action by ethics committees. Mr. Riches responded that disciplinary actions are public and information about those actions is listed on the board's website. He stated that no information is released about the receipt of a complaint, but the matter is made public when the disciplinary action is filed.

A meeting participant inquired about the relationship between the increase in complaints and other issues such as changes in the licensing requirements. A brief discussion followed

regarding the change from the use of an oral examination to a written clinical vignette examination, and how that might impact the number of complaints received by the board. Mr. Riches expressed that there are too many factors that can play into the filing of a complaint to attribute the increase to a change in the type of examination administered. Kim Madsen, Assistant Executive Officer, added there has been a concerted effort by the Department of Consumer Affairs in the last year to increase consumer awareness. She expressed the position that the increase in board complaints could be the result of the effort to educate the public about resources available to them and consumers' rights when availing themselves of various professional services. Discussion of this issue continued among meeting participants.

Mr. Riches presented information about field investigations and complaint processing times. Field investigations were defined as the collection of information and evidence related to a complaint. He again noted that the investigations historically have been completed by DOI. Mr. Riches reported that last year the board obtained approval to hire full-time staff to conduct field investigations of the board's complaints. Two new staff has been hired as investigators. These individuals are not sworn peace officers, and therefore, there are still cases that must be referred to DOI. However, field investigations are now performed by board staff.

Mr. Riches referred to data regarding timelines for completion of investigations and noted a decrease in the length of time to begin and complete investigation of a complaint since the hiring of staff investigators. He also reported that many cases that had been pulled back from DOI following the hiring of board investigators had been completed; those that were left for completion by DOI are expected to be completed by the end of the year. Mr. Riches reviewed data regarding the average complaint processing time, and provided clarification regarding the breakdown of that data.

Mr. Wong asked how consumers would learn about severe misconduct by licensees and registrants if the issue is not made public until disciplinary action is initiated. Mr. Riches spoke about various tools available to the board in situations that require more immediate public notification. He noted that these situations generally also involve pending criminal action. Ms. Thomas commented about the various options available for providing notification to the public. Mr. Riches added that with the hiring of investigative staff, the board more quickly can initiate and complete investigation of complaints alleging egregious misconduct, and can more quickly initiate disciplinary action as determined warranted. He stated that licensees must be afforded due process, and there are constitutional limitations to the manner in which the process must be completed.

Mr. Riches then discussed data regarding disciplinary activity. He noted that the marked increase in cases referred to the Attorney General's Office in the last year could be attributed to several factors including the staffing changes made in Enforcement Unit. He elaborated that in addition to hiring investigative staff, the size of the Enforcement Unit staff has grown from 6 to 13, including a manager. As a result, the complaints are completed more quickly.

Mr. Young asked about the types of complaints received by the board. Mr. Riches responded by providing general categories that complaints fall into, such as incompetence, gross negligence, dual relationship, and breaches of confidentiality. Ms. Madsen added that the board prepares a breakdown of the types of complaints received and the disposition of the complaints on an annual basis. The information is provided for review by the board and the Department of Consumer Affairs.

Discussion continued briefly regarding complaint and disciplinary processes.

Mr. Riches noted that one outcome of the department meetings regarding enforcement is the development of a new enforcement model. While the model is still being developed, there are key portions that are expected to move forward. Two components involve performance standards: 1) all investigations should be completed within an average of six months from the

data the complaint is received. Mr. Riches expressed reservations about the board being able to meet that standard, speaking from a current staffing standpoint. 2) Completion of the disciplinary process in 12 to 18 months from the receipt date. Mr. Riches described the various steps that must be completed to accomplish this goal and the factors that can impact the process. He spoke about the settlement process and how settlement of a disciplinary case can result in successful and timely resolution of a case.

Mr. Riches spoke briefly about other aspects of the new enforcement model that could impact the board.

A meeting participant commented about her experience with the complaint process. Mr. Riches expressed understanding about the difficulty of filing a complaint from the complainant's standpoint. He offered his assurance that the board is a consumer protection agency. Ms. Madsen added that the board's role is to substantiate whether or not a violation has occurred, and every effort is made to thoroughly review and investigate all complaints prior to closure.

Mr. Riches reported that one potential result of the department review of the enforcement process is the agreement that the existing data systems need replacing. He spoke about programs currently available.

In conclusion, Mr. Riches provided information about the board's enforcement budget, expenditures, and staffing. He expressed confidence that with an increase to the resources and staff, the board will be able to meet the previously discussed performance standards that are part of the new enforcement model.

The board adjourned for a break at 12:30 p.m. and reconvened at 1:36 p.m.

VII. Review and Discussion of the Substance Abuse Coordination Committee's Uniform Standards

Kim Madsen reported on the progress of the Substance Abuse Coordination Committee (SACC), which was established by legislation in 2008. The SACC exists within DCA and consists of executive officers from the healing arts boards within DCA and a representative from the state Department of Alcohol Drug Programs. It is charged with establishing, by January 1, 2010, uniform standards in specific areas that healing arts board would be required to follow when addressing the issue of a substance abusing licensee and ensuring public protection. At its initial meeting in March 2009, the group determined that its work would be more efficiently completed by creating a smaller working group to develop draft standards that can be applied to licensees in diversion programs and those on probation. Many members of the smaller group, including Ms. Madsen, have expertise in the areas of diversion, probation, enforcement and legislation.

Ms. Madsen outlined the steps that will be followed toward completion of the group's assignment. She reported that a challenge faced by the group is to construct standards sufficiently broad to be used by boards that have diversion and probation programs. Ms. Madsen noted that not all boards have both types of programs. The crux of the group's efforts to date has been to draft standards that can be followed by either type of program.

To date, 15 of the 16 standards have been completed. The standards were to be presented at a SACC meeting in September 2009. That meeting was cancelled and has yet to be rescheduled. Ms. Madsen reported that the group's work is anticipated to be completed and the drafts adopted by November 2009 in sufficient time to present all 16 standards by the January 1, 2010 due date.

Ms. Madsen noted that with respect to BBS specifically, it is anticipated that the standards will result in revision to the board's disciplinary guidelines.

A discussion among meeting participants ensued. Topics raised included use of the provisions in Penal Code Section 1000. Ms. Madsen explained that this legislation allows an individual to enter into a diversion program through the courts with successful completion resulting in a dismissal of charges. She indicated that none of the boards has authority to use that legislation. As such, it was the group's decision to determine what constitutes major and minor violations and the consequences for each type of violation.

Ms. Madsen indicated that the group tried, with respect to all standards, to leave intact the boards' discretionary ability to work with each individual on a case-by-case basis. She noted that although there are suggested consequences for each violation, the various boards are not limited by those recommendations or required to use all of them.

Discussion continued about the various draft standards, with Ms. Madsen committing to take input back to the SACC for further discussion. She spoke briefly about submission of public comment and encouraged interested parties to provide such input. She noted that to date, none of the draft standards has been adopted.

VIII. Review and Discussion of Licensing Requirements Related to Aging

Mr. Riches noted that during the course of discussions about SB 33, the board interacted with the Commission on Aging (CCOA) regarding the training requirements pertaining to issues for older adults. One result of those discussions was the CCOA's request to speak to the board about various concerns pertaining to this population.

Carol Sewell, CCOA, presented facts regarding elder adults and abuse. Ms. Sewell noted that while some programs exist to assist this population, many elder adults have a skewed perspective about therapy and have a difficult time availing themselves of services when desired. The CCOA contacted the Board regarding Senate Bill 33 (Marriage and Family Therapist education/experience, Statutes of 2009) and asked that the board amend the proposed legislation to include requirements for education related to providing therapy to elder adults and adult abuse assessment and reporting. The bill was amended on June 8, 2009 to include these changes. Ms. Sewell proposed additional amendments to the MFT and LCSW relating to working with victims of elder abuse and their families and the elder population in general.

Mr. Wong stated that in terms of social work education, there is a major component regarding elder adults and abuse that has been in place for several decades; additionally, the California Social Work Education Center has curriculum competencies in aging. He emphasized that social work education is very familiar with issues pertaining to the aging population and elder or adult abuse.

Discussion followed. Mr. Riches indicated that the decision before the board at present is whether or not to pursue review of this issue more broadly. He acknowledged CCOA's interest in doing so through the board or in another forum.

Judy Johnson expressed interest in looking into the matter further. Mr. Riches stated that board staff will look into this matter, talk to experts in this area, and bring information back to the board for further discussion at a future meeting.

IX. Discussion and Possible Action Regarding Board Registrants Paying for Supervision by a Licensee

James Maynard reported that the issue of registrants paying for supervision was brought to the board's attention by a licensee who was of the impression that the board's law allows supervisees to pay employers for supervision. Mr. Maynard expressed the understanding that this is more of a problem in private practice settings.

Mr. Maynard stated that California law recognizes only three types of workers: 1) volunteers; 2) employees; and 3) independent contractors. He indicated that the board's laws prohibit registrants from working as independent contractors. A registrant could volunteer with a practice and pay for supervision, an arrangement Mr. Maynard indicated would not be objectionable under current law. California Labor Code prohibits an employee for paying an employer for most services without prior written agreement and then only in a limited number of narrow categories. He expressed the position that there is no scenario under which it would be appropriate for a supervisee to pay an employer for supervision.

Aaron Feldman stated that he had been working to build a non-profit agency to train interns. He indicated it was while working toward this goal that he came across an apparent discrepancy between the board's laws and the Labor Code regarding payment for supervision. Mr. Feldman reported being under the impression that the board permits licensees to charge fees from registrants for supervision.

Mr. Maynard clarified that the board does not permit payment for supervision by employees.

Mr. Feldman stated that "everyone" is charging fees for supervision. He indicated that his research into the matter revealed an apparent conflict in the laws pertaining to interns. He expressed frustration with the conflict and stated that no one is benefitting from the existing set-up. Mr. Feldman also spoke of his experience as an intern and how those experiences contribute to the manner in which he now provides supervision as a licensee. He also clarified that the problem also appears to exist in non-profit agencies, though it is not as egregious.

Discussion followed among meeting participants. Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT), asked for clarification regarding the board's laws in this regard. Mr. Maynard reiterated that in a volunteer relationship, an intern can pay for supervision. He emphasized that it is in an employer-employee relationship that an intern cannot pay for supervision, except in very limited circumstances outlined in the Labor Code. Discussion continued.

Mr. Maynard stated that the board is not the appropriate entity to address employee/labor issues. Mr. Maynard suggested that Mr. Feldman discuss the issue with the professional associations and the labor board. The associations have lobbyists who get laws changed.

Mr. Riches added that the Board of Behavioral Sciences' responsibility is consumer protection. He indicated that the issue at hand is a workplace/labor law question. He supported Mr. Maynard's suggestion that the issue would be better addressed between professional associations and the labor board.

Ms. Atkins provided her contact information to Mr. Feldman to discuss the issues further.

Questions were raised by meeting participants regarding requirements for supervisors. Mr. Riches responded by listing some of the existing requirements, including signing of a responsibility statement detailing the legal obligations as a supervisor.

X. Discussion and Possible Legislative or Rulemaking Action Regarding Experience Requirements for Licensed Clinical Social Workers

Mr. Riches reported that current law requires that candidates for LCSW licensure must hold a masters degree in social work, complete 3,200 hours of supervised experience, and pass the board administered examinations. It also provides that individuals licensed as clinical social workers in other states for more than two years may take the examinations and be eligible for licensure without documented supervised experience (Business and Professions Code Section 4996.17). This change was made to recognize the practice experience gained in other states as a qualification for licensure.

Ordinarily, current law clearly addresses the many situations of applicants for licensure. However, the board has been contacted by an individual who presents a confounding situation. This individual first obtained a license as a marriage and family therapist and has practiced under that license for some time. Subsequently, the individual completed a master's degree in social work and would like to also be licensed as a clinical social worker. Current law requires that this individual complete another 3,200 hours of supervised experience prior to taking the licensing examinations. Given that this individual has already completed 3,000 hours of supervised experience and now acts as both a therapist and a supervisor for marriage and family therapy interns and associate clinical social workers, it is difficult to construct a rationale for requiring the additional supervised hours.

The Policy and Advocacy Committee considered this request at its April 10, 2009 meeting and directed staff to develop a legislative proposal to allow practice experience as a licensed mental health professional to be credited toward the supervised experience requirements for LCSWs. As a result, an amendment to the LCSW experience requirements was drafted that would allow an individual licensed as a marriage and family therapist for at least four years and has completed a masters degree in social work, to take the examination required for licensure as a clinical social worker. Mr. Riches explained that if the decision is made to further pursue this change, the board must direct staff to sponsor legislation to facilitate the change.

Mr. Wong stated that NASW does not support the proposed change. He cited two main points of concern: 1) Are the work experience hours equivalent? He provided meeting participants with a document reflecting the statutory requirements for licensure as an LCSW as well as requirements for licensure as an MFT. He asserted that the requirements are different, as is the scope of practice for each profession. 2) Mr. Wong wondered if the licensing statutes were being circumvented by saying that a component for one set of licensure requirements can be substituted for a component of another set of licensure requirements for a different profession. He expressed that the proposed change seemed to be trying to make that kind of a substitution. He questioned the appropriateness of such action. While concerned with the proposal as presented, Mr. Wong expressed a willingness to work with the board on the issue.

Mr. Riches commented that in drafting the language, one area that was reviewed involved changes that were made in recent years regarding the LCSW statute pertaining to out-of-state licensees. He noted that prior practice experience was credited toward the supervised experience requirement, knowing that a requirement of approximately 3,000 hours was generally the norm among the mental health professions.

Ben Caldwell, American Association for Marriage and Family Therapy (AAMFT), stated that AAMFT does not support the proposal. He spoke about the differences in the scope of

practice for each profession and expressed concern that making this type of change could reduce the distinction between the MFT and LCSW licenses.

Discussion continued among meeting participants and attendees about the similarities and dissimilarities between the two professions and requirements for licensure.

Jose Luis Flores, Phillips Graduate Institute, stated that he agreed with Mr. Wong. He spoke of the value of post-degree experience in honing ones professional identity.

An audience member questioned the wisdom of making a law for one person. She spoke of supervising both MFT interns and associate clinical social workers (ASW), and expressed that these individuals definitely come with differing perspectives.

Mr. Riches expressed that the board is charged with consumer protection. He stated that, when preparing the proposal, it was difficult to discern how the public would not be protected in ensuring a minimally competent practitioner in this or a similar situation.

Victor Perez stated that there are clearly differing perspectives among stakeholders regarding this issue. Mr. Perez proposed to table this matter to allow the stakeholders to provide more input. The board agreed to table the matter. Ms. Lonner asked to be provided a breakdown of the services that can be provided under one license that cannot be provided under the other.

XI. Discussion and Possible Action to Amend California Code of Regulations Title 16, Sections 1807, 1807.2, 1810, 1819.1, 1887 to 1887.14 Regarding Continuing Education Requirements: Licensed Educational Psychologists, Exceptions, and Providers

This item was not discussed. This item will be discussed at the January 2010 board meeting.

XII. Public Comment for Items Not on the Agenda

Cathy Atkins, CAMFT, asked to hear more about the Penal Code Section 23 process. Mr. Riches committed to note this request for the January 2010 board meeting agenda.

XIII. Suggestions for Future Agenda Items

Gerry Grossman spoke about the issue of consensual sex involving minors, and how the nuances in current laws pertaining to sex between minors impact a therapist's responsibility to report. Mr. Riches stated that this subject would be noted for a future board meeting.

An audience member asked why therapists seem to refer clients to HIPPA instead of the BBS when the client wants to file a complaint. Mr. Riches explained that this agenda item pertained to suggestions for future agenda items, and therefore, could not discuss the matter. He committed to add the topic to the list of future agenda items.

The board adjourned at 3:19 p.m.

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DRAFT MEETING MINUTES

Examination Program Review Committee December 7, 2009

Hilton Los Angeles Airport Hotel
5711 W. Century Blvd.
Century AB Room
Los Angeles, CA 90045

Committee Members Present:

Elise Froistad, MFT Member, Chair
Renee Lonner, LCSW Member

Staff Present:

Kim Madsen, Acting Executive Officer
Paula Gershon, Program Manager
Sandra Wright, Examination Analyst

Committee Members Not Present

None

Guest List:

Dr. Tracy Montez
Guest list on file

Due to a recording malfunction the meeting was not recorded. Minutes from this meeting are a result of notes committee members and staff took during the meeting.

Elise Froistad, Committee Chair, called the meeting to order at 9:10 a.m.

I. Introductions

The Examination Program Review Committee (committee) introduced themselves in place of roll. A quorum was established. Staff and audience members also introduced themselves.

II. Purpose of the Committee

Ms. Froistad noted that those in attendance were familiar with the purpose of the committee and dispensed with review of the committee's purpose.

III. Review Approval of the May 4, 2009, and October 5, 2009, Meeting Minutes

May 4, 2009, Minutes

Renee Lonner moved to approve the May 4, 2009 meeting minutes. Elise Froistad seconded. The committee voted unanimously (2-0) to approve the minutes.

October 5, 2009, Minutes

Kim Madsen noted a minor correction on page 7. Renee Lonner moved to approve the October 5, 2009 meeting minutes as corrected. Elise Froistad seconded. The committee voted unanimously (2-0) to approve the minutes.

IV. Presentation of Examination Process by Dr. Tracy Montez

Dr. Montez briefly reviewed the committee's work to date; citing the process of examination development, item writing, and developing a pass score. Dr. Montez discussed the information currently available to exam candidates as required by the Professional Guidelines and Technical Standards. Specifically, where appropriate, all test takers should be provided in advance, as much information about the test content and purposes.

Dr. Montez noted that the information regarding the board's testing process is currently available to exam candidates on the board's web site as well as in the board's Examination Study Guide publication. The testing information offers suggestions for preparing for an exam as well as sample questions from previous tests that may help a candidate familiarize themselves with the testing format.

Currently, exam candidates take a computer-based test through PSI, an examination testing vendor. Candidates may take the exam at any of the thirteen California sites or at any of the ten sites nationwide. PSI has established security protocols to ensure the integrity of the exam.

Once eligible, candidates may register for their exam via the internet or by phone. Exams are offered six days a week during the hours of 8:00 a.m. to 5:00 p.m., except for major holidays. Candidates who require reasonable special accommodations to take the test work with the board staff to secure those accommodations. Candidates sit at a computer terminal to take their test. Each candidate is afforded a practice test prior to the start of their exam. An online survey is offered to candidates at the end of each exam.

V. Review of the Committee's Progress and Objectives by Dr. Tracy Montez

Dr. Montez stated the committee began its work to conduct a holistic review of the board's examination program and evaluate the issues associated with the exam program in December 2008. Through a series of five public meetings, the committee presented information regarding the exam development process, listened to stakeholders concerns and comments, and provided hands on training on the following topics: Occupational analysis, examination development (e.g. item writing and review), exam constructions, and passing scores. Issues unique to each profession were also addressed during these meetings.

As a result of the work of the committee and input from stakeholders, a list of recommendations will be presented to the board for approval.

Dr. Montez presented the first recommendation to implement a revised examination program for the Licensed Clinical Social Worker and the Marriage and Family Therapist licenses. Specifically, a law and ethics test to be given upon graduation and a scenario-based practice examination after supervised hours were obtained. Dr. Montez explained the first test would likely be a two-hour test with a minimum of 50 questions which would include some pretest questions. The second test would incorporate practice based questions and would be approximately four hours in length with 175 questions including some pretest questions.

Comments from the stakeholders in attendance were specific to the details of implementation of the new testing process. Ms. Madsen responded that many of the details had not yet been worked out. However, the Board will strive to be fair to those candidates currently in the process as well as future exam candidates.

Ms. Madsen commented that revising the current exam structure to the proposed structure would allow for an easier transition to a national exam format if use of the national exam is possible in the future. Additionally, the new structure would reduce a candidate's time in the exam process by six to nine months.

Ms. Froistad expressed a preference for candidates to take the first exam within one year of registration.

Additional comments from the stakeholders indicated support for the proposed concept of revising the exam structure.

Dr. Montez presented the remaining recommendations:

- Collaborate with the Association of Social Work Boards (ASWB) as directed by the Board (see May 29-30, 2008 board meeting minutes) to consider the ASWB examination in its work as it relates to licensure for clinical social work.
- Collaborate with the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) to jointly perform the Occupational Analysis to be used for the both California MFT licensure exam and national exam.
- Evaluate the feasibility of providing candidates with a practice examination for each profession. At a minimum, revise LCSW, LEP and MFT Examination Study Guide sample questions to represent updated, job-related content as well as question format.
- Conduct a survey of reference materials (e.g., textbooks) used by schools to assist with examination development efforts.
- Evaluate the feasibility of publishing reference lists in the LCSW, LEP and MFT Examination Study Guides.
- Expand subject matter expert recruitment pool.

A comment noting the board previously reviewed the ASWB exam and occupational analysis used for the national exam was received. The stakeholder inquired as to the progress of the board obtaining information regarding the current occupational analysis from ASWB. Ms. Madsen responded that the board anticipated receiving the information in January 2010.

Comments were received from the stakeholders supporting a practice exam available on line to exam candidates. Stakeholders indicated a practice exam would be beneficial to candidates. Further, reference lists would not only benefit exam candidates, but schools as well in terms of preparing candidates.

Stakeholders inquired if current practice trends such as the Mental Health Services Act and cultural diversity are reflected in Subject Matter Experts utilized for exam

development. Ms. Madsen responded that the Board is considering several strategies to increase recruitment of Subject Matter Experts so that current practice trends are represented.

A recently licensed individual shared his personal exam experience. The individual noted many of the same concerns previously expressed by others. Specifically, that Clinical Vignette exam appears to test logically thinking as opposed to clinical skills and some questions appear to cross over between categories (e.g. law & ethics).

Renee Lonner moved to present all the Exam Program Review Committee recommendations to the entire board at the January 2010 board meeting. Elise Froistad seconded the motion. The committee voted unanimously (2-0) to pass the motion.

Ms. Lonner requested board staff to prepare draft language specific to the proposed exam structure changes. Ms. Madsen responded that the draft language would be available for consideration at the January 2010 meeting.

VII. Public Comments for Items not on the Agenda

There were no public comments for items not on the agenda.

The meeting was adjourned.

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To: Board Members

Date: January 12, 2010

From: Kim Madsen
Interim Executive Officer

Telephone: (916) 574-7841

Subject: Budget Update

Summary

2009/2010 Fiscal Year

The Board's budget authority for the 2009/2010 fiscal year is \$6,500,001. Expenditures to date are \$2,429,449. Our expenditure projections, including our commitment to revert \$219,000 from our Operating Expense and Equipment (OE&E) budget line, indicate that at the end of the 2009/2010 fiscal year, the Board anticipates an unexpended reserve in the amount of \$259,640.

The Mental Health Services Act (MHSA) budget for the 2009/2010 fiscal year is \$306,000. Expenditures to date are \$57,148. Current expenditure projections indicate an unexpended reserve of \$10,770 at the end of fiscal year 2009/2010.

On January 8, 2010, the Governor issued an Executive Order S-01-10 which directs state agencies to take immediate steps to achieve an additional five percent salary savings by July 1, 2010 and maintain this additional salary savings level. State agencies are required to submit a plan to achieve the salary savings by February 1, 2010. As of today, the Board is awaiting clarification and specific direction as to the implementation of the Executive Order. Implementation of this order may impact our anticipated unexpended reserve projection. Our initial calculations for compliance with the Executive Order indicate that we should be able to achieve this savings and retain all current board staff.

2010/2011 Fiscal Year

California faces one of its most challenging budget year to date. State revenues are lower than expected, last year's temporary budget solutions are about to expire, and a slow economic recovery provide the back drop for the projected \$19.9 billion dollar deficit the State must address. The projected deficit encompasses \$6.6 billion in the current 2009/2010 budget year and \$12.3 in the 2010/2011 budget year. On January 8, 2010, the Governor declared a fiscal emergency and immediately called the Legislature into a special session to address the shortfall.

The Governor's proposed budget solutions include a combination of assistance from the Federal Government, reductions in state spending, and various funds shifts. One proposed fund shift is to place a measure on the June 2010 ballot to allow the use of funds from the Proposition 10 Early

Childhood Development Funds and Proposition 63 Mental Health Funds to help balance the budget. A similar measure was rejected by California voters in May 2009.

The Governor's proposed budget does contain positive news for the Board. The budget included the requested staff and funding for the Licensed Professional Clinical Counselor licensing program, additional enforcement staff to help meet the Department's new enforcement standards, and a licensing position. The additional staff and funding will increase the Board's budget by 31%, from \$6,500,001 to \$8,596,000.

LPCC Program

- 12 staff positions.
- \$1,079,000 beginning July 1, 2010.

Enforcement Program

- 1.5 staff positions.
- \$141,000 beginning October 1, 2010.

Licensing Program

- 0.5 staff position with no additional funding.

The MHSA budget authority will decrease to \$91,000. The budgeted amount reflects the expiration of the one-time funding of \$200,000 and a \$31,000 reduction in funds received from the Department of Mental Health. The reduction in funding is a direct result of cuts to MHSA. Despite the reduction, we will be able to retain the position supported by this program.

Although recent court rulings in favor of state employees, including one ruling ordering the discontinuance of the furlough order has been issued, it is expected that these rulings will be challenged by the Governor. Language in the Governor's budget suggests that the furloughs may end June 30, 2010. Despite the proposed end of state employee furloughs, the Governor's budget proposal includes changing state employee's compensation in order to achieve cost savings. Specifically, the Governor proposes the following:

- Employees will be required to contribute an additional five percent towards their retirement costs;
- An across the board five percent reduction in all salaries;
- A five percent reduction in the cost of the state workforce payroll implemented by executive order S-01-10 requiring all department directors to reduce their payrolls by five percent.

If this proposal is successful, state employees will return to a normal work schedule but still incur a reduction in pay. Further, the ongoing implementation of Executive Order S-01-10 to maintain a five percent reduction in salary savings will likely impact the Board's ability to bring on the new staff prior to their funding date and possibly at the approved classifications.

BBS EXPENDITURE REPORT FY 2009/10

OBJECT DESCRIPTION	08/09	FY 2009/10			
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT AS OF 11/30/2009	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	1,433,012	1,579,636	586,825	1,510,000	69,636
Salary & Wages (Stat Exempt)	90,599	79,051	33,825	77,000	2,051
Temp Help (907)(Seasonals)	36,805	105	52,931	50,000	(49,895)
Temp Help (915)(Proctors)	0	444	0	0	444
Board Memb (Per Diem)	9,500	12,900	1,300	10,000	2,900
Overtime	70,115	7,533	748		7,533
Totals Staff Benefits	667,989	697,193	297,605	695,580	1,613
Salary Savings		(79,547)			(79,547)
TOTALS, PERSONAL SERVICES	2,308,020	2,297,315	973,234	2,342,580	(45,265)
OPERATING EXP & EQUIP					
Fingerprint Reports	5,159	36,954	5,129	10,000	26,954
General Expense	66,706	51,263	48,961	51,263	0
Printing	76,604	107,630	19,114	50,000	57,630
Communication	12,579	37,019	4,151	10,500	26,519
Postage	72,822	118,645	29,798	70,000	48,645
Travel, In State	104,351	98,665	28,999	98,665	0
Travel, Out-of-State	0	3,600	2,061	3,600	0
Training	13,448	22,202	5,993	10,000	12,202
Facilities Operations	166,926	219,547	70,981	198,500	21,047
C&P Services - Interdept.	0	14,939	0	0	14,939
C&P Services-External Contracts	59,349	10,978	465	45,000	(34,022)
DEPARTMENTAL PRORATA					
DP Billing	404,464	351,616	158,395	351,616	0
Indirect Distribution Costs	347,651	320,114	150,575	320,114	0
Public Affairs	17,424	27,988	12,485	27,988	0
D of I Prorata	14,015	12,859	5,905	12,859	0
Consumer Relations Division	17,090	15,545	7,175	15,545	0
OPP Support Services	0	490	0	490	0
Interagency Services (OER IACs)	237,692	245,065	35,894	245,065	0
Consolidated Data Services	2,295	24,382	4,018	24,382	0
Data Proc (Maint,Supplies,Cont)	8,378	7,357	6,844	7,357	0
Statewide Pro Rata	211,636	177,947	88,974	177,947	0
EXAM EXPENSES					
Exam Site Rental	63,193	99,630	26,307	99,630	0
Exam Contract (PSI) (404.00)	337,052	345,412	144,784	350,000	(4,588)
Expert Examiners (404.03)	279,555	295,260	56,233	295,260	0
ENFORCEMENT					
Attorney General	508,831	888,992	324,568	750,000	138,992
Office of Admin. Hearing	52,569	201,228	17,617	100,000	101,228
Court Reporters	3,224	0	1,254	3,000	(3,000)
Evidence/Witness Fees	30,368	71,334	20,894	50,000	21,334
Division of Investigation	289,156	366,725	159,670	300,000	66,725
Minor Equipment (226)	34,933	48,300	18,972	50,000	(1,700)
Equipment, Replacement (452)		7,000	0	0	7,000
Equipment, Additional (472)		24,000	0	0	24,000
OE&E Reduction Plan				219,000	(219,000)
TOTAL, OE&E	3,438,117	4,252,686	1,456,215	3,947,781	304,905
TOTAL EXPENDITURES	5,746,137	\$6,550,001	\$2,429,449	\$6,290,361	259,640
Fingerprints	(4,392)	(24,000)	8,203		
Other Reimbursements	(16,044)	(26,000)	5,720		
Unscheduled Reimbursements	(35,307)	0	37,281		
Total Reimbursements	(55,743)	(50,000)	51,204		
NET APPROPRIATION	5,690,394	\$6,500,001	\$2,429,449	\$6,290,361	\$259,640

BLUE PRINT INDICATES THE ITEMS ARE SOMEWHAT DISCRETIONARY.

BOARD OF BEHAVIORAL SCIENCES

Analysis of Fund Condition

(Dollars in Thousands)

NOTE: \$9.0 Million General Fund Repayment Outstanding

	Actual 2008-09	Current Year 2009-10	2010-11	2011-12	2012-13	2013-14
BEGINNING BALANCE	\$ 7,048	\$ 4,493	\$ 4,253	\$ 3,775	\$ 4,090	\$ 4,533
Prior Year Adjustment	\$ 109	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL ADJUSTED RESERVES	\$ 7,157	\$ 4,493	\$ 4,253	\$ 3,775	\$ 4,090	\$ 4,533
REVENUES AND TRANSFERS						
Revenues:						
Fees*	\$ 5,829	\$ 6,496	\$ 6,846	\$ 7,132	\$ 7,406	\$ 7,709
Interest	\$ 128	\$ 144	\$ 83	\$ 71	\$ 57	\$ 45
Totals, Revenues	\$ 5,957	\$ 6,640	\$ 6,929	\$ 7,203	\$ 7,463	\$ 7,754
Transfers from Other Funds						
F00683 Teale Data Center	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds						
General Fund Loan	(3000)					
TOTAL REVENUES AND TRANSFERS	\$ 2,957	\$ 6,003	\$ 6,929	\$ 7,203	\$ 7,463	\$ 7,754
TOTAL RESOURCES	\$ 10,114	\$ 10,496	\$ 11,182	\$ 10,978	\$ 11,553	\$ 12,287
EXPENDITURES						
Disbursements:						
State Controller (State Operations)	\$ 2	\$ -	\$ -	\$ -	\$ -	\$ -
Program Expenditures (State Operations)	\$ 5,619	\$ 6,715	\$ 7,119	\$ 6,624	\$ 6,756	\$ 6,892
Projected Expenses (BCPs)			\$ 288	\$ 264	\$ 264	\$ 6
Furlough Savings (13.8%)		\$ (320)				
OE&E Savings (Approved by Agency)		\$ (152)				
TOTAL	\$ 5,621	\$ 6,243	\$ 7,407	\$ 6,888	\$ 7,020	\$ 6,898
FUND BALANCE						
Reserve for economic uncertainties	\$ 4,493	\$ 4,253	\$ 3,775	\$ 4,090	\$ 4,533	\$ 5,389
Months in Reserve	8.6	6.9	6.6	7.1	7.9	

NOTES:

*ASSUMES FLAT LINE PREDICTED VALUES BASED ON PREDICTIVE MODEL
 ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2008-09 AND ONGOING.
 ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.
 ASSUMES INTEREST RATE AT 2%.

MHSA EXPENDITURE REPORT FY 2009/10

OBJECT DESCRIPTION	2008/09	FY 2009/10			
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT AS OF 11/30/2009	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	61,104	64,000	25,395	61,000	3,000
Totals Staff Benefits	33,620	26,511	10,585	26,000	511
Salary Savings		(3,083)			(3,083)
TOTALS, PERSONAL SERVICES	94,724	87,428	35,980	87,000	428
OPERATING EXP & EQUIP					
General Expense	2,655	5,656	550	1,000	4,656
Printing	817	800	0	0	800
Communication	871	1,000	292	900	100
Postage	5,000	800	0	0	800
Travel, In State	3,580	200	36	4,000	(3,800)
Training	10,479	1,000	5,180	6,180	(5,180)
Facilities Operations	2,328	2,000	961	2,400	(400)
Minor Equipment (226)	433	0	0	0	0
C&P Svcs - External (402)	118,197	200,000	14,149	184,750	15,250
Statewide Prorata (438)		7,116	3,689	9,000	(1,884)
TOTAL, OE&E	144,360	218,572	21,168	208,230	10,342
TOTAL EXPENDITURES	239,084	\$306,000	\$57,148	\$295,230	\$10,770

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PCA - 18385

DGS Code - 057472

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To: Board Members

Date: January 6, 2010

From: Laurie Williams
Personnel Liaison

Telephone: (916) 574-7850

Subject: Personnel Update

New Employees

Debbie Flewellyn, Jessica Lissner, Terri Maloy, Darlene York and Kim Higginbotham were promoted to Management Services Technicians effective September 1, 2009 within the Licensing Unit. These staff members will continue to perform the duties of MFT Evaluators, LCSW Evaluators and Intern Evaluator. In addition, Kim Higginbotham has been named the new "School Liaison" for the Board.

Laurie Williams was promoted to Associate Governmental Program Analyst effective September 1, 2009. Laurie will continue in her role as the Board's Personnel Liaison and with the preparation of the monthly and quarterly statistics for the Board.

Marsha Gove has been promoted to a Staff Services Analyst effective December 1, 2009. Marsha joined the Examination Unit and will perform the duties of an Examination Complaint Analyst. However, she will continue in her role as the Applicant Tracking System Liaison for the Board.

Elina Taylor will be joining the Administration Unit, and will work on special projects, assist with Board meetings/minutes, and procurement of equipment and supplies. She will also continue to use her writing talents to create newsletter articles and respond to correspondence. Elina's prior duties in the Examination Unit as an Examination Complaint Analyst have been reassigned to Marsha Gove.

Kim Madsen was appointed the Interim Executive Officer and assumed the duties of Executive Officer effective December 7, 2009. Ms. Madsen will serve in this at-will capacity until a permanent selection has been made by the Board.

Departures

Paul Riches has accepted a position in the Executive Office of the Department of Consumer Affairs as the Deputy Director, Enforcement and Compliance Officer effective November 17, 2009.

Vacancies

The Board is in current recruitment for the selection of a new Executive Officer. The final filing date for this vacancy is January 15, 2010.

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To: Board Members

Date: January 12, 2010

From: Kim Madsen
Interim Executive Officer

Telephone: (916) 574-7841

Subject: Licensed Professional Clinical Counselor Program

Background

On October 11, 2009, Governor Schwarzenegger signed Senate Bill 788 (SB 788) creating a new category of psychotherapists in California, Licensed Professional Clinical Counselors (LPCC). This new licensing program will be the responsibility of the Board of Behavioral Sciences (Board). Beginning January 1, 2011, the Board will begin accepting LPCC Intern applications, out-of-state LPCC applications, and LPCC grandfathered applications. The LPCC grandfathered applications will be accepted for a six month time period ending June 30, 2011.

Initial Progress

Board staff met to discuss the implementation process of the LPCC program. We identified the tasks required to establish the LPCC program, determined priorities and timelines, and staff assignments for each task. Board staff met with the Office of Professional Examination Services regarding the development of the examinations required for the program and recruitment of Subject Matter Experts (SME).

SB 788 requires the Board to conduct an audit of the LPCC Occupational Analysis for the national examination and a Gap Analysis of the MFT, LCSW, and LPCC professions. The purpose of the Gap Analysis is to determine if any differences in practices exist which would require an examination for MFTs and LCSWs seeking licensure as a LPCC. The Board determined that the use of an outside vendor was necessary to complete this work and initiated the request for bid process. On January 12, 2010, the contract was awarded to Applied Measurement Services, LLC (AMS). AMS was directed to begin the work immediately.

Currently staff is working to develop the necessary application forms and duty statements for the twelve (12) new positions. The first stage of recruitment will be a manager and a regulation analyst. We expect to begin recruiting for these positions within 30 days. These two positions were identified as critical to the implementation process.

Looking Ahead

Numerous tasks and decisions still remain to be completed to prepare for the January 1, 2011 start date for the LPCC program. We will continue to provide updates at future meeting as to the progress of implementing the LPCC program and on our web site. Staff is confident that all tasks will be

completed and sufficient notice regarding the application process and requirements will be provided well in advance of the January 1, 2011 start date.

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To: Board Members **Date:** January 12, 2010
From: Christy Berger **Telephone:** (916) 574-7834
Mental Health Services Act Coordinator
Subject: MHSA Coordinator Activity Report for 2009

The following major activities related to the Mental Health Services Act (MHSA) have taken place over the past year, or are expected to take place soon:

MFT Education/Supervision Legislation (SB 33)

- Worked to gain community support for the bill
- Notified educators of its passage and next steps; answered questions
- Coordinated staff implementation of legislation
- Prepared resource documents related to education and supervision changes
- Prepared for a second round of training sessions for educators on curriculum changes
- Developed a technical assistance program for educators
- Developed proposal, contracted for and obtained a resource bibliography for educators

Upcoming Activity:

- Training sessions and technical assistance for MFT educators to take place in March-May 2010
- Develop proposal and contract for intensive technical assistance for schools with greater needs

LCSW Education

- Drafted a plan for the Committee's work in 2009
- Prepared materials and arranged speakers for the Committee's meeting in June 2009, which included a presentation by consumers
- Prepared a draft proposal related to adding an additional license category for social workers (administrator/manager)

Examination Review Committee

- Provided the contracted testing expert with MHSA and public mental health-related information for review
- Explored how to integrate MHSA and public mental health-related competencies into the examination process

Workforce

- Licensed Professional Clinical Counselor (LPCC) legislation
 - Developed amendments to the legislation
 - Developed fiscal and workload analysis

- Developed proposal and contracted for professions analysis and examinations analysis as required by legislation
- Participated in planning and implementation sessions
- Notified educators and other interested parties about available loan repayment and other similar programs
- Provided technical assistance to congress and the federal government to work toward California-licensed LCSWs being able to qualify for federal loan repayment programs
- Scored applications for the statewide MFT stipend program funded by MHSA
- Assisted state Department of Mental Health contractor to obtain and interpret data for report, "Licensed Mental Health Professionals in California"; reviewed report and provided feedback
- Developed proposal and contracted for development of a "best practices guide" to providing supervision via videoconferencing (awarded to CSU Chico; completion expected by June 30, 2010)

Upcoming Activity:

- Develop information for schools relating to the LPCC educational requirements
- Explore providing support/training to future LPCC educational programs on MHSA-related principles
- Explore how principles of the MHSA could be integrated into LPCC examinations

Other Activities

- Researched information, developed materials and coordinated speakers for Ethics Review Committee meeting (later canceled due to budget issues)
- Analyzed and publicized federal legislation (HR 2810) that would permit the federal government (National Health Service Corps) to treat passage of a state's exam for social workers as satisfying the loan repayment program eligibility requirement

Examination Program Review Committee

December 7, 2009

The Board of Behavioral Sciences' (Board) Examination Program Review Committee (EPRC) was appointed in February 2008. The purpose of the EPRC is to conduct a holistic review of the Board's Licensed Clinical Social Worker (LCSW), Licensed Educational Psychologist (LEP), and Marriage and Family Therapist (MFT) examination programs and to evaluate associated issues.

Initially, the EPRC's work focused on listening to stakeholder concerns and obtaining an educational foundation about the examination validation process for all three licensing programs. During this phase, the EPRC received hands on training on the following topics: occupational analysis, examination development (i.e., item writing and review), examination construction and passing scores. The training occurred during five public meetings held statewide (see Table 1).

Table 1 – Phase I Examination Program Review Committee Meetings

Meeting Date	Meeting Location	Examination Validation Training Topic
December 8, 2008	San Diego	Introduction to Examination Validation
February 2, 2009	West Sacramento	Occupational Analysis
March 23, 2009	Irvine	Examination Development (Standard Written)
May 4, 2009	San Jose	Examination Development (Clinical Vignette)
October 5, 2009	Sacramento	Examination Construction & Passing Scores

During each meeting, the EPRC stated that it recognized issues unique to each profession would arise. To address these issues, the EPRC structured time within the meetings, in addition to the hands-on training, to separately address the issues for each profession.

The EPRC conducted an open-ended inquiry to gather information. Stakeholders and interested parties were given opportunities to provide input, feedback, and express their concerns regarding the examination programs.

During Phase II, the EPRC will assess exam content to ensure that the examinations appropriately address the tasks, knowledge, and skills required to practice in today's mental health environments.

In addition, the EPRC will put forth today recommendations to be discussed and presented to the Board for approval. The following represents a list of EPRC recommendations based on feedback from stakeholders and interested parties. Supporting commentary and relevant professional guidelines from the *Standards for Educational and Psychological Testing (Standards)*¹ are included.

¹ American Educational Research Association, American Psychological Association, & National Council on Measurement in Education. (1999). *Standards for educational and psychological testing*. Washington, DC: American Educational Research Association.

Recommendations

1. Implement a revised examination program for the Licensed Clinical Social Worker and the Marriage and Family Therapist licenses.

Test #1: Law & Ethics Examination (e.g., 2 hours, 75 scored & 25 pretest questions) upon graduation

Test #2: Scenario-based Practice Examination (e.g., 4 hours, 175 scored & 25 pretest questions) after supervised hours

Comment:

The purpose of a licensing examination is to identify persons who possess the minimum acceptable knowledge and experience to perform the tasks associated with the profession safely and competently; therefore, protecting the public from incompetent practitioners. Equally important, barriers to licensure should not be imposed to prevent individuals from entering into the profession. The *Standards* state that the mechanisms for identifying competent practitioners should not be “. . . so stringent as to unduly restrain the right of qualified individuals to offer their services to the public” (p. 156).

To meet both of these guidelines, examinations included in the multiple-hurdle process to licensure should be independent and measure different competencies. By offering the Law & Ethics Examination first, candidates are evaluated against important competencies before undertaking the supervised hours requirement. The Scenario-based Examination would be the final hurdle in the licensure process, testing across job-related clinical competencies identified in the occupational analysis (see *Standard 14.14* below; excluding law and ethics content evaluated in the first examination).

2. Collaborate with the Association of Social Work Boards (ASWB) as directed by the Board (see May 29-30, 2008 board meeting minutes) to consider the ASWB examination in its work as it relates to licensure for clinical social work.

3. Collaborate with the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) to jointly perform the Occupational Analysis to be used for the both California MFT licensure exam and national exam.

Comment:

Both the Board and stakeholders have requested that national examination programs be evaluated in the context of California LCSW and MFT licensure. If the national examination programs are found to be fair, valid, and legally defensible for measuring entry-level competency to practice in California then adoption of the national examinations is appropriate.

As per the May 2008 Board meeting, Board staff is currently collaborating with the ASWB, specifically with their occupational analysis. Initial discussions have begun with the AMFTRB, but are waiting further direction from the Board. Professional guidelines

underscore the significance of a clearly defined content area as the foundation for a credentialing (i.e., licensing) test.

Standard 14.14

The content domain to be covered by a credentialing test should be defined clearly and justified in terms of the importance of the content for credential-worthy performance in an occupation or profession. A rationale should be provided to support a claim that the knowledge or skills being assessed are required for credential-worthy performance in an occupation and are consistent with the purpose for which the licensing or certification program was instituted. (p. 161)

- 4. Evaluate the feasibility of providing candidates with a practice examination for each profession. At a minimum, revise LCSW, LEP and MFT Examination Study Guide sample questions to represent updated, job-related content as well as question format.**

Comment:

Although the Board’s Examination Study Guides provide a thorough explanation of the testing process including sample questions, the availability of practice examinations is consistent with professional guidelines. However, the fiscal impact of exposing quality examination questions should be considered when determining the actual number of questions in the practice examinations.

Standard 3.20

The instructions presented to test takers should contain sufficient detail so that test takers can respond to a task in the manner that the test developer intended. When appropriate, sample material, practice or sample questions, criteria for scoring, and a representative item identified with each major area in the test’s classification or domain should be provided to the test takers prior to the administration of the test or included in the testing material as part of the standard administration instructions.

- 5. Conduct a survey of reference materials (e.g., textbooks) used by schools to assist with examination development efforts.**
- 6. Evaluate the feasibility of publishing reference lists in the LCSW, LEP and MFT Examination Study Guides.**

Comment:

Providing candidates with a reference list that includes a *sample* of textbooks used in education and training as well as examination development is consistent with professional guidelines. However, a disclaimer stating for example, “*Following is a list of publications that may help you prepare for the written examination. The list does not include all MFT textbooks nor is it intended to be an endorsement of the publications listed*” should be included.

Standard 8.1

Any information about test content and purposes that is available to any test taker prior to testing should be available to *all* test takers. Important information should be available free of charge and in accessible formats. (p. 86)

Standard 8.2

Where appropriate, test takers should be provided, in advance, as much information about the test, the testing process, the intended test use, test scoring criteria, testing policy, and confidentiality protection as is consistent with valid responses. (p. 86)

7. Expand subject matter expert recruitment pool.**Comment:**

To create and maintain a fair, valid and legally defensible examination program, subject matter experts must be an integral part of the process. Subject matter experts are practitioners (e.g., LCSWs, LEPs, MFTs) possessing a license, who are in good standing and active in their respective practice. The *Standards* recognize the significance of using subject matter experts or “expert judges” and discuss their role in examination validation throughout the professional guidelines.

Standard 3.6

The type of items, the response formats, scoring procedures, and test administration procedures should be selected based on the purposes of the test . . . The qualifications, relevant experiences, and demographic characteristics of expert judges should also be documented. (p. 44)

Standard 4.21

When cut scores defining pass-fail or proficiency categories are based on direct judgments about the adequacy of item or test performance or performance levels, the judgmental process should be designed so that judges can bring their knowledge and experience to bear in a reasonable way. (p. 60)

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To: Board Members **Date:** January 20, 2010

From: Tracy Rhine **Telephone:** (916) 574-7847
Legislation Analyst

Subject: **Discussion on Implementation of Examination Program Review Committee
Recommendations: Registrant Law and Ethics**

Background

On December 7, 2009, the Examination Program Review Committee (Committee) made several recommendations relating to modifications of the current licensure exam process for Marriage and Family Therapists (MFTs) and Licensed Clinical Social Workers (LCSWs). The first recommendation is to revise the current process for licensees, which includes a Standard Written Examination (Standard) upon completion of examination eligibility requirements and a subsequent Clinical Vignette (CV) examination upon passage of the Standard. The Committee recommended requiring MFT interns and Associate Clinical Social Workers (ASWs) to complete and pass an examination on California law and ethics. The framework of this examination would consist of law and ethic questions that a recent program graduate would be reasonably expected to know.

After passage of the law and ethics exam the Committee recommended that, as a condition of licensure after reaching examination eligibility, applicants complete and pass a New Standard Written Examination (New Standard) as a condition of licensure. The framework of the New Standard Written Examination would consist of practice oriented and vignette questions that a candidate who has gained experience hours would be reasonably expected to know.

Discussion

Staff has formulated a basic framework for the new examination process. This is only a simple starting point for discussion.

1. New Registrants, as a condition of renewal, would have to complete and pass the new law and ethics examinations within the first year of registration.
2. Registrants may take the law and ethics examination as many times as they wish until they pass the exam. The Board will work with the Office of Professional Examination Services to offer the examination up to four times a year.
3. If the registrant cannot pass the examination by the second year (two years after initial issuance of the registration), the registrant must complete a course on law and ethics and submit proof of completion to the board before he or she can take the examination again.

4. If the registrant does not pass the examination by the end of the three years, the registration is cancelled and the individual would have to apply for a new registration.

Staff has identified four different populations of exam applicants as it relates to implementing a new examination process consistent with the above recommendation:

1. New registrants after the implementation date of the new process – these applicants would take the new law and ethics exam and the New Standard (new exam cycle).

2. Registrants gaining hours but did not have examination eligibility before the new law went into effect (or before the implementation date) – these applicants would take the law and ethics and New Standard (new exam cycle).

3. Registrants in the exam cycle, have passed the Standard, but have not completed the CV; - these applicants would take the New Standard.

4. Individuals in the exam cycle and have not passed any examinations, - these applicants would take a law ethics examination developed for those who have been practicing. These individuals will have one year to pass this law and ethics exam and if they do not pass after one year they will enter the new exam cycle. These applicants will also take the New Standard.

Recommendation

Conduct an open discussion on optional approaches to implementing the Committee’s recommendation to require Board registrants to complete and pass an examination on California Law and Ethics and the New Standard Written Examination.

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To: Board Members **Date:** January 20, 2010

From: Tracy Rhine **Telephone:** (916) 574-7847
Legislation Analyst

Subject: **Sponsor Legislation to Adopt a Retired License Status for Marriage and family Therapists, Licensed Clinical Social Workers, Licensed Educational Psychologists and Licensed Professional Clinical Counselors**

Background

The Board of Behavioral Sciences (Board) receives numerous inquiries and requests from licensees regarding a retired license status.

Currently, if a licensee retires from practice, he or she can do either of the following:

- 1) Request that his/her license be placed on inactive status and pay a biennial fee of one half the standard active renewal fee (inactive license fees are \$65 for MFTs, \$50 for LCSWs, and \$40 for LEPs). Renewing with an inactive status, by definition, means that a licensee may not engage in practice and is exempt from continuing education requirements.
- 2) Not pay a fee and allow his or her license to expire. Allowing a license to expire means that the license will go into delinquent status and will ultimately be cancelled after three years.

The Board's web site, as well as many of the other Department of Consumer Affairs (DCA) web sites, provides the following license status definitions:

- *Cancelled:* License has been expired for at least three years and is not renewable; the registration has been automatically cancelled upon issuance of a license; or has reached its 6-year limit.
- *Delinquent:* Renewal fees and compliance with the continuing education requirement (if applicable) are past due; or, the licensee/registrant has chosen not to renew. NOTE: The license/registration is expired, and no practice is permitted while the license is delinquent/expired.
- *Inactive:* License is inactive. Licensee may not practice in California. NOTE: Licensee is exempt from complying with the continuing education requirements.
- *Clear:* License renewal fees have been paid and continuing education requirements (if

applicable) have been met.

The two primary complaints from licensees with respect to the license status options that are available to them upon retirement are as follows:

- Renewing with an inactive status requires paying an inactive renewal fee every two years when an individual does not intend to ever practice again; and,
- If a licensee allows his or her license to expire, the Board's web site labels his or her license status as "Delinquent" until the license is cancelled after three years.

Currently, the following boards within DCA have a retired license status available to their licensees: Board of Pharmacy; California Architects Board; Board for Professional Engineers and Land Surveyors; Medical Board of California; and Board of Registered Nursing.

Previous Board Action

On January 10, 2007, the Consumer Protection Committee discussed the possibility of creating a retired license status for the Board's licensees. The Committee members expressed interest in creating a retired license status and requested that staff come back with proposed language. On May 31, 2007 the Board approved the proposed language to create a retired license status for LEPs, MFTs and LCSWs. Board minutes from the May 31, 2007 discussion on this item are attached (Attachment B).

Discussion

Due to workload issues staff has previously been unable to introduce legislation as approved by the board to create the retired license for Board licentiates. Since the Board's initial approval of the proposal, affected statute has been amended and a new category of licensee regulated by the Board, the Licensed Professional Clinical Counselors (LPCCs) has been created.

Due to the changes in statute, staff has prepared an amended proposal (Attachment A) that will create a retired license for MFTs, LCSWs, LEPs and LPCCs. The retired license proposal is modeled after retired license status language for California pharmacists, architects, professional engineers, and land surveyors. This attached proposal does the following:

1. Permits a licensee to have a retired status available to them;
2. Allows a retired licensee to reactivate their license within three years;
3. Requires a one-time \$40 fee for the issuance of a retired license;
4. Exempts a retired licensee from continuing education requirements; and,
5. Requires a retired licensee to pass current licensure examination if the licensee wishes to restore his or her license to full active status after three years.

This language is identical to that approved by the Board on May 31, 2007 except for the following:

1. Adds BPC Section 4999.113 and 4999.120 to include retired license provisions for LPCCs;
2. Amends BPC Sections 4984.7, 4996.3, to reflect current law; and,
3. Changes BPC Section numbers used for the retired license language in LEP and LCSW licensing law.

Recommendation

Staff requests that the Board discuss the changes made to the previously approved language and, if acceptable, sponsor legislation creating a retired license status as proposed.

Attachment

- A. Proposed Legislative Language
- B. May 31, 2007 Board Minutes

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Retired License Status

Add BPC Sections 4984.41, 4989.45, 4997.1 and 4999.113

Amend BPC Sections 4984.7, 4989.68, 4996.3 and 4999.120

**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LEGISLATIVE LANGUAGE**

§ 4984.41 RETIRED LICENSE; CONDITIONS (MFT)

(a) The board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to a marriage and family therapist who holds a license that is current and active or capable of being renewed and whose license is not suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active marriage and family therapist license is required. A marriage and family therapist holding a retired license shall be permitted to use the titles "retired marriage and family therapist" or "marriage and family therapist, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) The holder of a retired license issued less than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice marriage and family therapy to active status by:

(1) Paying the current renewal fee.

(2) Completing the required continuing education as specified in Section 4980.54.

(e) The holder of a retired license issued more than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice marriage and family therapy to active status by:

(1) Applying for licensure and paying the required fees.

(2) Passing the examinations required for licensure.

§4984.7. LICENSING AND EXAM FEES SCHEDULE (MFT)

(a) The board shall assess the following fees relating to the licensure of marriage and family therapists:

(1) The application fee for an intern registration shall be seventy-five dollars (\$75).

(2) The renewal fee for an intern registration shall be seventy-five dollars (\$75).

(3) The fee for the application for examination eligibility shall be one hundred dollars (\$100).

(4) The fee for the standard written examination shall be one hundred dollars (\$100). The fee for the clinical vignette examination shall be one hundred dollars (\$100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fee.

(B) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred eighty dollars (\$180).

(7) The fee for license renewal shall be a maximum of one hundred eighty dollars (\$180).

(8) The fee for inactive license renewal shall be a maximum of ninety dollars (\$90).

(9) The fee for issuance of a retired license shall be forty dollars (\$40).

~~(9)~~ (10) The renewal delinquency fee shall be a maximum of ninety dollars (\$90). A person who permits his or her license to expire is subject to the delinquency fee.

~~(40)~~ (11) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

~~(44)~~ (12) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(b) With regard to license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

§ 4989.45 RETIRED LICENSE, CONDITIONS (LEP)

(a) The board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to a licensed educational psychologist who holds a license that is current and active or capable of being renewed and whose license is not suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active educational psychologist license is required. A licensed educational psychologist holding a retired license shall be permitted to use the titles "retired licensed educational psychologist" or "licensed educational psychologist, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) The holder of a retired license issued less than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice educational psychology to active status by:

(1) Paying the current renewal fee.

(2) Completing the required continuing education as specified in Section 4989.34.

(e) The holder of a retired license issued more than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice educational psychology to active status by:

(1) Applying for licensure and paying the required fees.

(2) Passing the examinations required for licensure.

4989.68. FEE SCHEDULE (LEP)

(a) The board shall assess the following fees relating to the licensure of educational psychologists:

- (1) The application fee for examination eligibility shall be one hundred dollars (\$100).
- (2) The fee for issuance of the initial license shall be a maximum amount of one hundred fifty dollars (\$150).
- (3) The fee for license renewal shall be a maximum amount of one hundred fifty dollars (\$150).
- (4) The delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license to become delinquent may have it restored only upon payment of all the fees that he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.
- (5) The fee for issuance of a retired license shall be forty dollars (\$40).

~~(5)-(6)~~ The written examination fee shall be one hundred dollars (\$100). An applicant who fails to appear for an examination, once having been scheduled, shall forfeit any examination fees he or she paid.

~~(6)-(7)~~ The fee for rescoring a written examination shall be twenty dollars (\$20).

~~(7)-(8)~~ The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

~~(8)-(9)~~ The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(b) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

§ 4997.1 RETIRED LICENSE, CONDITIONS (LCSW)

(a) The board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to a licensed clinical social worker who holds a license that is current and active or capable of being renewed and whose license is not suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active clinical social worker license is required. A licensed clinical social worker holding a retired license shall be permitted to use the titles "retired licensed clinical social worker" or "licensed clinical social worker, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) The holder of a retired license issued less than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice clinical social work to active status by:

- (1) Paying the current renewal fee.

(2) Completing the required continuing education as specified in Section 4996.22.

(e) The holder of a retired license issued more than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice clinical social work to active status by:

(1) Applying for licensure and paying the required fees.

(2) Passing the examinations required for licensure.

§4996.3. LICENSING AND EXAM FEES (LCSW)

(a) The board shall assess the following fees relating to the licensure of clinical social workers:

(1) The application fee for registration as an associate clinical social worker shall be seventy-five dollars (\$75).

(2) The fee for renewal of an associate clinical social worker registration shall be seventy-five dollars (\$75).

(3) The fee for application for examination eligibility shall be one hundred dollars (\$100).

(4) The fee for the standard written examination shall be a maximum of one hundred fifty dollars (\$150). The fee for the clinical vignette examination shall be one hundred dollars (\$100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fees.

(B) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred fifty-five dollars (\$155).

(7) The fee for license renewal shall be a maximum of one hundred fifty-five dollars (\$155).

(8) The fee for inactive license renewal shall be a maximum of seventy-seven dollars and fifty cents (\$77.50).

(9) The renewal delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(12) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) With regard to license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter

§ 4999.113 RETIRED LICENSE, CONDITIONS (LPCC)

(a) The board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to a licensed educational psychologist who holds a license that is current and active or capable of being renewed and whose license is not suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active professional clinical counselor license is required. A licensed professional clinical counselor holding a retired license shall be permitted to use the titles "retired licensed professional clinical counselor" or "licensed professional clinical counselor, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) The holder of a retired license issued less than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice professional clinical counseling to active status by:

(1) Paying the current renewal fee.

(2) Completing the required continuing education as specified in Section 4999.76.

(e) The holder of a retired license issued more than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice professional clinical counseling to active status by:

(1) Applying for licensure and paying the required fees.

(2) Passing the examinations required for licensure.

§4999.120. FEES (LPCC)

The board shall assess fees for the application for and the issuance and renewal of licenses and for the registration of interns to cover administrative and operating expenses of the board related to this chapter. Fees assessed pursuant to this section shall not exceed the following:

(a) The fee for the application for examination eligibility shall be up to two hundred fifty dollars (\$250).

(b) The fee for the application for intern registration shall be up to one hundred fifty dollars (\$150).

(c) The fee for the application for licensure shall be up to one hundred eighty dollars (\$180).

(d) The fee for the jurisprudence and ethics examination required by Section 4999.54 shall be up to one hundred fifty dollars (\$150).

(e) The fee for the examination described in subdivision (b) of Section 4999.54 shall be up to one hundred dollars (\$100).

(f) The fee for the written examination shall be up to two hundred fifty dollars (\$250).

(g) The fee for the issuance of a license shall be up to two hundred fifty dollars (\$250).

(h) The fee for issuance of a retired license shall be forty dollars (\$40).

~~(h)~~ (i) The fee for annual renewal of licenses issued pursuant to Section 4999.54 shall be up to one hundred fifty dollars (\$150).

~~(i)~~ (j) The fee for annual renewal of an intern registration shall be up to one hundred fifty dollars (\$150).

~~(j)~~ (k) The fee for two-year renewal of licenses shall be up to two hundred fifty dollars (\$250).

May 2007

VII – A. Recommendation #1 – Sponsor Legislation to Adopt a Retired License Status for Marriage and Family Therapists (MFTs), Licensed Clinical Social Workers (LCSWs), and Licensed Educational Psychologists (LEPs)

Ms. Johnson reported on legislation to adopt a retired license status for MFTs, LCSWs, and LEPs. Currently, if a licensee retires from practice, the licensee can: 1) Request that his/her license be placed on inactive status and pay a biennial fee of one half the standard active renewal fee (inactive license fees are \$65 for MFTs, \$50 for LCSWs, and \$40 for LEPs). Renewing with an inactive status, by definition, means that a licensee may not engage in practice and is exempt from continuing education requirements; or 2) Not pay a fee and allow the license to expire. Allowing a license to expire means that the license will go into delinquent status and will ultimately be cancelled after five years.

The Committee recommended that the Board approve the proposed language, with modifications, in order to pursue implementing a retired license status for MFTs, LCSWs, and LEPs.

Ms. Riemersma expressed several concerns: 1) Why do this? 2) Why would a licensee retire their license if it requires passage of an exam to become relicensed? 3) Anyone who is a retired MFT should be able to use the title "Retired MFT" and should not have to qualify or pay a fee to do so. 4) The continuing education language is confusing. Ms. Riemersma stated that she does not encourage a licensee to do this because life circumstances change. She encouraged more work on the language.

Mr. Riches responded that staff receives many calls from licensees requesting an option for a retired status. Licensees who are retired and do not intend to become relicensed expressed a desire for a retired license, to keep their license on a retired status instead of canceling the license.

Ms. Riemersma asked if this would prevent a retired licensee, who has not acquired this status, to use the title "Retired MFT." Mr. Riches responded that he has not looked into that. Mr. Ritter added that if the disclosure is not false and misleading, then there is no reason why that should be prohibited under state law.

Mr. Riches stated that staff will continue to work with CAMFT to make modifications and ensure that the language is acceptable.

JUDY JOHNSON MOVED, JOAN WALMSLEY SECONDED, AND THE BOARD VOTED UNANIMOUSLY TO SUPPORT THE RECOMMENDATION.

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To: Board Members

Date: January 20, 2010

From: Tracy Rhine
Legislative Analyst

Telephone: (916) 574-7847

Subject: Legislation to Extend the Sunset of the Board

Current law requires that boards and bureaus under the Department of Consumer Affairs (DCA) undergo “sunset review” periodically. Sunset review is a structured form of legislative oversight that was established for professional licensing programs in 1994 legislation. The Legislature established the Joint Legislative Sunset Review Committee (subsequently renamed the Joint Committee on Boards Professions and Consumer Protection) to conduct the sunset review process. Each year a selection of boards and bureaus were required to submit an extensive report to the committee detailing their operations and performance. That report and the committee staff report served as the basis for public hearings by the committee regarding each program. These hearings also provided stakeholder groups an opportunity to comment on the performance of the board or bureau.

Under the 1994 law, each board and bureau had a “sunset” date amended into its authorizing statute. Absent legislative action to extend that date, the board or bureau would “sunset” or cease to exist (as we witnessed with the Bureau for Private Post-Secondary and Vocational Education). If a board or bureau was found to be operating acceptably, the committee would sponsor legislation to extend the sunset date for four (4) years at which time the board or bureau would again be subject to the review process. If a board or bureau was not found to be operating acceptably, the committee would generally require review again in two (2) year increments. In extreme circumstances, structural changes in the programs were imposed through sunset extension legislation. Some boards were allowed to sunset and become bureaus under the Department of Consumer Affairs, and other programs were merged together. The sunset bills also were vehicles for significant changes and proposals relating to the affected programs. The threat of sunset has been used to gain acceptance of changes to programs that were controversial.

BBS was last reviewed by the Legislature through the Sunset Review process in 2005. Since the last board review, legislation extending the sunset of the board has been signed into law absent the actual review process. The legislature has introduced legislation in the last several years proposing to revamp the sunset process. Additionally, the Senate has failed to fund the Joint Committee, and therefore no Boards or Bureaus have been reviewed in the last four (4) years.

The BBS currently has a sunset date of January 1, 2011 and legislation will be required in the 2010 legislative session to continue the board's existence beyond that date. Traditionally, the Senate Business and Professions Committee sponsors such legislation. It is unknown at this time if the Senate will simply extend the sunset date of the Board or instead repeal the sunset date as part of a complete sunset review process overhaul.

ATTACHMENT

Board Sunset Statutes

Business and Professions Code Sections relating to the Sunset of the Board of Behavioral Sciences

Statute effective January 1, 2010

§4990. BOARD MEMBERS

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

- (1) Two state licensed clinical social workers.
- (2) One state licensed educational psychologist.
- (3) Two state licensed marriage and family therapists.
- (4) Commencing January 1, 2012, one state licensed professional clinical counselor.
- (5) Seven public members.

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

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

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

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

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

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

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

(i) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

§4990.04. EXECUTIVE OFFICER

(a) The board shall appoint an executive officer. This position is designated as a confidential position and is exempt from civil service under subdivision (e) of Section 4 of Article VII of the California Constitution.

(b) The executive officer serves at the pleasure of the board.

(c) The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(d) With the approval of the director, the board shall fix the salary of the executive officer.

(e) The chairperson and executive officer may call meetings of the board and any duly appointed committee at a specified time and place. For purposes of this section, "call meetings" means setting the agenda, time, date, or place for any meeting of the board or any committee.

(f) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

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To: Board Members

Date: January 20, 2010

From: Tracy Rhine
Legislative Analyst

Telephone: (916) 574-7847

Subject: Proposed 2010 Omnibus Legislation

Upon review, staff has determined that several sections of the Business and Professions Code (BPC) pertaining to the Board of Behavioral Sciences (Board) require amendments. These amendments add clarity and consistency to licensing law. A majority of the proposed amendments are needed as a result of new legislation establishing the licensure and regulation of Licensed Professional Clinical Counselors (LPCCs) by the Board. This new legislation went into effect January 1, 2010 (SB 788, Chapter 619, Statutes of 2009). The changes outlined in this proposal can be categorized into four major sections: Technical Clean-up, technical clean-up to new LPCC provisions to make them consistent with changes made in 2009 legislation, adding reference to LPCCs in Marriage and Family Therapist (MFT) and Licensed Clinical Social Worker (LCSW) licensing law, and adding reference to LPCC in general Board statute.

A. TECHNICAL AND NONSUBSTANTIVE CHANGES

Technical Changes and Repealing Obsolete Sections

Add BPC Section 4990.17

Repeal BPC Sections 4980.07, 4982.2, 4984.6, and 4994

Background: Several sections of the BPC that pertain to the Board need minor technical clean-up. These changes would help to maintain the clarity and consistency of the Board's statutes. Additionally, there are several sections that are outdated and need to be repealed. The changes below are code section clean-up as a result of SB 1475, Chapter 659, Statutes of 2006.

Amendments:

1. BPC Section 4994 relates to Board revenue but the section is currently part of the LCSW practice act. This section should be moved to the general Board provisions (BPC Section 4990.17).
2. Repeal BPC 4982.2 relating to enforcement action against all Board licensees. This section is currently within the MFT licensing act and is redundant. BPC Section 4990.30 in the general board code section addresses all the provisions contained in BPC 4982.2.
3. Repeal BPC 4984.6 as provisions contained in this section were moved to BPC Section 4990.22 as a result of SB 1475.

4. Repeal BPC Section 4980.07 as provisions contained in this section were moved to BPC Section 4990.12 as a result of SB 1475.

Grammatical Error

BPC 8984.8(d)(3)

Background: BPC 8984.8(d)(3) states the following:

*(3) A licensee requesting to restore his or her license to active status, whose license will expire more than one year **form** the date of the request, shall complete 36 hours of continuing education as specified in Section 4980.54.*

Amendment: Change the word “form” to “from”:

(3) A licensee requesting to restore his or her license to active status, whose license will expire more than one year ~~form~~ from the date of the request, shall complete 36 hours of continuing education as specified in Section 4980.54.

LCSW Licensure Eligibility for Applicants Licensed in Another State

BPC 4996.17(c)

Background: BPC section 4996.17 sets forth the LCSW licensure requirements and qualifications for applicants with education and experience gained outside California. One method to obtain licensure in California under this section requires an applicant to provide certification from each state where he or she holds a license and to meet other experience and coursework requirements.

Problem: BPC section 4996.17(c)(5) reads as follows:

*The applicant shall provide a certification from each state where he or she **holds** a license pertaining to licensure, disciplinary action, and complaints pending.*

This subdivision requires that the applicant has a current license in another state or states. However, BPC section 4996.17(c) uses the past tense when describing the out-of-state licensure:

*The board may issue a license to any person who, at the time of application, **has held** a valid, active clinical social work license for a minimum of four years, issued by a board of clinical social work examiners or a corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following...*

It is clear that the intent is to require applicants coming from another state, under this provision, to hold a current active license. In 2009 the board sponsored legislation that amended the same language in subdivision (b) of this section. The proposed change before the Board today is a result of inadvertently excluding a consistent language change in this subdivision.

Amendment: Amend BPC section 4996.17(c) as follows:

The board may issue a license to any person who, at the time of application, ~~has held~~ holds a valid, active clinical social work license for a minimum of four years, issued by a board of clinical social work examiners or a corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following...

Supervision via Videoconferencing for Associate Clinical Social Workers (ASWs)

Amend BPC Section 4996.23(c)(5)

Background: Applicants for LCSW licensure are required to have a total of 104 weeks and 3,200 hours of supervised experience. This includes a minimum of one hour of direct supervision per week for a minimum of 104 weeks. BPC Section 4996.23 was amended last year to permit ASWs working in specified settings to gain a portion of this supervision via videoconferencing (SB 821, Chapter 307, Statutes of 2009). However, an error occurred during the drafting of amendments and two contradicting subdivisions were included in the bill relating to videoconferencing; subdivision (5) allows an ASW to be credited for only 30 hours of direct supervisor contact via videoconferencing and subdivision (7) does specify a limit on the hours to be credited.

Amendment: Correct drafting error by deleting BPC Section 4996.23(c)(5). This will allow an ASW to obtain the required weekly direct supervisor contact via videoconferencing in the specified settings, without a limit on those hours credited. This is consistent with Board intent and with changes made to MFT licensing law (BPC 4980.43(c)(6)).

Accrediting Agency Name Change

BPC Section 4980.40.5

Background: BPC Section 4980.40.5 sets forth provisions for the acceptance educational degrees conferred by institutions approved by the Bureau for Private Postsecondary and Vocational Education and by institutions accredited by regional accrediting associations. This section lists the five acceptable accrediting associations. However, the Northwest Association of Secondary and Higher Schools has since changed its name and therefore this section is currently contains an outdated reference.

Amendment: Change the name of the association to the current and correct name as follows:

(1) Northwest Commission on Colleges and Universities ~~Northwest Association of Secondary and Higher Schools~~.

Clarifying Change to MFT Intern Experience Requirements

BPC Section 4980.43

Background: In 2009 a number of changes were made to MFT licensure qualifications, including BPC Section 4980.43 relating to MFT intern professional experience requirements (SB 33, Chapter 26, Statutes of 2009). Subdivision (a)(10) of this section outlines the number of hours of experience that may be credited for each hour of therapy provided to couples and families:

Not less than 500 total hours of experience in diagnosing and treating couples, families, and children. For the first 150 hours of treating couples and families in conjoint therapy, the applicant shall be credited with two hours of experience for each hour of therapy provided

Amendment: Currently this section specifies that it is the *first* 150 hours of experience in treating couples and families that shall be credited in the specified manner. This language may be confusing and it should be clarified that the total number of hours allowed for the credit specified is 150 hours, regardless of when in the registrants professional experience those hours occurred. Staff recommends the following clarifying amendment:

*(10) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children. For **the first up to** 150 hours of treating couples and families in conjoint therapy, the applicant shall be credited with two hours of experience for each hour of therapy provided*

B. TECHNICAL CLEAN-UP TO LPCC LICENSING LAW

Unprofessional Conduct Statutes for Licensed Professional Clinical Counselors (LPCCs)

BPC sections 4999.90(c), (p), (r), (aa) and (ab)

The following statutory changes proposed for LPCCs were discussed and approved by the Board last year as it relates to the practice of MFTs, LCSWs and LEPs. These changes were included in Board sponsored legislation that went into effect for MFTs, LEPs and LCSWs January 1, 2010 (SB 819, Chapter 308 and SB 821, Chapter 307, Statutes of 2009). In order to maintain consistency among licensees of the Board, where applicable and appropriate, the follow changes are being recommended relating to Unprofessional Conduct in the practice of professional clinical counseling.

Unprofessional conduct for subversion of licensing exam

BPC sections 4999.90(aa)

Background: 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.

BPC Section 4999.90 defines unprofessional conduct as it relates to the practice of LPCCs. Unprofessional conduct contained in the licensing acts of all other board licensees (MFTs, LCSWs and LEPs) currently stipulates that subversion of the exam process, as defined in BPC section 123, is an act of unprofessional conduct.

Amendment: Add the following language to BPC section 4999.90:

“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

4990.09(c))

Background: The unprofessional conduct statute contains provisions stipulating that the board may deny a license or may suspend or revoke a license of a licensee if he or she has been guilty of unprofessional conduct, as defined. Included in the provisions describing unprofessional conduct is the following:

- *Conviction of a crime substantially related to the qualifications, functions and duties of the licensee or registrant.*
- *Administering to himself or herself a controlled substance or using any of the dangerous drug specified in BPC section 4022 or an alcoholic beverage to the extent, or in a manner injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his in her ability to safely perform the functions authorized by the license.*

Another provision of unprofessional conduct 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.

Problem: 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 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.

Amendment: Strike the following language from BPC section 4999.90(c):

“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.”

Supervisor Unprofessional Conduct

BPC Sections 4999.90(r)

Background: Current law states that unprofessional conduct includes any conduct in the supervision of a registrant by any licensee that violates licensing law and regulations adopted by the board. However, section 4999.90 only makes it a violation if the supervision is of a registrant in the same field as the licensee.

Amendment: Amend the unprofessional conduct section 4999.90(r) to include all supervisees.

Definition of Advertising relating to Unprofessional Conduct

BPC Section 4999.90(p)

Background: BPC Section 4999.90(p) defines unprofessional conduct relating to advertisement by a LPCC.

Amendment: To add clarity and consistency with other licensees as it related to this provision, this section should add reference to fraudulent advertising and the BPC Section 651:

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

Unprofessional Conduct for disciplinary action against an additional License issued by the Board

BPC Section 4990.90(ab)

Background: BPC Sections 4992.36(b) and BPC Section 4982.25 (LCSW and MFT licensing law, respectively) allow the Board to deny an application or suspend or revoke any license or registration if the individual has had disciplinary action taken against another license issued by this Board. This provision is not currently included in LPCC licensing law.

Amendment: Add subdivision BPC Section 4999.90(ab) with the following language to make LPCC licensing law consistent with MFT and LCSW licensing law allowing the board to take action against a licensee that has had disciplinary action against another license issued by the Board.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker, educational psychologist, or marriage and family therapist.

Professional Experience of LPCC Interns

BPC 4999.46(e), (f) and (g)

Background: BPC Code Section 4999.46 sets forth the hours of supervised experience required to qualify for licensure as a professional clinical counselor. A number of changes are being proposed to this section to clarify and make LPCC experience requirements consistent with those of current Board licensees.

Amendments:

1. BPC 4999.46(e) states that all applicants and interns shall be under the supervision of a supervisor that is responsible for ensuring the extent, kind and quality of services performed by the person being supervised. This subdivision also limits the number of interns a supervisor may supervise at one time to a total of two (2) interns. This is not consistent with laws relating to the supervision of other Board registrants. Currently there is only a limit on the number of registrants a supervisor may supervise in private practice. Effective January 1, 2010, supervisors may supervise a total of two registrants in a private practice setting (BPC 4980.45 and 4996.24). In addition to inconsistency with other licensing law, this limitation of interns in LPCC law may cause a practical issue in the early stages of implementing the new licensing program. Initially there will an increase number of registrants seeking supervision when the Board begins issuing registrations, but there will not be an increase in the number of eligible supervisors for at least two years into the licensing program (current supervisor qualifications for MFTs require that the supervisor be licensed for at least two years in California so the assumption is that the same qualifications will most likely apply to LPCCs). Therefore, a limitation on the number of interns a supervisor may supervise at one time may impede interns gaining the required hours to qualify for LPCC licensure. Staff recommends deleting the limitation on the number of interns that may be supervised.

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

2. Current MFT and LCSW licensing law prohibits credit for supervised hours gained under the supervision of a spouse or relative (16CCR Section 1833 and BPC Section 4996.18 respectively). This provision does not appear in LPCC licensing law. Staff recommends the following provision be added to BPC Section 4999.46 to make the supervision requirements for LPCC licensure consistent with that for other Board licensees.

BPC 4999.46(f) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

3. As currently written BPC 4999.46(f)(2) requires direct supervisor contact for every ten (10) hours of client contact in each setting. However, requirements for LCSWs (BPC 4996.23(c)(2)) and MFTs (BPC 4980.43(c)(2)) requires one hour of direct supervisor contact for *every week* in which *more than* 10 hours of client contact. There are two distinctions: current law calculates the hours of client contact every week and requires the specified supervision for more than 10 hours. The suggested amendment clarifies that an intern must receive an average of at least one hour of direct supervisor contact *for every week* in which *more than 10 hours* of face-to-face psychotherapy is performed in each setting.

(f) (g)(2) An intern shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which

experience is gained. An intern shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting.

4. Applicants for LPCC licensure are required to have a total of 104 weeks and 3,000 hours of supervised experience. This includes a minimum of one hour of direct supervision per week for a minimum of 104 weeks. BPC Section 4999.46(f)(4) specifies that 30 hours of this supervision in certain settings may be gained via videoconferencing. However, the Board approved language relating to LCSWs and MFTs that allow unlimited direct supervisor contact via videoconferencing (BPC 4996.23(c)(7) and BPC 4980.43(c)(6)) and these changes were signed into law, effective January 1, 2010 (SB 821, Chapter 307, Statutes of 2009 and SB 33, Chapter 26, Statutes of 2009, respectively). Staff recommends deleting the 30 hour limit in this section to make it consistent with similar provisions in MFT and LCSW licensing law.

(4) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable, may obtain up to 30 hours of the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

Out-of-State Applicants

BPC Sections 4999.58 and 4999.59

Background: LPCC licensing law includes provisions relating to individuals that apply for licensure in California that have held a LPCC license from another state for at least two years. Additionally, LPCC licensing law provides for individuals applying for licensure after a January 1, 2014 that either have a license from another state (regardless of the length of time that license has been in effect) and for applicants with education and experience gained outside of the state (without holding a license). However, statute lacks a provision that sets forth the qualifications and requirements for individuals that apply LPCC licensure before January 1, 2014 that have held a out-of-state license for less than two years.

Amendments: Add a section in LPCC licensing law that is consistent with current requirements of other Board licensees relating to applicants that have held a license from another state for less than two years. Additionally, clarify that BPC section 4999.58 applies to applicants that have held an out-of-state license for at least two years. Currently subdivision (b) of BPC Section 4999.58 references applicants that have held a license in another state for at least two years, but the language contained in subdivision (a) of this section is vague.

§4999.59 (a) This section applies to persons who apply for examination eligibility or registration between January 1, 2010, and December 31, 2013, and who hold a license as described in Section 4999.58 for less than two years.

(b) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter, if the applicant complies with Section 4999.40, if applicable, and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board. The board shall consider hours of experience obtained in another state during the six-year period immediately preceding the applicant's initial licensure in that state as a marriage and family therapist.

(c) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, and if the applicant completes, in addition to the course described in subparagraph (l) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records.

the Health Insurance Portability and Accountability Act, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients.

(d) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant's education meets the requirements of Section 4999.32. If the applicant's degree does not contain the content or the overall units required by Section 4999.32, the board may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

(1) The applicant's degree contains the required number of practicum units under paragraph (3) of subdivision (c) of Section 4999.32.

(2) The applicant remediates his or her specific deficiency by completing the course content and units required by Section 4999.32.

(3) The applicant's degree otherwise complies with this section.

(e) This section shall become inoperative on January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.

§4999.58 (a) This section applies to persons who have held a license outside of California for at least two years and apply for examination eligibility between January 1, 2011, and December 31, 2013, inclusive...

C. ADDITION OF LPCCs TO MFT AND LCSW LICENSING LAW

Disciplinary action against an additional License issued by the Board

BPC 4982.25 and 4992.36

Background: BPC Sections 4992.36(b) and BPC Section 4982.25 (LCSW and MFT licensing law, respectively) allow the Board to deny an application or suspend or revoke any license or registration if the individual has had disciplinary action taken against another license issued by this Board. Because of the creation of a new licensure category under the jurisdiction of this Board, LPCCs, this section needs to be amended to include the practice of professional clinical counseling, in addition to the other practices regulated by the Board.

Amendment: Add reference to disciplinary action against a LPCC license to both Section 4982.25 and 4992.36:

4982.25 (b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker, professional clinical counseling, or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.

4992.36 (b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice marriage and family therapy, professional clinical counseling, or educational psychology against a licensee or registrant shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

D. ADDITION OF LPCCs TO GENERAL BOARD STATUTES

BPC 4990.02, 4990.12, 4990.18, 4990.30 and 4990.38

Background: Chapter 13.7 of the Business and Professional Code sets forth provisions relating to the Board's administration and disciplinary actions. These general provisions apply to all licensees under the jurisdiction of the Board. Effective January 1, 2010, the Board is vested with the duty to regulate and license LPCCs in accordance with the provisions of Chapter 16 of the BPC. As a result of this statutory change it is necessary to change the general Board provisions in Chapter 13.7 to include appropriate references to LPCCs:

Amendments: The following BPC sections must be amended to include references to the practice of LPCCs:

- *BPC 4990.02*, relating to the use of the term "Board" in licensing law;
- *BPC 4990.12*, vesting the Board with the duty of administering and enforcing the provisions of licensing law;
- *BPC 4990.18*, relating to the use of Board resources for specified functions;
- *BPC 4990.30*, allowing licensees to petition for reinstatement or modification of penalty against a license or registration; and,
- *BPC 4990.38*, allowing the Board to deny an application or suspend or revoke a license or registration for any disciplinary action imposed by another state or territory of the United States or other government entity on a license certificate or registration to practice any healing art.

ATTACHMENT

All Proposed Legislative Changes

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**Board of Behavioral Sciences
Proposed Omnibus Legislation 2010
Amendments to Business and Professions Code**

Sections: 4980.07, 4980.40.5, 4980.43, 4982.2, 4982.25, 4984.6, 4984.8, 4990.02, 4990.12, 4990.17, 4990.18, 4990.30, 4990.38, 4992.36, 4994, 4996.17, 4996.23, 4999.46, 4999.58, 4999.59, 4999.90,

Repeal BPC Section 4980.07

~~§4980.07 The board shall administer the provisions of this chapter.~~

Amend BPC 4980.40.5

§4980.40.5 (a) A doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling, or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, shall be considered by the board to meet the requirements necessary for licensure as a marriage and family therapist and for registration as a marriage and family therapist intern provided that the degree is conferred on or before July 1, 2010.

(b) As an alternative to meeting the qualifications specified in subdivision (a) of Section 4980.40, the board shall accept as equivalent degrees those doctor's or master's degrees that otherwise meet the requirements of this chapter and are conferred by educational institutions accredited by any of the following associations:

- (1) Northwest Commission on Colleges and Universities ~~Northwest Association of Secondary and Higher Schools.~~
- (2) Middle States Association of Colleges and Secondary Schools.
- (3) New England Association of Schools and Colleges.
- (4) North Central Association of Colleges and Secondary Schools.
- (5) Southern Association of Colleges and Schools.

(c) If legislation enacted in the 2007-08 Regular Session reestablishes the Private Postsecondary and Vocational Education Reform Act of 1989 (Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code) or a successor act and the Bureau for Private Postsecondary and Vocational Education or a successor agency, this section shall become inoperative on the date that legislation becomes operative. The board shall post notice on its Internet Web site if the conditions described in this subdivision have been satisfied.

Amend BPC 4980.43

§4980.43 (a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

- (1) A minimum of 3,000 hours completed during a period of at least 104 weeks.
- (2) Not more than 40 hours in any seven consecutive days.

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

(4) Not more than 1,300 hours of supervised experience obtained prior to completing a master's or doctor's degree.

The applicant shall not be credited with more than 750 hours of counseling and direct supervisor contact prior to completing the master's or doctor's degree.

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

(6) No hours of experience gained more than six years prior to the date the application for examination eligibility was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.

(7) Not more than a combined total of 1,250 hours of experience in the following:

(A) Direct supervisor contact.

(B) Professional enrichment activities. For purposes of this chapter, "professional enrichment activities" include the following:

(i) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor. An applicant shall have no more than 250 hours of verified attendance at these workshops, seminars, training sessions, or conferences.

(ii) Participation by the applicant in personal psychotherapy, which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional. An applicant shall have no more than 100 hours of participation in personal psychotherapy. The applicant shall be credited with three hours of experience for each hour of personal psychotherapy.

(C) Client centered advocacy.

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

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

(10) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children. For the first up to 150 hours of treating couples and families in conjoint therapy, the applicant shall be credited with two hours of experience for each hour of therapy provided.

(12) Not more than 375 hours of experience providing personal psychotherapy, crisis

counseling, or other counseling services via telemedicine in accordance with Section 2290.5.

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

(1) If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.

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

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

(2) An individual supervised after being granted a qualifying degree shall receive an average of at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. No more than five hours of supervision, whether individual or group, shall be credited during any single week.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours of face-to-face contact in a group.

(4) Direct supervisor contact shall occur within the same week as the hours claimed.

(5) Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.

(6) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(7) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation.

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

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

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

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

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

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

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

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

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

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

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied the requirements of subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

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

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

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

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

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their

employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment or supplies, or in any other way pay for the obligations of their employers.

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

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

(l) For purposes of this chapter, "professional enrichment activities" includes the following:

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

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

Repeal BPC Section 4982.2

~~§4982.2 (a) A licensed marriage and family therapist, marriage and family therapist intern, licensed clinical social worker, associate clinical social worker, or educational psychologist whose license has been revoked or suspended or who has been placed on probation may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the decision ordering the disciplinary action, or if the order of the board, or any portion of it, is stayed by the board itself, or by the superior court, from the date the disciplinary action is actually implemented in its entirety:~~

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

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

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

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

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

~~(d) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4982.15. Where a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board.~~

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

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

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

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

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

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

~~(k) No petition shall be considered while the petitioner is under sentence for any criminal~~

~~offense, including any period during which the petitioner is on court-imposed probation or parole, or the petitioner is required to register pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.~~

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

Amend BPC 4982.25

§4982.25 The board may deny any application, or may suspend or revoke any license or registration issued under this chapter, for any of the following:

(a) 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 marriage and family therapy, or any other healing art, shall constitute unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker, professional clinical counseling, or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.

Repeal BPC Section 4984.6

~~§4984.6. (a) The Behavioral Sciences Fund shall be used for the purposes of carrying out and enforcing the provisions of this chapter.~~

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

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

Amend BPC 4984.8

§4984.8 (a) A licensee may apply to the board to request that his or her license be placed on inactive status.

(b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of marriage and family therapy in this state.

(c) A licensee who holds an inactive license shall pay a biennial fee in the amount of one-half of the standard renewal fee and shall be exempt from continuing education requirements.

(d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice marriage and family therapy to active status.

(1) A licensee requesting to restore his or her license to active status between renewal cycles shall pay the remaining one-half of his or her renewal fee.

(2) A licensee requesting to restore his or her license to active status, whose license will expire less than one year from the date of the request, shall complete 18 hours of continuing education as specified in Section 4980.54.

(3) A licensee requesting to restore his or her license to active status, whose license will expire more than one year ~~from~~ from the date of the request, shall complete 36 hours of continuing education as specified in Section 4980.54.

Amend BPC Section 4990.02

§4990.02. "Board," as used in this chapter, Chapter 13 (commencing with Section 4980), Chapter 13.5 (commencing with Section 4989.10), ~~and~~ Chapter 14 (commencing with Section 4991), and Chapter 16 (commencing with Section 4999.10) means the Board of Behavioral Sciences.

Amend BPC Section 4990.12

§ 4990.12 The duty of administering and enforcing this chapter, Chapter 13 (commencing with Section 4980), Chapter 13.5 (commencing with Section 4989.10), ~~and~~ Chapter 14 (commencing with Section 4991), and Chapter 16 (commencing with Section 4999.10) is vested in the board and the executive officer subject to, and under the direction of, the board. In the performance of this duty, the board and the executive officer have all the powers and are subject to all the responsibilities vested in, and imposed upon, the head of a department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

Add BPC Section 4990.17:

§4990.17 All moneys in the Behavioral Sciences Fund shall be expended by the board for the purposes of the programs under its jurisdiction.

Amend BPC 4990.18

§ 4990.18 It is the intent of the Legislature that the board employ its resources for each and all of the following functions:

(a) The licensure of marriage and family therapists, clinical social workers, ~~and~~ educational psychologists, and professional clinical counselors.

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

practice of the profession.

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

(d) Consumer education.

Amend BPC 4990.30

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

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

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

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

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

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

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

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

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

(g) The board, when it is hearing the petition itself, or an administrative law judge sitting for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner' s activities during the time his or her

license or registration was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

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

(i) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge, may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4990.40. If a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board. The board may take action with respect to the proposed decision and petition as it deems appropriate.

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

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

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

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

Amend BPC Section 4990.38

§ 4990.38 The board may deny an application or may suspend or revoke a license or registration issued under the chapters 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, professional clinical counseling or any other healing art. The disciplinary action, which may include denial of licensure or revocation or suspension of the license or imposition of restrictions on it, constitutes unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

Amend BPC 4992.36

§4992.36 The board may deny any application, or may suspend or revoke any license or

registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice clinical social work or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice marriage and family therapy, professional clinical counseling, or educational psychology against a licensee or registrant shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

Repeal Article 3, BPC Section 4994

~~Article 3: Revenue~~

~~§4994 All moneys in the Behavioral Sciences Fund shall be expended by the Board for the purposes of the programs under its jurisdiction.~~

Amend BPC Section 4996.17

§4996.17 (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(b) The board may issue a license to any person who, at the time of application, holds a valid active clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(2) Completion of the following coursework or training in or out of this state:

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

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(c) The board may issue a license to any person who, at the time of application, ~~has held~~ holds a valid, active clinical social work license for a minimum of four years, issued by a board of clinical social work examiners or a corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:

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

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant provides a certification from each state where he or she holds a license

pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

Amend BPC 4996.23

§4996.23 The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) All persons registered with the board on and after January 1, 2002, shall have at least 3,200 hours of post-master's degree supervised experience providing clinical social work services as permitted by Section 4996.9. At least 1,700 hours shall be gained under the supervision of a licensed clinical social worker. The remaining required supervised experience may be gained under the supervision of a licensed mental health professional acceptable to the board as defined by a regulation adopted by the board. This experience shall consist of the following:

(1) A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Of the 2,000 clinical hours required in paragraph (1), no less than 750 hours shall be face-to-face individual or group psychotherapy provided to clients in the context of clinical social work services.

(4) A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(5) Experience shall not be credited for more than 40 hours in any week.

(b) "Supervision" means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.

(c) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form.

(2) Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks. For purposes of this subdivision, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours of face-to-face contact in a group conducted within the same week as the hours claimed.

(3) An associate shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained. No more than five hours of supervision, whether

individual or group, shall be credited during any single week.

(4) Group supervision shall be provided in a group of not more than eight supervisees and shall be provided in segments lasting no less than one continuous hour.

~~(5) An associate clinical social worker working in a governmental entity, a school, college, or university, or an institution that is both a nonprofit and charitable institution may be credited with up to 30 hours of direct supervisor contact, via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is maintained.~~

(6) Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker.

(7) Notwithstanding paragraph (2), an associate clinical social worker working for a governmental entity, school, college, or university, or an institution that is both a nonprofit and charitable institution, may obtain the required weekly direct supervisor contact via live two-way videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is preserved.

(d) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.

(e) Experience shall only be gained in a setting that meets both of the following:

(1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(f) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(g) Employment in a private practice as defined in subdivision (h) shall not commence until the applicant has been registered as an associate clinical social worker.

(h) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(i) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(j) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(k) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.

(l) Associates shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(3) Lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.

(m) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

(n) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working

Amend BPC 4999.46

§4999.46 (a) To qualify for licensure, applicants shall complete clinical mental health experience under the general supervision of an approved supervisor as defined in Section 4999.12.

(b) The experience shall include a minimum of 3,000 postdegree hours of supervised clinical mental health experience related to the practice of professional clinical counseling, performed over a period of not less than two years (104 weeks) which shall include:

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

(2) Not less than 1,750 hours of direct counseling with individuals or groups in a clinical mental health counseling setting using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

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

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

(5) Not less than 150 hours of clinical experience in a hospital or community mental health setting.

(6) Not more than a combined total of 1,250 hours of experience in the following related activities:

(A) Direct supervisor contact.

(B) Client centered advocacy.

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

(D) Not more than 250 hours of verified attendance at workshops, training sessions, or conferences directly related to professional clinical counseling that are approved by the applicant's supervisor.

(c) No hours of clinical mental health experience may be gained more than six years prior to the date the application for examination eligibility was filed.

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

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

(f) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

~~(f)~~ (g) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

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

(2) An intern shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained. ~~An intern shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting.~~

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons in segments lasting no less than one continuous hour.

(4) Notwithstanding paragraph (3), an ~~An~~ intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable, may obtain ~~up to 30 hours of the~~ required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

Amend BPC Section 4999.58

§4999.58 (a) This section applies to persons who have held a license outside of California for at least two years and apply for examination eligibility between January 1, 2011, and December 31, 2013, inclusive.

(b) The board may issue a license to a person who, at the time of application, has held for at least two years, a valid license as a professional clinical counselor, or other counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction of the United States, if the education and supervised experience requirements are substantially the equivalent of this chapter, as described in subdivision (e) and in Section 4999.46, the person complies with subdivision (b) of Section 4999.40, if applicable, the person successfully completes the examinations required by the board pursuant to paragraph (3) of subdivision (a) of Section 4999.50, and the person pays the required fees.

(c) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter and if the applicant has gained a minimum of 250 hours of supervised clinical experience in direct counseling within California while registered as an intern with the board. The board shall consider hours of experience obtained in another state during the six-year period immediately preceding the applicant's initial licensure by that state as a licensed professional clinical counselor.

(d) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, and if the applicant completes, in addition to the course described in subparagraph (l) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, the Health Insurance Portability and Accountability Act, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients.

(e) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant's education meets the requirements of Section 4999.32. If the applicant's degree does not contain the content or the overall units required by Section 4999.32, the board may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

- (1) The applicant's degree contains the required number of practicum units under paragraph (3) of subdivision (c) of Section 4999.32.
- (2) The applicant remediates his or her specific deficiency by completing the course content and units required by Section 4999.32.
- (3) The applicant's degree otherwise complies with this section.

(f) This section shall become inoperative on January 1, 2014, and as of that date is repealed,

unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.

Add BPC 4999.59

§4999.59 (a) This section applies to persons who apply for examination eligibility or registration between January 1, 2010, and December 31, 2013, and who hold a license as described in Section 4999.58 for less than two years.

(b) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter, if the applicant complies with Section 4999.40, if applicable, and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board. The board shall consider hours of experience obtained in another state during the six-year period immediately preceding the applicant's initial licensure in that state as a marriage and family therapist.

(c) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, and if the applicant completes, in addition to the course described in subparagraph (1) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, the Health Insurance Portability and Accountability Act, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients.

(d) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant's education meets the requirements of Section 4999.32. If the applicant's degree does not contain the content or the overall units required by Section 4999.32, the board may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

(1) The applicant's degree contains the required number of practicum units under paragraph (3) of subdivision (c) of Section 4999.32.

(2) The applicant remediates his or her specific deficiency by completing the course content and units required by Section 4999.32.

(3) The applicant's degree otherwise complies with this section.

(e) This section shall become inoperative on January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.

Amend BPC 4999.90

§4999.90. The board may refuse to issue any registration or license, or may suspend or

revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant 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 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, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

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

(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 or registrant, 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 licensed professional clinical counselor.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any clinical counselor trainee 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 which 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 clinical 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, fraudulent, misleading, or deceptive, as defined in Section 651.

(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, associate clinical social worker, or clinical counselor 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 clinical counselor trainee or intern under one's supervision or control to perform,

or permitting the clinical counselor trainee or intern to hold himself or herself out as competent to perform, professional services beyond the clinical counselor trainee's or intern's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, 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) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker, educational psychologist, or marriage and family therapist.

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To: Board Members **Date:** January 20, 2010

From: Tracy Rhine **Telephone:** (916) 574-7847
Legislative Analyst

Subject: **Licensed Educational Psychologists Continuing Education Requirement-
Public Comment and Modification of Proposed Regulation**

Background

Senate Bill 1475, Chapter 659, Statutes of 2006, established a continuing education (CE) requirement for Licensed Educational Psychologist (LEPs), requiring 150 hours every five years, consistent with that required for school psychologists at that time. However, legislation in 2006 (SB 1209, Chapter 517, Statutes of 2006) deleted the requirement of 150 hours of professional development, effective January 1, 2007.

Subsequently, the board sponsored legislation in 2007 to change the CE requirement for LEPs to 36 hours every two years, consistent with Marriage and Family Therapists (MFTs) and Licensed Clinical Social Workers (LCSWs). The Governor signed into law SB 1048, Chapter 588, Statutes of 2007 and the 36 hours CE requirement for LEPs went into effect January 1, 2008 (Business and Professions Code §4989.34).

Previous Committee and Board Action

At its July 11, 2008 meeting the Board's Policy and Advocacy Committee (Committee) reviewed and discussed options for implementing the statute requiring LEPs to complete continuing education units as a condition of renewal. Staff presented draft regulatory language and outlined two main issues for discussion by the Committee: Specific coursework requirements and implementation timeline. As a result of this discussion the Committee recommended to the Board to include in the regulatory proposal all specific coursework currently required of other Board licensees and to set forth a staggered implementation of the CE requirement for LEPs.

The Board, at its November 18, 2008 meeting, accepted the recommendation of the Committee to require specified coursework and set forth a staggered implementation timeline for those renewing after January 1, 2011. However, during member discussion of the proposal, Board counsel suggested a number of revisions relating to the implementation provisions and the Board directed staff to make the suggested revisions and bring the new proposed text back to Board for approval. An amended proposal was brought forth at the February 21, 2009 Board meeting, at which time the board directed staff to initiate the rulemaking process. Please see Attachment F for Board and Committee meeting minutes relating to the referenced discussions.

Current Proposal

The proposal filed with the Office of Administrative Law (OAL) (Attachment A) provides for a phased-in implementation of the CE requirements over 13 months. Specifically, the text states that a licensee renewing in 2011 would have to complete 18 hours of CE upon renewal. Beginning January 1, 2012, licensees would have to complete the full 36 hours of CE for renewal. For example, a licensee that renews on March 30, 2010 – this individual would have to certify completion of the full 36 hours upon renewal in March 2012. For a licensee that renewed his or her license last year, only 18 hours of CE would be required upon renewal in 2011.

The current regulatory proposal requires LEPs to certify completion of the following coursework as a condition of renewal after the regulation goes into effect:

1. Human sexuality training (10 hours)
2. Child abuse assessment training (7 hours)
3. Alcoholism and other substance dependency training (15 hours)
4. Spousal or partner abuse assessment (15 hours)
5. Aging and long-term care (3 hours)
6. Law and ethics (6 hours)
7. AIDS/HIV training (7 hours)

The total number of hours of special coursework provided for in this proposal is 63 hours. This may appear to be in contradiction to the overall requirement to complete 18 hours or 36 hours of continuing education upon renewal (depending on renewal date), however, a licensee may have previously completed coursework that would fulfill the requirements as part of a degree program or as part of requirements for continued employment.

Staff notes that uniformly applying requirements, when appropriate and applicable, provides a better understanding to individuals of their responsibilities and duties as a licensee. Furthermore, standardized requirements for board licensees can provide assurances to the client seeking a qualified practitioner that each licensee possesses the same basic training and knowledge, regardless of license type.

Public Comment

The Board received two emails and one letter during the 45-day public comment period for this regulatory proposal. Below is a general summarization of comments received by the Board relating to the proposed regulatory changes. All written comments, as well as a transcript of oral comments received are included for reference (Attachments C-E).

1. Mandatory coursework proposed (human sexuality, AIDS assessment, substance abuse training, child abuse assessment, spousal/partner abuse assessment, aging and long term care, and law and ethics), for the most part, is not relevant to the practice of educational psychology.
2. The current proposal requires 63 units of specific coursework, far more than the stated requirement of 18 for the initial renewal period of January 1, 2011 through December 31, 2011.
3. The cost of continuing education coursework is more than the stated in the board proposal (\$5 per unit).

Discussion

The Board must take into consideration the comments received during the 45-day public comment period relating to the provisions of this regulatory package. To this end the Board may want to consider a number of options, including:

1. Deleting some of the specific courses required (*Option B*). The Board may want to revisit the currently mandated coursework and decide if these course requirements should apply equally to all Board licensees regardless of differences in scope of practice.
2. Delete all specific courses required (*Option C*). This option would keep the blanket requirement to complete CE (as mandated by statute) but would not require that those hours be completed in any specialized courses.
3. Maintain current coursework requirements but change implantation timeline (*Option D*). This option could include allowing specified courses to taken over the period of two renewal cycles.
4. Making no changes to the regulatory package (*Option A*). The language included in the regulatory package was discussed in three separate meetings (two Board meetings and one Policy and Advocacy Committee meeting) prior to being filed with OAL. These meetings included much debate and discussion of the options available for implementing the mandate for LEPs to complete continuing education hours. Through those discussions the Board noted that in order to best protect the public, all licensees under the Boards jurisdiction should complete the same core continuing education courses. Additionally, it was argued that by requiring the same coursework of LEPs as other Board licensees, it would discourage disparity among licensed professions working in the same settings and keep the LEP profession as a whole, competitive in the workforce.

Option B for Modification of Text

Staff has drafted *Option B*, which is modified text that deletes the following course requirements:

- Human Sexuality
- Spousal/Partner Abuse Training
- Aging and Long-term Care
- AIDS/HIV Training

This proposal would require LEPs to take the following course within the currently proposed timeline:

- Law and Ethics (6 hours)
- Child Abuse Assessment (7 hours)
- Alcoholism and Other Substance Dependency (15 hours)

This option would require licensees to complete the above courses, 28 hours in total, during their first renewal cycle (whether that cycle mandated the completion of 18 hours or 36 hours of CE).

It should be noted that all other Board licensees must currently complete a class on law and ethics *every* renewal cycle. The highest priority of the Board is the protection of the public, and to that end, the Board has made it a priority to ensure that all licensees are knowledgeable of California law and accountable for their actions as a licensee of this Board. This should continue to be a priority of the Board for all licensees, regardless of scope of practice.

Recommendation

Review and discuss the attached proposed language for rulemaking relating to continuing education requirements for LEPs, and consider options presented.

Option A would direct staff to continue with the rulemaking package as filed with the Office of Administrative Law (Attachment A).

Option B would direct staff to make the changes to text outlined in that option (Attachment B) and file a 15 Notice of Modification of Text with the Office of Administrative Law.

Option C would direct staff to draft language that would delete all specific coursework requirements and file a 15 Notice of Modification of Text with the Office of Administrative Law.

Option D would direct staff to draft language that would amend the implementation timeline to allow licensees to fulfill the specific course requirements over a period of two renewal cycles. Also direct staff to file a 15-Day Notice of Modification of Text with the Office of Administrative Law.

ATTACHMENTS

- A. Current rulemaking language (filed with OAL)
- B. Option B Modified Text
- C. Written Public Comment
- D. Public Comment Hearing Transcript
- E. Sign-in Sheet
- F. Prior Board and Committee meeting minutes related to LEP CE

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**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE
TITLE 16, California Code of Regulations**

§1807. HUMAN SEXUALITY TRAINING

The human sexuality training required of marriage and family therapists, ~~and clinical social workers, licensed educational psychologists~~ by Sections 25, ~~and 4980.41 and 4989.34~~ of the Code shall:

- (a) Consist of a minimum of ten (10) hours of training or coursework.
- (b) Include the study of physiological-psychological and social-cultural variables associated with sexual identity, sexual behavior or sexual disorders.
- (c) Have been completed after January 1, 1970, and shall have been obtained from one of the educational institutions or entities specified herein:
 - (1) An educational institution accredited by one or more of those entities specified in Section 1832 of these regulations, including extension courses offered by such institutions; or
 - (2) An educational institution approved by the Bureau for Private Postsecondary and Vocational Education pursuant to Sections 94900 and 94901 of the Education Code, including extension courses offered by such institutions; or
 - (3) A continuing education provider approved by the board; or
 - (4) A course sponsored by a professional association; or
 - (5) A course sponsored, offered, or approved by a state, county, or local department of health services or department of mental health.

(d) A licensed educational psychologist shall meet the requirements of this section prior to applying for his or her first license renewal on or after January 1, 2011.

Note: Authority cited: Sections 4980.60, ~~4989.34~~ and 4990.14, Business and Professions Code. Reference: Sections 25, 4980.41, 4980.54, ~~4989.34~~ and 4996.22, Business and Professions Code.

§1807.2. CHILD ABUSE ASSESSMENT TRAINING REQUIREMENTS

In addition to all other requirements for licensure ~~A all persons applying for a license or renewal of a license as a marriage and family therapist or clinical social worker or applying for renewal of a license as an educational psychologist shall in addition to all other requirements for licensure,~~ have completed coursework or training in child abuse assessment and reporting and shall submit documentation to the board. The coursework or training in child abuse assessment and reporting shall consist of not less than 7 classroom hours and shall include training in each of the subject areas described in Section 28 of the Code. The coursework or training shall be:

- (a) Obtained at an educational institution, or in an extension course offered by an institution which is accredited by the Western Association of Schools and Colleges, or approved by the Bureau for Private Postsecondary and Vocational Education, pursuant to Sections 94900 and 94901 of the Education Code; or
- (b) Obtained from a statewide professional association representing the professions of psychology, social work or marriage and family therapy; or

(c) Obtained from or sponsored by a local, county, state or federal governmental entity, or licensed health facility; or

(d) Obtained from a continuing education provider approved by the board.

(e) Completed after January 1, 1983.

(f) A licensed educational psychologist shall meet the requirements of this section prior to applying for his or her first license renewal on or after January 1, 2011.

Note: Authority cited: Sections 28, 4980.60, ~~4989.34~~ and 4990.14, Business and Professions Code. Reference: Sections 28, 4980.54, ~~4989.34~~ and 4996.22, Business and Professions Code; and Sections 11165 and 11166, Penal Code.

§1810. ALCOHOLISM AND OTHER CHEMICAL SUBSTANCE DEPENDENCY TRAINING

(a) The instruction and training in alcoholism and other chemical substance dependency required by Sections 4980.41, 4980.80, 4980.90, 4996.2, and 4996.17 of the Code shall consist of not less than fifteen hours of classroom training or coursework and shall include each of the following areas:

(1) The definition of alcoholism and other chemical dependency, and the evaluation of the abuser.

(2) Medical aspects of alcoholism and other chemical dependency.

(3) Current theories of the etiology of substance abuse.

(4) The role of persons and systems that support or compound the abuse.

(5) Major treatment approaches to alcoholism and chemical dependency.

(6) Legal aspects of substance abuse.

(7) Knowledge of certain populations at risk with regard to substance abuse.

(8) Community resources offering assessment, treatment and follow-up for the abuser and family.

(9) The process of referring affected persons.

(10) Education concerning and prevention of substance abuse.

(b) For persons subject to Section 4980.41 (d) of the Code, the training or coursework shall be:

(1) Obtained from an educational institution or in an extension course offered by an institution that is either accredited by one or more of the entities specified in Section 1832 of these regulations or is approved by the Bureau for Private Postsecondary and Vocational Education pursuant to Sections 94900 and 94901 of the Education Code;

(c) For all others, the training or coursework shall be:

(1) Obtained from the educational institutions identified in subsection (b) (1); or

(2) Obtained from or sponsored by a local, county, state or federal governmental entity; or

(3) Obtained from a licensed health facility; or

(4) Obtained from a continuing education provider approved by the board.

(d) A licensed educational psychologist that renews his or her license on or after January 1, 2011 shall receive not less than fifteen (15) hours of instruction and training in alcoholism and other chemical substance dependency that shall include classroom training or coursework in each of the following areas:

(1) The definition of alcoholism and other chemical dependency, and the evaluation of the abuser.

(2) Medical aspects of alcoholism and other chemical dependency.

(3) Current theories of the etiology of substance abuse.

(4) The role of persons and systems that support or compound the abuse.

(5) Major treatment approaches to alcoholism and chemical dependency.

(6) Legal aspects of substance abuse.

(7) Knowledge of certain populations at risk with regard to substance abuse.

(8) Community resources offering assessment, treatment and follow-up for the abuser and family.

(9) The process of referring affected persons.

(10) Education concerning and prevention of substance abuse.

(e) Training and coursework received pursuant to subsection (d) of this section shall be obtained as provided in subsection (c) of this section.

Note: Authority cited: Sections 4980.60, 4989.34 and 4990.14, Business and Professions Code. Reference: Sections 4980.41, 4980.80, 4980.90, 4989.34, 4996.2, and 4996.17 Business and Professions Code.

§1819.1. CONTINUING EDUCATION PROVIDER FEES

The application fee for board approval as a continuing education provider is two hundred dollars (\$200.00). This fee also covers the issuance of the initial two-year continuing education provider approval.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

ARTICLE 8. CONTINUING EDUCATION REQUIREMENTS FOR MARRIAGE AND FAMILY THERAPISTS, AND LICENSED CLINICAL SOCIAL WORKERS AND LICENSED EDUCATIONAL PSYCHOLOGISTS

§1887. DEFINITIONS

As used in this article:

(a) A continuing education "course" means a form of systematic learning at least one hour in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, viewing of videotapes or film instruction, viewing or participating in other audiovisual activities including interactive video instruction and activities electronically

transmitted from another location which has been verified and approved by the continuing education provider, and self-study courses.

(b) A "self-study course" means a form of systematic learning performed at a licensee's residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the member, submitted to the provider, graded, and returned to the member with correct answers and an explanation of why the answer chosen by the provider was the correct answer).

(c) A continuing education "provider" means an accredited or approved school, or an association, health facility, governmental entity, educational institution, individual, or other organization that offers continuing education courses and meets the requirements contained in this article.

(d) An "initial renewal period" means the period from issuance of an initial license to the license's first expiration date.

~~(d)~~ (e) A "renewal period" means the two-year period which spans from a license's expiration date to the license's next expiration date.

Note: Authority Cited: Sections 4980.60, ~~4989.34~~ and ~~4990.20~~ 4990.44, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, ~~and 4989.34~~ Business and Professions Code.

§1887.1. LICENSE RENEWAL REQUIREMENTS

(a) Except as provided in Section 1887.2, a licensee shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed thirty-six (36) hours of continuing education credit as set forth in Sections 4980.54, ~~and 4996.22~~ and 4989.34 of the Code.

(b) A licensee who falsifies or makes a material misrepresentation of fact when applying for license renewal or who cannot verify completion of continuing education by producing a record of course completion, upon request by the board, is subject to disciplinary action under Sections 4982(b), ~~and 4992.3(b)~~ and 4989.54(b) of the Code.

(c) Licensed educational psychologists shall be subject to the license renewal requirements of this section as specified:

(1) Beginning January 1, 2011 and through December 31, 2011 licensees shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed eighteen (18) hours of continuing education.

(2) On and after January 1, 2012 licensees shall meet all of the requirements of subdivisions (a) and (b).

Note: Authority Cited: Sections 4980.60, ~~4989.34~~ and ~~4990.20~~ Business and Professions Code. Reference: Sections 4980.54, ~~4989.34~~ and 4996.22, Business and Professions Code.

§1887.2. EXCEPTIONS FROM CONTINUING EDUCATION REQUIREMENTS

~~(a) An initial~~ A licensee in his or her initial renewal period shall complete at least eighteen (18) hours of continuing education, of which no more than six (6) hours may be earned through self-study courses, prior to his or her first license renewal.

(b) A licensed educational psychologist that renews his or her license beginning January 1, 2011 and through December 31, 2011 shall complete at least eighteen (18) hours of continuing education prior to his or her license renewal.

~~(b)~~ (c) A licensee is exempt from the continuing education requirement if ~~their~~ his or her license is inactive pursuant to Sections 4984.8, 4989.44 ~~or and~~ 4997 of the Code.

~~(e)~~ (d) A licensee may submit a written request for exception from, or reasonable accommodation for, the continuing education requirement, on a form entitled "Request for Continuing Education Exception – Licensee Application," Form No. 1800 37A-635 (Revised 2/09) for any of the reasons listed below. The request must be submitted to the board at least sixty (60) days prior to the expiration date of the license. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception or reasonable accommodation, whether the exception or accommodation was granted. If the request for exception or accommodation is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. If the request for exception or accommodation is approved, it shall be valid for one renewal period. ~~The board shall grant the exception if the licensee can provide evidence, satisfactory to the board, that:~~

(1) The Board shall grant an exception if the licensee can provide evidence, satisfactory to the board that:

~~(1)~~ (A) For at least one year during the licensee's previous license renewal period the licensee was absent from California due to military service;

~~(2)~~ (B) For at least one year during the licensee's previous license renewal period the licensee resided in another country; or

~~(3)~~ (2) The board may grant a reasonable accommodation if, ~~During for at least one year during~~ the licensee's previous license renewal period, the licensee or an immediate family member, including a domestic partner, where the licensee has is the primary responsibility for the care of caregiver for that family member, ~~was suffering from or suffered~~ had a physical or mental disability or medical condition as defined in Section 12926 of the Government Code. ~~A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual.~~ The physical or mental disability or medical condition must be verified by a licensed physician or psychologist with ~~special~~ expertise in the area of the physical or mental disability or medical condition. Verification of the physical or mental disability or medical condition ~~must include:~~ be submitted by the licensee on a form entitled "Request for Continuing Education Exception – Verification of Disability or Medical Condition," Form No. 1800 37A-636 (New 2/09).

~~(A) the nature and extent of the disability;~~

~~(B) an explanation of how the disability would hinder the licensee from completing the continuing education requirement; and~~

~~(C) the name, title, address, telephone number, professional license or certification number, and original signature of the licensed physician or psychologist verifying the disability.~~

Note: Authority Cited: Sections 4980.54, 4980.60, 4989.34 ~~4990.14~~ 4990.20, and 4996.22, Business and Professions Code; Sections 12944 and 12926, Government Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS

(a) ~~A~~ During each renewal period, a licensee shall accrue at least thirty-six (36) hours of continuing education ~~courses~~ coursework as defined in Section 1887.4. A licensee may accrue no more than twelve (12) hours of continuing education earned through self-study courses during a single each renewal period.

(b) ~~Pursuant to Section 29 of the Code,~~ A licensee who started graduate study prior to January 1, 1986, shall take a continuing education course in the detection and treatment of alcohol and other chemical substance dependency during their first renewal period after the

adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 29 of the Code. This is a one-time requirement for those licensees specified above. Equivalent alcohol and other chemical substance dependency courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(c) Pursuant to Section 32 of the Code, a licensee shall take a continuing education course in the characteristics and methods of assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 32 of the Code. This is a one-time requirement for all licensees. Equivalent HIV and AIDS courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(d) A licensed educational psychologist shall complete a minimum of fifteen (15) contact hours of course work in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics during his or her first renewal on or after January 1, 2011.

(e) A Licensed Educational Psychologist shall complete a three-hour continuing education course in aging and long-term care during his or her first renewal period on or after January 1, 2011. This course shall include, but it not limited to, the biological, social, and psychological aspects of aging

~~(d)~~ (f) Any person renewing his or her license on and after January 1, 2004 shall ~~have completed not less than~~ complete a minimum of six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing education requirement.

~~(e)~~ (g) If a licensee teaches a course, the licensee may claim credit for the course only one time during a single renewal period, receiving the same amount of hours of continuing education credit as a licensee who attended the course.

~~(f)~~ (h) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.

~~(g)~~ (i) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing education requirement.

(j) Provisions of this section shall apply to licensed educational psychologists as follows:

(2) Beginning January 1, 2011 and through December 31, 2011 licensees shall complete at least eighteen (18) hours of continuing education prior to his or her license renewal, in accordance with subdivision (b) through(j).

(3) On and after January 1, 2012 licensees shall meet the requirements of subdivision (a) through (i).

Note: Authority Cited: Sections 4980.60, ~~4989.34~~ and ~~4990.20~~ Business and Professions Code. Reference: Sections 29, 32, 4980.54, ~~4989.34~~ and 4996.22, Business and Professions Code.

§1887.4. CONTINUING EDUCATION COURSE CONTENT

(a) A provider shall ensure that the content of a course shall be relevant to the practice of marriage and family therapy, educational psychology or clinical social work and meet the requirements set forth in Sections 4980.54, 4989.34 and 4996.22 of the Code. The content of a course shall also be related to direct or indirect patient/client care.

(1) Direct patient/client care courses cover specialty areas of therapy (e.g., theoretical frameworks for clinical practice; intervention techniques with individuals, couples, or groups).

(2) Indirect patient/client care courses cover pragmatic aspects of clinical practice (e.g., legal or ethical issues, consultation, recordkeeping, office management, insurance risks and benefits, managed care issues, research obligations, supervision training).

(b) A provider shall ensure that a course has specific objectives that are measurable.

(c) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54 and 4996.22, and 4989.34 Business and Professions Code.

§1887.5. HOURS OF CONTINUING EDUCATION CREDIT

(a) One hour of instruction is equal to one hour of continuing education credit.

(b) One academic quarter unit is equal to ten (10) hours of continuing education credit.

(c) One academic semester unit is equal to fifteen (15) hours of continuing education credit.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.14, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.6. CONTINUING EDUCATION PROVIDERS

A continuing education course shall be taken from:

(a) an accredited or approved postsecondary institution that meets the requirements set forth in Sections 4980.54(f)(1), 4989.34 or 4996.22(d)(1) of the Code; or

(b) a board-approved provider with a valid, current approval as provided in Section 1887.7.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22 Business and Professions Code.

§1887.7. BOARD-APPROVED PROVIDERS

(a) A continuing education provider must meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.

(b) A continuing education provider shall submit a completed Continuing Education Provider Application (Form no. 1800 37A-633, new 5/97 revised 02/09), hereby incorporated by reference, remit the appropriate fees, and obtain a continuing education provider number from the board to become a board-approved provider.

(c) A provider may not apply for a new provider approval number within one year of an existing approval's expiration unless the provider has undergone a change of ownership.

(d) A provider approval issued under this section shall expire on the last day of the twenty-fourth month after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the two-year renewal fee set forth in Section 1816 of these regulations.

(e) When a provider's approval is expired, the provider may not present a course for continuing education credits for licensees of the Board of Behavioral Sciences.

(f) Board-approved provider numbers are non-transferable.

(g) The Board shall send a renewal notice, at least thirty (30) days prior to the expiration, to any continuing education provider approved by the Board, to the address of record for such provider.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.8. REVOCATION AND DENIAL OF BOARD-APPROVED PROVIDER STATUS

(a) The board may revoke its approval of a provider or deny a provider application for good cause. Good cause includes, but is not limited to, the following:

(1) a provider is convicted of a felony or misdemeanor offense substantially related to the activities of a board-approved provider;

(2) a provider, who is a licensee of the board, fails to comply with any provisions of Chapters 13, 13.5 and 14 of the Business and Professions Code or Title 16, Division 18 of the California Code of Regulations; or

(3) a provider makes a material misrepresentation of fact in information submitted to the board.

(b) After a thorough case review, should the board decide to revoke or deny its approval of a provider, it shall give the provider written notice setting forth its reasons for revocation or denial.

The provider may appeal the revocation or denial in writing, within fifteen (15) days after receipt of the revocation or denial notice, and request a hearing with the board's designee. The

revocation is stayed at this point. Should the board's designee decide to uphold the revocation or denial, the provider may appeal the decision of the board's designee in writing, within seven

(7) days after receipt of the decision of the board's designee, and request a hearing with a

continuing education appeals committee appointed by the board chairperson. The

hearing will take place at the next regularly scheduled board meeting, provided the appeal is

received before the meeting is noticed to the public. It is at the discretion of the board's

designee whether to stay the revocation further.

The continuing education appeals committee shall contain three board members, one public member and two members representing two of the three license types regulated by the board. The decision of the continuing education appeals committee is final.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.9. COURSE ADVERTISEMENTS

A provider shall ensure that information publicizing a continuing education course is accurate and includes the following:

(a) the provider's name;

(b) the provider number, if a board-approved provider;

(c) the statement "Course meets the qualifications for _____ hours of continuing education credit for MFTs, LEPs and/or LCSWs as required by the California Board of Behavioral Sciences";

(d) the provider's policy on refunds in cases of non-attendance by the registrant; and

(e) a clear, concise description of the course content and objectives.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.10. COURSE INSTRUCTOR QUALIFICATIONS

(a) A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications:

(1) a license, registration, or certificate in an area related to the subject matter of the course.

The license, registration, or certificate shall be current, valid, and free from restrictions due to disciplinary action by this board or any other health care regulatory agency;

(2) a master's or higher degree from an educational institution in an area related to the subject matter of the course;

- (3) training, certification, or experience in teaching subject matter related to the subject matter of the course; or
 - (4) at least two years' experience in an area related to the subject matter of the course.
- (b) During the period of time that any instructor has a healing arts license that is restricted pursuant to a disciplinary action in California or in any other state or territory, that instructor shall notify all approved continuing education providers for whom he or she provides instruction of such discipline before instruction begins or immediately upon notice of the decision, whichever occurs first.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4982.15, 4989.34 and 4996.22, Business and Professions Code.

§1887.11. RECORDS OF COURSE COMPLETION

Upon completion of a course, a provider shall issue a record of course completion to a licensee (e.g., letters of verification of attendance, certificates, gradeslips, transcripts) containing the following information:

- (a) name of licensee and license number or other identification number;
- (b) course title;
- (c) provider name and address;
- (d) provider number, if a board-approved provider;
- (e) date of course;
- (f) number of hours of continuing education credit; and
- (g) signature of course instructor, provider, or provider designee.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, and 4996.22, and 4989.34 Business and Professions Code.

§1887.12. LICENSEE AND PROVIDER COURSE RECORDS

- (a) A licensee shall maintain records of course completion for a period of at least two (2) years from the date of license renewal for which the course was completed.
- (b) A provider shall maintain records related to continuing education courses for a period of at least four (4) years. Records shall include:
 - (1) syllabi for all courses;
 - (2) the time and location of all courses;
 - (3) course advertisements;
 - (4) course instructors' vitae or resumes;
 - (5) attendance rosters with the names and license numbers of licensees who attended the courses;
 - (6) sign-in sheets; and
 - (7) records of course completion issued to licensees who attended the courses.
- (c) The board may audit the course records of a provider to ensure compliance with the board's continuing education requirements.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

1887.13 RENEWAL OF EXPIRED APPROVAL

A provider approval that has expired may be renewed at any time within one (1) year after its expiration upon all of the following:

- (a) Filing an application for renewal on a form prescribed by the board.
- (b) Payment of the renewal fee in effect on the last regular renewal date.
- (c) Payment of the delinquency fee in effect on the last regular renewal date.
- (d) Submission of a letter stating that no courses were presented while the provider's approval status was expired. If a course was presented during that time, the letter shall state that all participants have been notified that the provider's approval status at the time of completion of the continuing education was expired and that continuing education hours will not be disallowed by the Board if the provider renews within one (1) year after its expiration.

Note: Authority Cited: Sections 4980.60 and 4980.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

1887.14 TIME LIMIT FOR RENEWAL OF APPROVAL AFTER EXPIRATION; NEW APPROVAL

A provider approval that is not renewed within one year of its expiration date may not be renewed, reinstated, or reissued thereafter, but the provider may apply for and obtain a new approval if:

- (a) No fact, circumstance, or condition exists that, if the approval were issued, would justify its revocation; and
- (b) The applicant pays the fees that would be required if applying for approval for the first time.

Note: Authority Cited: Sections 4980.60, ~~and~~ 4980.20 and 4989.43, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE
TITLE 16, California Code of Regulations**

OPTION B – Modification of Text.

Double underline denotes inserted text and double strikethrough denotes deleted text. Single underline and strikethrough denotes originally proposed changes to current law.

§1807. HUMAN SEXUALITY TRAINING

The human sexuality training required of marriage and family therapists, ~~and~~ clinical social workers, licensed educational psychologists by Sections 25, and 4980.41 ~~and 4989.34~~ of the Code shall:

- (a) Consist of a minimum of ten (10) hours of training or coursework.
- (b) Include the study of physiological-psychological and social-cultural variables associated with sexual identity, sexual behavior or sexual disorders.
- (c) Have been completed after January 1, 1970, and shall have been obtained from one of the educational institutions or entities specified herein:
 - (1) An educational institution accredited by one or more of those entities specified in Section 1832 of these regulations, including extension courses offered by such institutions; or
 - (2) An educational institution approved by the Bureau for Private Postsecondary and Vocational Education pursuant to Sections 94900 and 94901 of the Education Code, including extension courses offered by such institutions; or
 - (3) A continuing education provider approved by the board; or
 - (4) A course sponsored by a professional association; or
 - (5) A course sponsored, offered, or approved by a state, county, or local department of health services or department of mental health.

~~(d) A licensed educational psychologist shall meet the requirements of this section prior to applying for his or her first license renewal on or after January 1, 2011.~~

Note: Authority cited: Sections 4980.60, ~~4989.34~~ and 4990.14, Business and Professions Code. Reference: Sections 25, 4980.41, 4980.54, ~~4989.34~~ and 4996.22, Business and Professions Code.

§1807.2. CHILD ABUSE ASSESSMENT TRAINING REQUIREMENTS

In addition to all other requirements for licensure ~~A all persons applying for a license or renewal of a license as a marriage and family therapist or clinical social worker or applying for renewal of a license as an educational psychologist shall in addition to all other requirements for licensure,~~ have completed coursework or training in child abuse assessment and reporting and shall submit documentation to the board. The coursework or training in child abuse assessment and reporting shall consist of not less than 7 classroom hours and shall include training in each of the subject areas described in Section 28 of the Code. The coursework or training shall be:

- (a) Obtained at an educational institution, or in an extension course offered by an institution which is accredited by the Western Association of Schools and Colleges, or approved by the Bureau for

Private Postsecondary and Vocational Education, pursuant to Sections 94900 and 94901 of the Education Code; or

(b) Obtained from a statewide professional association representing the professions of psychology, social work or marriage and family therapy; or

(c) Obtained from or sponsored by a local, county, state or federal governmental entity, or licensed health facility; or

(d) Obtained from a continuing education provider approved by the board.

(e) Completed after January 1, 1983.

(f) A licensed educational psychologist shall meet the requirements of this section prior to applying for his or her first license renewal on or after January 1, 2011.

Note: Authority cited: Sections 28, 4980.60, ~~4989.34~~ and 4990.14, Business and Professions Code. Reference: Sections 28, 4980.54, ~~4989.34~~ and 4996.22, Business and Professions Code; and Sections 11165 and 11166, Penal Code.

§1810. ALCOHOLISM AND OTHER CHEMICAL SUBSTANCE DEPENDENCY TRAINING

(a) The instruction and training in alcoholism and other chemical substance dependency required by Sections 4980.41, 4980.80, 4980.90, 4996.2, and 4996.17 of the Code shall consist of not less than fifteen hours of classroom training or coursework and shall include each of the following areas:

(1) The definition of alcoholism and other chemical dependency, and the evaluation of the abuser.

(2) Medical aspects of alcoholism and other chemical dependency.

(3) Current theories of the etiology of substance abuse.

(4) The role of persons and systems that support or compound the abuse.

(5) Major treatment approaches to alcoholism and chemical dependency.

(6) Legal aspects of substance abuse.

(7) Knowledge of certain populations at risk with regard to substance abuse.

(8) Community resources offering assessment, treatment and follow-up for the abuser and family.

(9) The process of referring affected persons.

(10) Education concerning and prevention of substance abuse.

(b) For persons subject to Section 4980.41 (d) of the Code, the training or coursework shall be:

(1) Obtained from an educational institution or in an extension course offered by an institution that is either accredited by one or more of the entities specified in Section 1832 of these regulations or is approved by the Bureau for Private Postsecondary and Vocational Education pursuant to Sections 94900 and 94901 of the Education Code;

(c) For all others, the training or coursework shall be:

- (1) Obtained from the educational institutions identified in subsection (b) (1); or
- (2) Obtained from or sponsored by a local, county, state or federal governmental entity; or
- (3) Obtained from a licensed health facility; or
- (4) Obtained from a continuing education provider approved by the board.

(d) A licensed educational psychologist that renews his or her license on or after January 1, 2011 shall receive not less than fifteen (15) hours of instruction and training in alcoholism and other chemical substance dependency that shall include classroom training or coursework in each of the following areas:

(1) The definition of alcoholism and other chemical dependency, and the evaluation of the abuser.

(2) Medical aspects of alcoholism and other chemical dependency.

(3) Current theories of the etiology of substance abuse.

(4) The role of persons and systems that support or compound the abuse.

(5) Major treatment approaches to alcoholism and chemical dependency.

(6) Legal aspects of substance abuse.

(7) Knowledge of certain populations at risk with regard to substance abuse.

(8) Community resources offering assessment, treatment and follow-up for the abuser and family.

(9) The process of referring affected persons.

(10) Education concerning and prevention of substance abuse.

(e) Training and coursework received pursuant to subsection (d) of this section shall be obtained as provided in subsection (c) of this section.

Note: Authority cited: Sections 4980.60, 4989.34 and 4990.14, Business and Professions Code. Reference: Sections 4980.41, 4980.80, 4980.90, 4989.34, 4996.2, and 4996.17 Business and Professions Code.

§1819.1. CONTINUING EDUCATION PROVIDER FEES

The application fee for board approval as a continuing education provider is two hundred dollars (\$200.00). This fee also covers the issuance of the initial two-year continuing education provider approval.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

ARTICLE 8. CONTINUING EDUCATION REQUIREMENTS FOR MARRIAGE AND FAMILY THERAPISTS, AND LICENSED CLINICAL SOCIAL WORKERS AND LICENSED EDUCATIONAL PSYCHOLOGISTS

§1887. DEFINITIONS

As used in this article:

(a) A continuing education "course" means a form of systematic learning at least one hour in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, viewing of videotapes or film instruction, viewing or participating in other audiovisual activities including interactive video instruction and activities electronically transmitted from another location which has been verified and approved by the continuing education provider, and self-study courses.

(b) A "self-study course" means a form of systematic learning performed at a licensee's residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the member, submitted to the provider, graded, and returned to the member with correct answers and an explanation of why the answer chosen by the provider was the correct answer).

(c) A continuing education "provider" means an accredited or approved school, or an association, health facility, governmental entity, educational institution, individual, or other organization that offers continuing education courses and meets the requirements contained in this article.

(d) An "initial renewal period" means the period from issuance of an initial license to the license's first expiration date.

~~(d)~~ (e) A "renewal period" means the two-year period which spans from a license's expiration date to the license's next expiration date.

Note: Authority Cited: Sections 4980.60, ~~4989.34~~ and ~~4990.20~~ 4990.44, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, ~~and 4989.34~~ Business and Professions Code.

§1887.1. LICENSE RENEWAL REQUIREMENTS

(a) Except as provided in Section 1887.2, a licensee shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed thirty-six (36) hours of continuing education credit as set forth in Sections 4980.54, ~~and 4996.22~~ and 4989.34 of the Code.

(b) A licensee who falsifies or makes a material misrepresentation of fact when applying for license renewal or who cannot verify completion of continuing education by producing a record of course completion, upon request by the board, is subject to disciplinary action under Sections 4982(b), ~~and 4992.3(b)~~ and 4989.54(b) of the Code.

(c) Licensed educational psychologists shall be subject to the license renewal requirements of this section as specified:

(1) Beginning January 1, 2011 and through December 31, 2011 licensees shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed eighteen (18) hours of continuing education.

(2) On and after January 1, 2012 licensees shall meet all of the requirements of subdivisions (a) and (b).

Note: Authority Cited: Sections 4980.60, ~~4989.34~~ and ~~4990.20~~ Business and Professions Code. Reference: Sections 4980.54, ~~4989.34~~ and 4996.22, Business and Professions Code.

§1887.2. EXCEPTIONS FROM CONTINUING EDUCATION REQUIREMENTS

~~(a) An initial~~ A licensee in his or her initial renewal period shall complete at least eighteen (18) hours of continuing education, of which no more than six (6) hours may be earned through self-study courses, prior to his or her first license renewal.

(b) A licensed educational psychologist that renews his or her license beginning January 1, 2011 and through December 31, 2011 shall complete at least eighteen (18) hours of continuing education prior to his or her license renewal.

~~(b)~~ (c) A licensee is exempt from the continuing education requirement if ~~their~~ his or her license is inactive pursuant to Sections 4984.8, 4989.44 ~~or~~ and 4997 of the Code.

~~(c)~~ (d) A licensee may submit a written request for exception from, or reasonable accommodation for, the continuing education requirement, on a form entitled "Request for Continuing Education Exception – Licensee Application," Form No. 1800 37A-635 (Revised 2/09) for any of the reasons listed below. The request must be submitted to the board at least sixty (60) days prior to the expiration date of the license. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception or reasonable accommodation, whether the exception or accommodation was granted. If the request for exception or accommodation is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. If the request for exception or accommodation is approved, it shall be valid for one renewal period. ~~The board shall grant the exception if the licensee can provide evidence, satisfactory to the board, that:~~

(1) The Board shall grant an exception if the licensee can provide evidence, satisfactory to the board that:

~~(1)~~ (A) For at least one year during the licensee's previous license renewal period the licensee was absent from California due to military service;

~~(2)~~ (B) For at least one year during the licensee's previous license renewal period the licensee resided in another country; or

~~(3)~~ (2) The board may grant a reasonable accommodation if, ~~During for at least one year during~~ the licensee's previous license renewal period, the licensee or an immediate family member, including a domestic partner, where the licensee has is the primary responsibility for the care of caregiver for that family member, ~~was suffering from or suffered~~ had a physical or mental disability or medical condition as defined in Section 12926 of the Government Code. ~~A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual.~~ The physical or mental disability or medical condition must be verified by a licensed physician or psychologist with ~~special expertise in the area of the~~ physical or mental disability or medical condition. Verification of the physical or mental disability or medical condition ~~must include:~~ be submitted by the licensee on a form entitled "Request for Continuing Education Exception – Verification of Disability or Medical Condition," Form No. 1800 37A-636 (New 2/09).

~~(A) the nature and extent of the disability;~~

~~(B) an explanation of how the disability would hinder the licensee from completing the continuing education requirement; and~~

~~(C) the name, title, address, telephone number, professional license or certification number, and original signature of the licensed physician or psychologist verifying the disability.~~

Note: Authority Cited: Sections 4980.54, 4980.60, ~~4989.34~~ 4990.14 ~~4990.20,~~ and 4996.22, Business and Professions Code; Sections 12944 and 12926, Government Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS

~~(a)~~ A During each renewal period, a licensee shall accrue at least thirty-six (36) hours of continuing education ~~courses~~ coursework as defined in Section 1887.4. A licensee may accrue

no more than twelve (12) hours of continuing education earned through self-study courses during a single each renewal period.

(b) ~~Pursuant to Section 29 of the Code, a marriage and family therapist and clinical social worker~~ A licensee who started graduate study prior to January 1, 1986, shall take a continuing education course in the detection and treatment of alcohol and other chemical substance dependency during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 29 of the Code. This is a one-time requirement for those licensees specified above. Equivalent alcohol and other chemical substance dependency courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(c) Pursuant to Section 32 of the Code, a marriage and family therapist and clinical social worker licensee shall take a continuing education course in the characteristics and methods of assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 32 of the Code. This is a one-time requirement for all licensees. Equivalent HIV and AIDS courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

~~(d) A licensed educational psychologist shall complete a minimum of fifteen (15) contact hours of course work in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics during his or her first renewal on or after January 1, 2011.~~

~~(e) A Licensed Educational Psychologist shall complete a three hour continuing education course in aging and long term care during his or her first renewal period on or after January 1, 2011. This course shall include, but it not limited to, the biological, social, and psychological aspects of aging~~

(d) (f) Any person renewing his or her license on and after January 1, 2004 shall have ~~completed not less than~~ complete a minimum of six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing education requirement.

(e) (g) If a licensee teaches a course, the licensee may claim credit for the course only one time during a single renewal period, receiving the same amount of hours of continuing education credit as a licensee who attended the course.

(f) (h) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.

(g) (i) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing education requirement.

(j) Provisions of this section shall apply to licensed educational psychologists as follows:

(2) Beginning January 1, 2011 and through December 31, 2011 licensees shall complete at least eighteen (18) hours of continuing education prior to his or her license renewal, in accordance with subdivision ~~(h)~~ (f) through(j).

(3) On and after January 1, 2012 licensees shall meet the requirements of subdivision (a) through (i).

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 29, 32, 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.4. CONTINUING EDUCATION COURSE CONTENT

(a) A provider shall ensure that the content of a course shall be relevant to the practice of marriage and family therapy, educational psychology or clinical social work and meet the requirements set forth in Sections 4980.54, 4989.34 and 4996.22 of the Code. The content of a course shall also be related to direct or indirect patient/client care.

(1) Direct patient/client care courses cover specialty areas of therapy (e.g., theoretical frameworks for clinical practice; intervention techniques with individuals, couples, or groups).

(2) Indirect patient/client care courses cover pragmatic aspects of clinical practice (e.g., legal or ethical issues, consultation, recordkeeping, office management, insurance risks and benefits, managed care issues, research obligations, supervision training).

(b) A provider shall ensure that a course has specific objectives that are measurable.

(c) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54 and 4996.22, and 4989.34 Business and Professions Code.

§1887.5. HOURS OF CONTINUING EDUCATION CREDIT

(a) One hour of instruction is equal to one hour of continuing education credit.

(b) One academic quarter unit is equal to ten (10) hours of continuing education credit.

(c) One academic semester unit is equal to fifteen (15) hours of continuing education credit.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.14, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.6. CONTINUING EDUCATION PROVIDERS

A continuing education course shall be taken from:

(a) an accredited or approved postsecondary institution that meets the requirements set forth in Sections 4980.54(f)(1), 4989.34 or 4996.22(d)(1) of the Code; or

(b) a board-approved provider with a valid, current approval as provided in Section 1887.7.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22 Business and Professions Code.

§1887.7. BOARD-APPROVED PROVIDERS

(a) A continuing education provider must meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.

(b) A continuing education provider shall submit a completed Continuing Education Provider Application (Form no. 1800 37A-633, new 5/97 revised 02/09), hereby incorporated by reference, remit the appropriate fees, and obtain a continuing education provider number from the board to become a board-approved provider.

(c) A provider may not apply for a new provider approval number within one year of an existing approval's expiration unless the provider has undergone a change of ownership.

(d) A provider approval issued under this section shall expire on the last day of the twenty-fourth month after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the two-year renewal fee set forth in Section 1816 of these regulations.

(e) When a provider's approval is expired, the provider may not present a course for continuing education credits for licensees of the Board of Behavioral Sciences.

(f) Board-approved provider numbers are non-transferable.

(g) The Board shall send a renewal notice, at least thirty (30) days prior to the expiration, to any continuing education provider approved by the Board, to the address of record for such provider.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.8. REVOCATION AND DENIAL OF BOARD-APPROVED PROVIDER STATUS

(a) The board may revoke its approval of a provider or deny a provider application for good cause. Good cause includes, but is not limited to, the following:

(1) a provider is convicted of a felony or misdemeanor offense substantially related to the activities of a board-approved provider;

(2) a provider, who is a licensee of the board, fails to comply with any provisions of Chapters 13, 13.5 and 14 of the Business and Professions Code or Title 16, Division 18 of the California Code of Regulations; or

(3) a provider makes a material misrepresentation of fact in information submitted to the board.

(b) After a thorough case review, should the board decide to revoke or deny its approval of a provider, it shall give the provider written notice setting forth its reasons for revocation or denial. The provider may appeal the revocation or denial in writing, within fifteen (15) days after receipt of the revocation or denial notice, and request a hearing with the board's designee. The revocation is stayed at this point. Should the board's designee decide to uphold the revocation or denial, the provider may appeal the decision of the board's designee in writing, within seven (7) days after receipt of the decision of the board's designee, and request a hearing with a continuing education appeals committee appointed by the board chairperson. The hearing will take place at the next regularly scheduled board meeting, provided the appeal is received before the meeting is noticed to the public. It is at the discretion of the board's designee whether to stay the revocation further.

The continuing education appeals committee shall contain three board members, one public member and two members representing two of the three license types regulated by the board. The decision of the continuing education appeals committee is final.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.9. COURSE ADVERTISEMENTS

A provider shall ensure that information publicizing a continuing education course is accurate and includes the following:

(a) the provider's name;

(b) the provider number, if a board-approved provider;

(c) the statement "Course meets the qualifications for _____ hours of continuing education credit for MFTs, LEPs and/or LCSWs as required by the California Board of Behavioral Sciences";

(d) the provider's policy on refunds in cases of non-attendance by the registrant; and

(e) a clear, concise description of the course content and objectives.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

§1887.10. COURSE INSTRUCTOR QUALIFICATIONS

(a) A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications:

(1) a license, registration, or certificate in an area related to the subject matter of the course.

The license, registration, or certificate shall be current, valid, and free from restrictions due to disciplinary action by this board or any other health care regulatory agency;

(2) a master's or higher degree from an educational institution in an area related to the subject matter of the course;

(3) training, certification, or experience in teaching subject matter related to the subject matter of the course; or

(4) at least two years' experience in an area related to the subject matter of the course.

(b) During the period of time that any instructor has a healing arts license that is restricted pursuant to a disciplinary action in California or in any other state or territory, that instructor shall notify all approved continuing education providers for whom he or she provides instruction of such discipline before instruction begins or immediately upon notice of the decision, whichever occurs first.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4982.15, 4989.34 and 4996.22, Business and Professions Code.

§1887.11. RECORDS OF COURSE COMPLETION

Upon completion of a course, a provider shall issue a record of course completion to a licensee (e.g., letters of verification of attendance, certificates, gradeslips, transcripts) containing the following information:

(a) name of licensee and license number or other identification number;

(b) course title;

(c) provider name and address;

(d) provider number, if a board-approved provider;

(e) date of course;

(f) number of hours of continuing education credit; and

(g) signature of course instructor, provider, or provider designee.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, ~~and~~ 4996.22, and 4989.34 Business and Professions Code.

§1887.12. LICENSEE AND PROVIDER COURSE RECORDS

(a) A licensee shall maintain records of course completion for a period of at least two (2) years from the date of license renewal for which the course was completed.

(b) A provider shall maintain records related to continuing education courses for a period of at least four (4) years. Records shall include:

(1) syllabi for all courses;

(2) the time and location of all courses;

(3) course advertisements;

(4) course instructors' vitae or resumes;

(5) attendance rosters with the names and license numbers of licensees who attended the courses;

(6) sign-in sheets; and

(7) records of course completion issued to licensees who attended the courses.

(c) The board may audit the course records of a provider to ensure compliance with the board's continuing education requirements.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

1887.13 RENEWAL OF EXPIRED APPROVAL

A provider approval that has expired may be renewed at any time within one (1) year after its expiration upon all of the following:

- (a) Filing an application for renewal on a form prescribed by the board.
- (b) Payment of the renewal fee in effect on the last regular renewal date.
- (c) Payment of the delinquency fee in effect on the last regular renewal date.
- (d) Submission of a letter stating that no courses were presented while the provider's approval status was expired. If a course was presented during that time, the letter shall state that all participants have been notified that the provider's approval status at the time of completion of the continuing education was expired and that continuing education hours will not be disallowed by the Board if the provider renews within one (1) year after its expiration.

Note: Authority Cited: Sections 4980.60 and 4980.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

1887.14 TIME LIMIT FOR RENEWAL OF APPROVAL AFTER EXPIRATION; NEW APPROVAL

A provider approval that is not renewed within one year of its expiration date may not be renewed, reinstated, or reissued thereafter, but the provider may apply for and obtain a new approval if:

- (a) No fact, circumstance, or condition exists that, if the approval were issued, would justify its revocation; and
- (b) The applicant pays the fees that would be required if applying for approval for the first time.

Note: Authority Cited: Sections 4980.60, ~~and~~ 4980.20 and 4989.43, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.



Christina
Kitamura/BBS/DCANotes
01/12/2010 01:54 PM

To
cc
bcc
Subject LEP CU regs feedback

----- Forwarded by Christy Berger/BBS/DCANotes on 12/07/2009 10:31 AM -----
dbbgroff@aol.com

12/05/2009 11:55 AM

To Christy_berger@dca.ca.gov
cc
Subject LEP CU regs feedback

I would like to take this opportunity to provide feedback on proposed board regulation changes regarding **continuing education requirements for Licensed Educational Psychologists.**

1. I found the "number of hours required" information in the regs very confusing. I understand that the hours required will be a minimum of 18 for the initial license renewal after 1/1/2011 and 36 hours for the following/full two-year renewal period. However, the following requirements were listed in the body of the regs:

10 hours in the area of **Human Sexuality** (amend section 1087)

7 hours in the area of **Child Abuse** (amend section 1087.2)

15 hours in the area of **Alcoholism/Other chemical substance dependency** (amend section 1810)

15 hours in the area of **Spousal or partner abuse** (amend section 1887.3)

3 hours in the area of **Aging/Long-term care** (amend section 1887.3)

This brings the total number of required units to **50** – certainly well beyond the **18** hours mentioned throughout the regs.

In addition, it is unclear to me if the **6** hours in the area of **Law and ethics** would apply to the initial renewal period. Also, there is mention of **substance abuse training of 7 hours** and **HIV/AIDS training of 7 hours** (section 1887.3). Very confusing!!!

2. Given the typical areas of practice for Licensed Educational Psychologists and the scope of the license as defined by board regulations, the areas of required education listed above seem largely

unrelated/irrelevant. Child abuse and law/ethics would be appropriate, as would assessment/diagnosis/intervention in areas such as autism (surely you are aware of growing concern/need in this area), at-risk children/adults, the growing need to serve those whose lives are impacted by the economy, homelessness, stress about being able to afford rising education costs and find a job after school is over, as well as the traditional areas that LEPs work in. If a licensee has a need for education in areas such as human sexuality, alcoholism, spousal abuse, etc., then it would be up to them to include these specific areas in their own continuing education plan, rather than making them required units across the board for all LEPs. **Please make the content of these units relevant to us and not just “cookie cutter” from the MFT/LCSW requirements.**

3. I am not sure if this is true for all LEPs, but I suspect that a good number of them are professionals who have a full-time (or close to it) position in an educational setting of some sort and use the LEP license to supplement this position with a part-time private practice. This is the case for me. I also feel that this makes the typical LEP different from those who are licensed as MFTs or LCSWs.

I know that my professional liability insurance takes this “part-time” private practice status into account when establishing fees for coverage (I sign a “pledge” that my amount of time in private is under 20 hours per week to comply with this hierarchy of fees). **I am wondering if there could be some sort of similar accommodation related to the number of hours required for continuing education to be completed during each renewal period for LEPs who practice on a very “part-time” basis.**

4. I have a huge concern about the **expense** of meeting the continuing education requirements. Related to the above concern, the cost of maintaining my license will soon exceed the amount of income that I generate using the LEP license. Remember that there is also the additional cost of furnishing updated fingerprints for the next renewal period for LEPs. I find your estimate of an average of **\$5 per unit way off base**. I also surveyed the existing websites of MFT/LCSW providers, as well as the numerous advertisements I receive regularly in the mail from other professional trainers who offer units. I found that a cost closer to **\$25 - \$30 per unit** was a much more accurate estimate. That does not include the travel expenses, time away from work, and the requirement to sometimes pay for lodging and other support materials necessary to participate in the workshops. I fear that your hypothesis that the new regs will create jobs for additional CEU providers will actually be outweighed by a loss of income as an increasing number of LEPs find that you have priced them out of business and choose not to renew their license.

Overall, it seems that BBS does not have its act together enough at this point to implement regulations that will impact LEPs for their next renewal period. The regulations are confusing, mandate education in areas that are not relevant to the professionals concerned, and pose an unfair economic burden upon them. I propose that these conditions be corrected prior to putting the regulations into action. It might be wise to look at delaying these requirements until appropriate regulations can be developed/clarified. Perhaps the next renewal following 1/2011 could deal with the fingerprinting issue and not the CE requirements – implement the 36-hour requirement within the two year period following the 2011 renewal instead.

I feel that I do not speak for myself alone. In discussing this issue with other LEPs, the concerns noted above are a universal worry for many other professionals. I have no disagreement with the concept of requiring continuing education. However, the specifics of these regulations as they apply to LEPs seem to need further thought by BBS and input from those who are actually involved in providing the services and meeting the requirements of the regulations.

Thank you for your consideration,

Debbie Groff



Christina
Kitamura/BBS/DCANotes
01/12/2010 01:56 PM

To
cc
bcc
Subject Proposed changes in regulations related to CEU's for LEP's

----- Forwarded by Tracy Rhine/BBS/DCANotes on 01/12/2010 12:56 PM -----

"Melissa Sanders, MA, LEP"
<MelissaS@TeamSUCCESS-LEP.com>

To <tracy_rhine@dca.ca.gov>

cc

12/13/2009 08:40 PM

Subject Proposed changes in regulations related to CEU's for
t LEP's

Please respond to
<MelissaS@TeamSUCCESS-LEP.com>

Dear Ms Rhine,

I am writing to address a few concerns related to the proposed changes in regulations for the upcoming CEU requirements for LEP's. While I don't have concerns about the need to get CEU's, there are a few technicalities which I feel need to be addressed. In reading carefully the specifics of requirements related to particular training which will be required both in each renewal period as well as in the initial renewal period after January 1, 2011, I find the following information in the proposal relation to specific course requirements. These courses are needed at the initial renewal period after 1-1-11:

1. Human sexuality training – which in research indicates is 10 CEU's
2. Child abuse assessment training – is 7 CEU credits
3. Alcoholism and other chemical substance dependency training – a minimum requirement of 15 hours
4. Spousal or partner abuse assessment, detection and intervention strategies – 15 hours
5. Ageing and long-term care – 3 hours
6. Law and ethics – 6 hours

The above REQUIRED training prior to initial renewal of license after 1-1-11 includes 56 hours/CEU's. This amount of CEU's is an extreme burden to those LEP's who choose to renew their license after these requirements take effect. The proposed changes further state that in the initial renewal period, those with renewal dates in the first calendar year (1-1-11 through 12-31-11) will only have to provide proof of ½ of the credits required – or the amount of 18. How is it that the above requirements can be taken when only 18 CEU's are actually required; the specific requirements include more hours of CEU than are indicated if your renewal period happens to be in the second year 1-1-12 through 12-31-12 (36 units). My proposal is that the above requirement would be allowed to be taken over the first two renewal periods. During two renewal periods, the requirement would amount to 72 CEU's. These 72 hours would be nearly consumed by the above specified courses.

The proposal also states that the average cost of CE is \$5 per unit; although most websites I've found have averaged \$8-\$9 per unit. Even at \$5 per unit, the cost to fulfill the initial 56 hours of CEU credits (again per the above list) will be over \$250 in addition to my renewal fee (as my renewal occurs in 2011), not the \$90 quoted.

Further, the proposal reports that the “board estimates that 767 LEPs own a small business” (pg 8). There are over 1700 active LEP licenses per the BBS website. Does that mean the board anticipates less than half of all current licensees will complete the CEU requirements to retain their licensure?

Thank you for your time.

Sincerely,

Melissa Sanders, MA, LEP, ABSNP

Licensed Educational Psychologist

School Neuropsychologist

Team S.U.C.C.E.S.S.

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MelissaS@TeamSUCCESS-LEP.com

www.TeamSUCCESS-LEP.com

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REGULATION HEARING

December 17, 2009

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

Staff Present

Tracy Rhine, Regulations/Legislative Analyst

Guest List

On file

Tracy Rhine, Regulations/Legislative Analyst:

The purpose of this meeting is to conduct a public hearing of proposed regulations brought forth by the Board of Behavioral Sciences.

Today is Thursday, December 17, 2009, the time is 9:10, and this hearing is being conducted in Sacramento, California.

This regulation proposal was filed with the Office of Administrative Law and has been duly noticed. Copies of the proposed regulation have been sent to interested parties.

This regulation proposal would amend Title 16, California Code of Regulations beginning with Section 1807, related to continuing education requirements for licensed educational psychologists.

If any written comments have been received on the proposal, they will be made a part of the permanent record. Does anyone in the audience wish to testify?

Those persons interested in testifying today will be called to testify in the order of sign-in. When you testify:

1. Please clearly identify yourself and any organization you represent.
2. Speak loudly enough so that the testimony can be heard and recorded by the tape recorder.
3. It is not necessary to repeat the testimony of previous witnesses. It is sufficient to merely indicate you agree with what the previous witness had to say.
4. When you testify, please identify the specific portion of the regulation you are addressing.
5. If you submit written comments, please do not repeat them.

Jim Russell: I'm Jim Russell. I am a Licensed Educational Psychologist in the state of California and currently the legislative chair, and my position here today is as legislative chair for the California Association of School Psychologists. With me is Suzanne Fisher, Executive Director of the California Association of School Psychologists.

We are here to comment on the Title 16 regs and to voice our concern about the course requirements indicated in those regulations for licensed educational psychologists. We submitted a letter dated December 8, 2009, and obviously I'm not going to read that to you. We have on record our concerns. I would like to say, however, a couple of other things.

The letter outlines our concerns about the specific coursework as being outside of the scope of practice of a licensed educational psychologist. When you read the regulations, they state that - let's take for example, alcohol abuse - drug and alcohol abuse. They say that the individual needs to take this course in assessment and treatment of individuals experiencing drug and alcohol abuse. Our position is, and has been, that that's outside of our scope of practice. Licensed educational psychologists don't provide, under the auspices of their license and the limitations, you know, developed by the board itself, we don't provide that kind of in-depth therapy for families. So to require us to take the test might create an issue where an individual LEP may assume that they now have the ability under their existing license to go out and start treating individuals with drug and alcohol abuse problems. We would certainly hope that LEPs would read the requirements of their license but those things can happen and can, in fact, then put the LEP in jeopardy with the board in terms of practicing outside their scope of practice. That's a concern that wasn't listed in the record.

In addition to that, if the board insists on providing, requiring LEPs to take these courses, CASP would like to be the provider of that coursework so that we can develop the coursework and have the LEPs take it from us, either at our annual convention or in courses offered throughout the year through our ongoing professional development program. However, what we really would like to request is that these requirements of taking these courses that are listed in our letter be eliminated, be relaxed. We would like them to go away because they are requiring us to do, to take coursework outside of our scope of practice. However, we recognize that there is a need for LEPs to have some knowledge about these areas obviously. So what we would suggest is, and request of the board, is that they, that the board agree to allow CASP, in communication with the board and the staff, to develop an overview course in those areas, with the exception of child abuse reporting. That's a course that all LEPs need to have on their, demonstrate that they've taken it, that they understand the laws of child abuse reporting. The other areas such as aging, AIDS, certainly alcohol abuse and so on, we don't see the need to take a whole course, but if a course were designed - which CASP is willing to work on - where the specific point of that course would be a very practical approach to what the LEP is to do when a parent says, "My husband is an alcoholic." You know - how do they refer? Where do they refer? Those kinds of practical needs, we would certainly be willing to do in an overview course.

I'll just go on very quickly and say some other things that we're wanting to do to help the situation. We offered to assist the BBS in identifying suggested areas of training for LEPs. Once the areas are specified, CASP will get busy obviously developing the courses to provide that training to LEPs in the state of California. We've begun a dialog with universities to talk with them about what they can do to assist us in this process in order to really kind of broaden the access of training to LEPs beyond just CASP but into the university setting as well. And we will continue to offer training, as we do right now and are approved to do by the board, for MFTs and LCSWs. Once this issue of the coursework is resolved, hopefully - we would hope in our favor; we would hope our arguments are heard - then CASP will go ahead and apply for

board approval to provide training to LEPs. We will do that right away, as soon as it's possible to do it. But I just want to make the point, we're already approved for MFTs and LCSWs.

Tracy Rhine: For continuing education?

Jim Russell: For continuing education, and we are providing that through the venues of our normal, ongoing professional development process. Anything else that...

Suzanne Fisher: No. I think you've said – I'm the Executive Director, Suzanne Fisher, of the California Association of School Psychologists. I'd like to support what Jim Russell, our legislative chair, has said. I have what he basically said in notes, by the way, if that would help you in your ... and so I will pass that on to you right there. That might help with the transcription.

Tracy Rhine: Thank you.

Suzanne Fisher: We believe the organization of any LEP training, continuing education program, would come through our office. We already have, as Jim said, the MFTs and the LCSW approval. We'd like ... we are going to apply for that. We hope that there will be ... right now there is no certification or ...

Jim Russell: ... continuing ed ...

Suzanne Fisher: ...continuing ed requirement for LEPs, so this would be totally new and I would hope that that's part of what's going to happen when this regulation piece is put in place, that there will be the opportunity to become a certified provider of the continuing education.

Tracy Rhine: Yes, that is part of the regulation.

Suzanne Fisher: Ok. And I personally, through our office and as the Executive Director, have been talking and now ... discussions with three different institutions, four-year schools, if required to do that. However, our preference is to do, as Jim has just said, is to compile or compose, with approval, the units and the segments or the modules that would be required for an overview course. We're already geared up and prepared to do that. It's what we do anyway for our members. Continuing education is probably 85% of my job, so this is an easy piece to slip into what we're already doing. Thank you.

Jim Russell: And if I could make one more comment, and I'll be done. I just want to be clear that CASP very much supports the continuing education requirement for LEPs. We're certainly not questioning that at all. As a matter of fact, it's probably a long time coming and we welcome it, not only as a provider of courses but as an organization that's very concerned about the quality of services that LEPs offer to families in the state of California. I just want to be clear about that.

Tracy Rhine: Great. Thank you. I am ... it's now 9:20 and I am going to wait another ten minutes before I declare the meeting closed. And so, we will put this on hold and continue to wait.

Tracy Rhine: The time is now 9:30, and seeing no other witnesses to testify, I thank everybody for attending and declare the hearing closed.

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**Board and Committee meeting Minutes for Licensed Educational Psychologist
Continuing Education Regulatory Proposal**

JULY 11, 2008 Policy and Advocacy Committee Meeting Item VII

Discussion and Possible Action Regarding Draft Regulations Implementing Mandatory Continuing Education for Licensed Educational Psychologists

Ms. Rhine reported that the Governor signed into law SB 1048, which required licensed educational psychologists (LEP) to complete 36 hours of continuing education (CE) upon renewal. This requirement went into effect January 1, 2008. The board must initiate rulemaking to outline those requirements.

One issue is implementation. Two options for delayed implementation were outlined. *Option A* provides that a licensee would not have to complete 36 hours of CE until the first full renewal cycle after the operative date of the regulation. Making the section requiring CE operative April 1, 2009, a licensee that renews his or her license March 30, 2009 would not have a full renewal cycle until after his or her renewal in March 2011, conceivably making the completion of 36 hours of CE not mandatory until renewal in March 2013. This could allow almost four years in some instances until a licensee would have to comply with the requirement – and making the law in effect for up to six years before some licensees would have to be in compliance. *Option B* would provide for a phased-in implementation of the CE requirements over 32 months. Specifically, Option B states that a licensee renewing in 2010 would have to complete 18 hours of CE upon renewal. Beginning January 1, 2011, licensees would have to complete the full 36 hours of CE for renewal. In the instance of the licensee that renews on March 30, 2009 – this individual would have to certify completion of the full 36 hours upon renewal in March 2011. For a licensee that renews his or her license this year, only 18 hours of CE would be required upon renewal in 2010. Option B would bring LEPs and the board in line with statutory CE requirements within eighteen months.

The Committee expressed that Option B is the preferred method.

Ms. Rhine explained the next issue of specific course requirements. Provisions in Business and Professions Code section 29 directs the board to consider adopting CE requirements related to chemical dependency and early intervention training for LCSWs and MFTS. This section does not expressly direct the board to consider this training for LEPs. Additionally, Business and Professions code section 32 directs the board to consider including training related to acquired immune deficiency syndrome (AIDS) in any CE requirements of board licensees, including LEPs. The Committee was asked if they want the same course requirements to apply to the LEP requirement.

Ms. DiGiorgio responded that the same requirements should apply.

Dr. Russ asked if this matter was brought to Judy Johnson, LEP member of the Board for an opinion. Mr. Riches responded that Ms. Johnson's opinion was to apply the same rules, and treat the LEP requirement on the same terms as the MFTs and LCSWs.

Dr. Russ stated that LEPs are going to have to deal with these issues, but what is offered in those CE courses required of MFTs and LCSWs do not have much to do with what LEPs actually deal with.

Mr. Riches stated that most of the CE offered will not make sense for LEPs. This requirement will make a demand for and a supply of LEP specific CE courses. There may be a body of training specific to LEPs that is not under the board's CE requirements yet. The California Association of School Psychologist (CASP) may offer courses.

Dr. Russ suggested inviting CASP to provide proposals for CE. Dr. Russ does not feel that the AIDS/HIV course and the substance abuse course are necessary for LEPs.

Ms. Riemersma asked if the more recent mandated courses would apply to the LEP, such as the domestic violence course and the aging and long term care course. Dr. Russ stated that domestic violence would apply, but not sure about the aging and long term care.

Ms. Rhine explained that the two recent courses were not included in statute, but it can be required.

Mr. Wong stated that the profession should decide what it wants. Because the LEP field is different from social work and marriage and family therapy, they may see some courses are more appropriate that should be mandated.

Dr. Russ stated that we're only talking about a few specific courses: chemical dependency, domestic violence, AIDS, and aging. Dr. Russ stated that he doesn't want the profession determining the courses; he wants them to have a voice. He recommended Option B, directing staff to make changes to the rulemaking, and inviting the professional organization to include their input.

Donna DiGiorgio moved to direct staff to make changes to the rulemaking to include Option B and domestic violence, aging and long term care, chemical dependency, and HIV/AIDS. Ian Russ seconded. The Committee voted unanimously (3-0) to approve the motion.

November 18, 2008 Board Meeting Item VI - H

H. Recommendation # 6 – To Initiate a Rulemaking Implementing Mandatory Continuing Education for Licensed Educational Psychologists

Ms. Rhine reported that in 2007 legislation was signed requiring LEPs to complete thirty-six (36) hours of continuing education every two years. The legislation became effective January 1, 2008. Now the Board must promulgate regulations specifying what the required continuing education needs to include. Ms. Rhine referred the Board members to documents outlining the proposed regulatory changes which add LEP to the continuing education sections of Board regulations.

Two issues came up during committee discussion of this topic. The first issue pertained to specific courses mandated for other licensees. The cited courses included AIDS Awareness, Human Sexuality, Child Abuse Detection, Aging and Long-Term Care, and Law and Ethics, all of which are currently required of MFTs and LCSWs, either pre-licensure or through continuing education. The Committee felt the same requirement was appropriate for LEPs. Ms. Rhine indicated that she had drafted language to include LEPs in the continuing education requirement.

The second issue for discussion was the timeline for implementation of the CE requirement for LEPs. Ms. Rhine stated that the committee had initially considered a staggered implementation of the requirement; for example, 18 units to be completed by a certain date, with the full 36 units required for completion during the next full two-year renewal period. A similar requirement is currently in place for MFTs and LCSWs. Ms. Rhine expressed uncertainty that existing statute would allow for a staggered implementation of the CE requirement. Therefore, the Board had before them a proposal that the new requirements would not go into effect until January, 2012. LEPs would be required to complete thirty-six hours of continuing education for license renewals after 2012.

Another option before the Board would be to make a requirement similar to that currently made of MFTs and LCSWs, with eighteen units be completed for the first renewal, and thirty-six units required for each renewal thereafter.

The Committee recommended for the Board to direct staff to initiate the rulemaking process with specific CE requirements and delayed implementation.

Ms. Johnson, Licensed Educational Psychologist, commented about the importance of the proposed regulations, which she believes serve to increase the credibility of LEPs as independent practitioners. She was asked by other Board members to comment about the applicability of the proposed CE requirements to LEP practice. Ms. Johnson responded that she believed the required courses were applicable, and noted that although some continuing education is required through the Department of Education in order to maintain a school psychologist credential, the requirement of LEPs was also important in maintaining licensure. Discussion continued briefly.

Dr. Russ then returned to the issue of implementation of the CE requirement for LEPs. The recommendation before the Board was to require eighteen hours of CE for the first renewal period, and thirty-six hours for each renewal period thereafter. He noted that Ms. Schieldge had advised the Board that existing statute requires licensees to certify completion of 36 hours of CE each renewal period. Therefore, there was the possibility that the regulatory proposal would be returned for modification. Mr. Riches emphasized that should the proposal be returned, the necessary modifications would be made to ensure passage of the regulations.

Ms. Schieldge asked what language the Board was proposing be removed or inserted. Ms. Rhine suggested, as discussed by Committee, the removal of all language referring to implementation of the CE requirement in 2012. It was recommended that language be inserted requiring completion of eighteen hours of CE for renewals occurring January 1, 2010 through December 31, 2010, and 36 hours of CE for all renewals beginning January 1, 2011. Ms. Schieldge stated that staff would need to go back and draft a new proposal for Board approval. Dr. Russ directed staff to do so and bring it back to next Board meeting.

February 21, 2009 Board Meeting Item VI - C

C. Recommendation # 3 – Initiate a Rulemaking Process to Implement Continuing Education Requirements for Licensed Educational Psychologists

Ms. Rhine presented information regarding the background of this issue, as well as previous actions taken by the Board toward the initiation of the requirement. She indicated that the information currently before the Board is the proposed regulatory language which would allow for a staggered implementation of the continuing education requirement for Licensed Educational Psychologists (LEP). Ms. Rhine reviewed the proposal with the Board. Dr. Russ opened the matter for discussion and/or public comment. Ms. Riemersma, CAMFT, asked for clarification regarding proposed changes to California Code of Regulations section 1887.2, Exceptions from Continuing Education Requirements; specifically, the provision that a licensee requesting exception from the continuing education requirement submit that request at least sixty (60) days prior to the expiration date of the license. Ms. Riemersma asked if the proposed language means that any request not submitted within the designated time frame will result in a denial of the request. Mr. Riches responded that the changes under review were a compilation of several different proposed changes approved by the Board relating to continuing education, and did not pertain specifically to the Licensed Educational Psychologist component of the current package. No history was readily available to answer Ms. Riemersma's question, but Ms. Rhine indicated she would research the question and get back with a response. Ms. Schiedge added clarification that this is a change in Board procedure. Typically, the motion is to set for hearing and once completed, the matter returns before the Board. The new motion would permit staff to proceed with filing of the rulemaking if no comments are received at the hearing. She emphasized this would be a change from current Board practice. Dr. Russ took steps to ensure all Board members understood Ms. Schiedge's comments, and that the motion to allow staff to move forward with the rulemaking process absent adverse comment at hearing would be a departure from typical Board procedure.

Renee Lonner moved to direct staff to take all steps necessary to initiate the formal rulemaking process to adopt proposed amendments to 16 CCR sections 1807, 1807.2, 1810, 1819.1, 1887-1887.14; authorize the Executive Officer to make any non-substantive changes to the rulemaking package; and set the proposed regulations for a hearing. If no adverse comments are received during the 45-day comment period or at the hearing, direct staff to take all steps necessary to complete the rulemaking process and authorize the Executive Officer to adopt the proposed regulatory changes to Sections 1807, 1807.2, 1810, 1819.1, 1887-1887.14, as noticed. Donna DiGiorgio seconded. The Board voted unanimously (6-0) to pass motion.



CONSUMER PROTECTION ENFORCEMENT INITIATIVE

"A Systematic Solution to a Systemic Problem"

The Department of Consumer Affairs (DCA) is the umbrella agency that oversees 19 healing arts boards that protect and serve California consumers. The healing arts boards regulate a variety of professions from doctors and nurses to physical therapists and optometrists. These licensees are some of the best in the country and provide excellent care to Californians on a daily basis. However, when a licensee violates the laws that govern his or her profession, enforcement action must be taken to protect the public.

In recent years some of DCA's healing arts boards have been unable to investigate and prosecute consumer complaints in a timely manner. In fact, some boards take an average of three years to investigate and prosecute these cases; this is an unacceptable timeframe that could put consumers' safety at risk.

DCA reviewed the existing enforcement process and found systemic problems that limit the boards' abilities to investigate and act on these cases in a timely manner. These problems range from legal and procedural challenges to inadequate resources. In response, DCA launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement process at the healing arts boards. The CPEI is a systematic approach designed to address three specific areas:

- Administrative Improvements
- Staffing and IT Resources
- Legislative Changes

Once fully implemented, DCA expects the healing arts boards to reduce the average enforcement completion timeline from 36 months to between 12 and 18 months.

I. Administrative Improvements

During the review of the enforcement process, DCA worked with the boards to identify areas that could be improved administratively to better coordinate broad enforcement objectives, improve the services provided to the healing arts boards, and establish streamlined enforcement processes and procedures that can be used by all boards. The following are some of the efforts that emerged from those discussions:

“365 Project”

DCA’s Division of Investigation (DOI) embarked on a project in 2009 to strategically focus on cases that were one year or older. DOI worked closely with boards to identify the cases upon which they should focus their resources. This project has produced impressive results, and in 2009 the DOI closed 50% more cases than the comparable period in 2008.

Delegation of Subpoena Authority

One of the initial administrative changes implemented by DCA was delegating subpoena authority to each executive officer as a tool to gather evidence and interview witnesses. DCA’s Legal Office conducted subpoena training for board staff, and this authority has started being exercised by boards. We expect to see increased use of subpoenas as a result of this change, and boards will be able to pursue cases that they otherwise would not have pursued.

Process Improvement

DCA and the boards are working to identify best practices for a number of enforcement processes and procedures, such as complaint intake, handling of anonymous complaints, vote by email protocols, and adjudication procedures. This effort will take advantage of the most effective practices utilized by the various boards, and entities in other states, and will ultimately shave time off all aspects of the enforcement process.

Enforcement Academy

DCA’s Strategic Organization, Leadership, & Individual Development Division is developing enhanced training programs for enforcement staff. The enforcement academy will teach investigators and other enforcement staff key skills used in complaint intake, investigation procedures, case management, database use, and other areas. Never before has DCA offered such a comprehensive enforcement training program. An initial training was offered in November 2009, and the full enforcement academy will begin its regular cycle in April 2010.

Deputy Director for Enforcement and Compliance

DCA established an executive level position that reports to the Director and is responsible for regularly examining each board’s enforcement program to monitor enforcement performance and compliance with all applicable requirements. This position monitors performance measures so that boards’ enforcement programs can be continuously assessed for improvement.

Performance Expectations with Other Agencies

DCA has been working with the Attorney General’s Office and the Office of Administrative Hearings (OAH) to establish performance agreements that will expedite the prosecution of cases. DCA and the AG’s Office are developing expectations for filing accusations, setting settlement conferences, and filing continuance requests. Further, DCA is working with OAH to establish timelines for setting cases for hearings, which, once implemented, could reduce a case timeline by months.

II. Enhancing Enforcement Resources

There are 36 licensing entities under the DCA (of which are 19 healing arts boards) and, with a few exceptions, all of these programs share the resources of the Department, from Division of Investigations (DOI), to Personnel to IT Support. While the healing arts boards fall under the umbrella of DCA they are separate semi-autonomous groups overseen by board members appointed by the Governor and the Legislature. Additionally, all of the licensing entities under DCA are special fund agencies funded exclusively through fees collected through licensees with no general fund support.

Enforcement Staff

DCA's review of the enforcement process identified a need for more focused staff resources in the areas of investigations and complaint intake. The majority of DCA's licensing entities share the resources of DCA's overburdened DOI. Annually, DOI's 48 investigative staff members receive over 1,300 cases, in topics ranging from nurses to repossessioners to smog check stations. Having so many investigations performed by DOI has resulted in a number of problems, including loss of control over the investigation by the boards, a lack of investigators with expertise in specific licensing areas, and excessive caseloads. These problems have led to excessive turn-around times and growing backlogs. Through the 365 Project, the DOI has worked with boards to reduce the case backlog, but the current structure has revealed a need for more significant changes.

In order to increase accountability in the investigative process, DCA is working to provide boards with the authority to hire non-sworn investigators to be housed within each board. This will enhance boards' control over investigations, allow for more appropriate workload distribution, and enable investigators to develop expertise. Additionally, to coincide with process improvement efforts, some boards will increase complaint intake staff. DCA is seeking a total of approximately 140 new enforcement positions (full year equivalent) across all healing arts boards. The vast majority of these positions are investigators and investigative supervisors, and the remainder is mostly complaint intake staff. In addition to increasing staffing, DCA will ensure that staff are properly trained, monitored, and assessed so that cases are expedited as quickly as possible.

Because DCA's boards are special fund agencies, new positions will not place a drain on the General Fund and boards will pay for new staff with existing resources or with fee increases where necessary. The number of positions requested is a result of an individual assessment of each board, and assumes workload savings associated with DCA's current process improvement efforts. The Governor's Budget includes the initial phase-in of these positions beginning July 2010.

Create a New Licensing and Enforcement Database

DCA's current licensing and enforcement database systems are antiquated and impede the boards' ability to meet their program goals and objectives. Over the past 25 years, these systems have been updated and expanded, but system design and documentation have deteriorated to such an extent that it has left the systems unstable and difficult to maintain. These systems have inadequate performance measurement, data quality errors, an inability to quickly adapt to changing laws and regulations, and a lack of available public self-service options. The CPEI relies on advanced workflow capabilities and cross-entity external system communications that the aging system's technology cannot provide.

The implementation of a replacement system is needed to support enforcement monitoring, automate manual processes, streamline processes, and integrate information about licensees. DCA intends to procure a Modifiable Commercial Off-The-Shelf (or "MOTS") enterprise licensing and

enforcement case management system. DCA's research has shown various MOTS licensing and enforcement systems exist that can provide intelligent case management to reduce enforcement and licensing turnaround times, detailed performance measurements, increased data quality, advanced configurability, and robust web presences for public self-service.

The Governor's Budget authorizes DCA to redirect existing funds to begin implementation of this system in FY 2010-11.

III. Statutory Changes: Putting Consumers First

Each board within DCA has a statutory mandate to hold consumer protection as its paramount objective. Over the years, boards' enforcement authorities have been slow to keep up with legal trends and changes in the professions regulated, and due process protections have grown to protect licensees above consumers. DCA believes that now is the time to re-align consumer protection laws so that they place public protection first. In 2010, the DCA will pursue legislation to help boards carry out their critical missions of protecting consumers.

Increased Suspension Authority

One of the most important roles that professional licensing boards do to protect consumers is preventing potentially dangerous individuals from practicing. The CPEI would strengthen the boards' ability to do this in a number of ways, including authorizing the DCA Director to issue an order for a licensee to cease practice or restrict practice, upon the request of a board executive officer. This authority is necessary in the most egregious cases because the standard enforcement process can take a year to complete, at best, and even the expedited process in existing law (interim suspension order) can take months to complete. This proposal would also seek the statutory authority to revoke or deny a license to an individual for acts of sexual misconduct with a patient or conviction as a felony sex offender.

DCA is also seeking automatic suspension authority for licensees who test positive for drugs or alcohol when they are already in a diversion program or on probation for drug or alcohol related practice violations. In such instances, a board has already made a determination that a licensee presents a threat to the public; allowing the licensee to continue practicing would unacceptably place consumers in harm's way. Similarly, DCA believes that practicing under the influence of drugs or alcohol is as much a threat to public safety as driving under the influence. This proposal would make such activity a crime, and would allow law enforcement to quickly intervene when a patient's safety is at risk.

Additionally, the CPEI would provide for the automatic suspension of convicted felons for the duration of their sentence.

Increased Access to Critical Information

The CPEI would make improvements to the information that boards receive, so they can investigate possible violations of law. Specifically, it would prohibit the use of a gag clause in a civil settlement that would prohibit consumers or their legal counsel from filing a complaint with the appropriate board. Regulatory gag clauses are explicitly prohibited in legal malpractice settlements and there have been numerous court decisions that describe a compelling public interest in voiding regulatory gag clauses in other professions. The Center for Public Interest Law notes that the inclusion of gag clauses is an alarmingly pervasive practice that thwarts the ability of boards to carry out their consumer protection mission. The CPEI would also require court officials to report to the healing arts boards convictions and felony charges filed against the boards' licensees, and expand reporting by employers and supervisors regarding individuals who were suspended or terminated for cause.

Adequate access to medical records can shave months off the process to investigate a licensee. Medical records are used by healing arts boards' to determine whether a licensee caused harm to a patient. Any delay in an investigation of a licensee may result in a potentially dangerous licensee continuing to practice. Thus, it is essential that healing arts boards have quick access to medical records. The CPEI gives all of the healing arts boards the authority to inspect and copy, as applicable, any documents and records relevant to an investigation. In cases where a licensee fails

to cooperate with an investigation, the CPEI provides boards with additional authorities to ensure compliance.

Enforcement Process Efficiencies

DCA proposes to remove unnecessary workload and costs from the enforcement process. This can be done by streamlining the appeal process for citations, permitting boards to contract with collection agencies to retrieve unpaid fines and fees, authorizing executive officers to sign default decisions and certain stipulated settlements, and allowing licensees to agree to stipulated settlements before a formal accusation is filed. These are relatively small changes that could result in significant workload savings.

Efficiency and accountability will also be improved by tightening deadlines on boards and establishing deadlines on other state agencies. This proposal would reduce the time allotted for a board to act on the proposed decision from an Administrative Law Judge from 100 days to 45 days. DCA also believes that establishing a deadline for the Department of Justice to notify hearing arts boards of arrests and convictions of licensees would greatly improve the board's ability to pursue cases in a timely manner.

Licensing Fees

Lastly, DCA is seeking to tie the maximum licensing fee amounts to the Consumer Price Index to keep up with inflation and ensure the boards have the resources to adequately run their enforcement programs.

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To: Board Members

Date: January 11, 2010

From: Sean O'Connor
Board of Behavioral Sciences

Telephone: (916) 574-7863

Subject: Update on Fingerprinting Requirement for Licensees and Registrants

Background

As a result of the adopted regulations in 2009, all licensees and registrants who have previously not submitted fingerprints as a condition of licensure or registration for the Board of Behavioral Sciences (BBS), or for whom fingerprints do not exist in the California Department of Justice's (DOJ) criminal offender record identification database, must do so prior to their next renewal date occurring on or after October 31, 2009. Failure to comply with this requirement can result in disciplinary action or the issuance of a citation, which may include a fine of up to \$5,000.

Using data from DOJ and the BBS, staff identified 34,685 individuals in the BBS licensing population affected by this requirement.

Progress

BBS staff began the process of notifying and processing fingerprint results for those individuals required to comply in July 2009.

The process for notifying a licensee or registrant of the necessity to comply involves sending a notification at least 90 days in advance of the licensee or registrant's fingerprint submission deadline. If a licensee or registrant has not complied within 30 days of the deadline, BBS staff sends a follow up letter. Thus far, BBS staff notified 7,771 licensees and registrants of the necessity to fingerprint. Licensees and registrants can also obtain the necessary forms and information from the BBS Web site (http://www.bbs.ca.gov/licensees/licensee_fingerprint_requirement.shtml).

In December 2009, BBS staff compiled a list identifying individuals with a deadline to comply of 10/31/2009 who failed to submit fingerprint. 188 individuals required to submit fingerprints did not comply, which is a non-compliance rate of 14%.

On December 8, 2009, the BBS started receiving fingerprint results via an automated process, which greatly reduces the need for manual key data entry. As of December 31, 2009, 5,064 licensees and registrants have complied with the fingerprinting requirement.

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To: Board Members

Date: January 8, 2010

From: Kim Madsen
Interim Executive Officer

Telephone: (916) 574-7841

Subject: Strategic Plan Update

Background

At the February 2009 board meeting, recommendations to the Board's 2007 Strategic Plan were presented. The recommended changes to the Strategic Plan were in response to the anticipated impact on staff resources as a result of California's budget deficit and implementation of the retroactive fingerprinting program. Board members reviewed and approved the recommended changes.

Objective Update

The Board is pleased to report that some objectives are completed or have had significant accomplishments to date.

- Objective 1.6, Conduct 45 outreach events per fiscal year with 5% specific to consumer education and awareness by July 1, 2012. The Board attended 53 outreach events by June 30, 2009.
- Objective 2.3, Secure the passage of legislation to revise the curriculum for Marriage and Family Therapists by January 1, 2009. The passage of Senate Bill 33, revisions to Marriage and Family Therapy curriculum, was signed by Governor Schwarzenegger on August 5, 2009.
- Objective 3.2, Provide three new publications in at least two additional languages by July 1, 2012. One publication, The Self Empowerment Brochure, was published in two additional languages, Spanish and Korean.

Current Status

Since the revisions to the plan in February 2009, furloughs have increased to three days a month. Further, the introduction of the Department of Consumer Affairs Enforcement Model focuses efforts department wide to significantly reduce the time to complete consumer complaints investigations.

The management team began to discuss the appropriateness of the current objectives and goals in relationship to current resources and current conditions within State Government. The management team reflected on the core business practices of the Board and our responsibility to our stakeholders and consumers. The team reviewed each of the initial goals and decided to develop a Strategic Plan

that is more reflective of our primary goal to become a Model State Licensing Agency. This goal provided the vision to establish new goals which reflect our mission and values.

The revisions to the Strategic Plan were completed in December 2009 and are attached for your review.

Staff Recommendation

Upon review and discussion of the revisions to the Strategic Plan, staff requests approval of the revised Strategic Plan.

STATUS OF STRATEGIC OBJECTIVES

As of February 1, 2009

GOAL/OBJECTIVE		STATUS	NOTES	Suggested Action
GOAL 1: Be a Model State Agency				
1.1	Increase the board's accessibility rating on the customer satisfaction survey to 85% by July 1, 2012.	Active	Monthly reports are generated from the customer satisfaction survey.	<i>Consider rephrasing this objective to measure customer's overall satisfaction.</i>
1.2	Improve internal communications by 33% as measured by the internal communications survey by July 1, 2011.	Active	Communication Training Class scheduled in May for BBS staff. Communication Survey in development.	
1.3	Increase staff productivity index by 10% by July 1, 2012.	Inactive		
1.4	Improve complainant satisfaction by 50% by July 1, 2012.	Active	Developing baseline. Anticipate improvement as a result of hiring 2 BBS Field Investigators.	
1.5	Have all employees complete BBS certification by July 1, 2010.	Inactive		<i>Extend due date to 2012.</i>
1.6	Conduct 45 outreach events per fiscal year by July 1, 2012.	Active	Conducted 26 events to date. 15 events remain this FY. Mandated furloughs will require BBS to reduce participation until June 2010.	
1.7	Increase Board appointees' effectiveness index by 10% by July 1, 2012.	Active	Survey model built. Implementation March 2009.	
1.8	Implement a plan that enables the Board and its professions to assist Californians during an emergency by July 1, 2012.	Inactive	BBS Emergency Protocol in place.	
Goal 2: Influence Changes in Mental Health Services throughout California				
2.1	Advocate for five laws that expand access to mental health services by July 1, 2012.	Active	An objective that will be achieved through the BBS legislation efforts.	
2.2	Implement four (4) strategies to improve the quality of clinical supervision by July 1, 2012.	Inactive	Workgroup report completed. Approval pending. LCSW Education Committee and Exam Program Review Committee work must be completed before resuming work on this objective.	
2.3	Secure passage of legislation to revise the curriculum for marriage and family therapist licensure by January 1, 2009.	Active	Curriculum changes submitted in SB 33. Bill introduced this year.	
2.4	Implement 6 strategies to improve the quality of treatment for co-occurring disorders by July 1, 2012.	Inactive		

Key: Objectives in bold are priority as determined by management team

GOAL/OBJECTIVE		STATUS	NOTES	
Goal 3: Promote Quality Mental Health Services				
3.1	Implement four (4) consumer awareness initiatives on the roles of mental health services by July 1, 2012.	Active	Aging and Mental Health information on web site. Publication in design.	
3.2	Provide 3 new publications in at least two (2) additional languages by July 1, 2012.	Active	Self Empowerment brochure to be translated into Spanish.	
3.3	Implement four (4) strategies to address demographic disparities between providers of mental health services and consumers by July 1, 2012.	Active	Strategies identified and additional research ongoing.	
Goal 4: Expand the Board's Access to Resources				
4.1	Achieve 70% utilization of iLicensing in the first year of implementation.	Inactive	DCA project renamed BreEZe. Final project bid due Feb. 10, 2009. BBS continues to participate in ongoing meetings.	<i>Rephrase "iLicensing" to "BreEZe."</i>
4.2	90% of BBS staff will participate in the Human Resource Management Plan by July 1, 2010.	Active		Readjust time line to 2012.
4.3	Obtain Access to Seven External Experts to Address Our Competency Gaps by July 1, 2009.	Active	One consultant contracted to work with Exam Committee.	<i>Readjust time line to 2012.</i>

Key: Objectives in bold are priority as determined by management team

*CALIFORNIA STATE
BOARD OF BEHAVIORAL
SCIENCES*

Strategic Plan



*Strong minds, lives, families
and communities*

*December 2009
Draft*

Vision

*Strong minds, lives, families,
and communities*

Mission

*Protect Californians by promoting consumer awareness,
advocating for improved mental health services,
and setting, communicating, and enforcing standards.*

Values

The BBS Way:

Be a person of Integrity

Be Professional and Dedicated

Serve with Excellence

Integrity - Doing the right thing makes us proud of the end result.

Professionalism – Applying our knowledge, skill, and ability.

Dedication – Committed to providing quality service.

Service – The quality way the Board meets the needs of the public.

Excellence – Striving to achieve at the highest level.

GOAL 1: Be a Model State Licensing and Regulatory Board

Objective 1: Deliver the Highest Level of Service

Performance Measure: Increased Successful Service Rating and Overall Consumer Satisfaction

1.1 Increase the Board's successful service rating from 72.5% to 80% by June 30, 2012.

- Review DCA the Seven Cs of Customer Service Policy with all BBS Staff by March 1, 2010.
- Implement the DCA Seven Cs of Customer Service Policy standards for email and telephone communications by March 1, 2010.
- Continue review of stakeholder comments received through the website for opportunities to improve service, identify issues that adversely impact successful service, and initiate action or change to correct any issues within the Board's direct control.

1.2 Conduct at least 24 outreach events per fiscal year with 5% specific to consumer education and awareness by July 1, 2012.

- Annually, identify 3 consumer outreach events throughout California to attend.
- Develop materials and publications to promote the existence of BBS and its services for consumers.
- Develop materials and publications to educate and aid consumers in the selection of a mental health provider.

1.3 Increase the Board appointee's effectiveness index 10% by July 1, 2012.

- Establish goals for board appointee effectiveness by August 2010.
- Establish mechanism to measure board appointee effectiveness by August 2010.
- Conduct first assessment of goals and determine baseline index by December 2010.

Goal 2: Establish and Maintain Model Standards for Professional Licensing and Examinations

Objective 2: Ensure that all applications meet registration, examination, and licensure qualifications. All notices to applicants, registrations, and licenses are issued accurately and promptly.

Performance Measure: Percentage of applications, notices, registrations, and licenses processed within established timelines.

2.1 Licensing

- Evaluate all Intern/Associate applications and issue a registration to registrants if the application is complete or notify the applicant of the deficiency within 15 days.
- Evaluate all LEP applications and issue a license if the application is complete or notify the applicant of the deficiency within 15 days.
- Evaluate all Continuing Education Provider applications and issue a provider approval number to the provider if the application is complete or notify the applicant of the deficiency within 15 days.
- Issue examination eligibility notices within 7 days once applicant completes all the requirements to take the examination.
- Issue all initial licenses within 2 days of receipt of completed application.

2.2 Cashiering

- Process all renewal applications within 7 days of receipt.
- Process all new applications within 3 days of receipt.

Goal 3: Ensure the Examination Process is Effective, Fair, and Legally Defensible.

Objective 3: Assess the examination process to determine if the timing, intervals, and content are appropriate.

Performance Measure: Implementation of board approved recommendations

- 3.1 Submit the Exam Program Review Committee's recommendations to the Board by January 2010.
- 3.2 Implement approved recommendations by 2012.
- 3.3 Propose and secure passage of legislation required to implement the Exam Program Review Committee's recommendations by 2012
- 3.4 Collaborate with Association of Social Work Board to consider the ASWB examination in the Board's work as it relates to licensure for clinical social work.
- 3.5 Collaborate with the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) to jointly perform the Occupational Analysis to be used for both the California MFT exam and national exam.
- 3.6 Develop strategies to increase the number of Subject Matter Experts utilized for exam development.

Goal 4: Increase Consumer Protection through Timely Investigations and Adjudication of Cases Referred for Disciplinary Action.

Objective 4: Timely resolution of consumer complaints and investigations.

Performance Measure: Number of investigations and completed disciplinary actions completed within established timelines.

- 4.1 Complete consumer complaints investigations within 180 days of receipt.
- 4.2 Upon receipt of conviction information complete criminal conviction investigations within 120 days.
- 4.3 Complete adjudication of cases referred for disciplinary action within 180 days of referral date.
- 4.4 Evaluate and assess all procedures to identify process improvements.

Goal 5: Promote Staff Development and Recognition

Objective 5: Develop an internal training and recognition program

Measure: Number of staff with training completion certificates

- 5.1 Establish BBS Way Certification Program and implement program for all staff to complete by July 1, 2012.
- 5.2 Establish a program that recognizes employee length of service, achievements, and contributions to the Board.
- 5.3 Establish a standard of training for each classification to be completed by each employee in that classification.
- 5.4 Promote enrollment in training classes that prepare employees for promotional and testing opportunities.

November 10, 2009

Paul Riches, Executive Officer
And Members of the Board
Board of Behavioral Sciences
1625 North Market Boulevard, Suite S-200
Sacramento, CA 95834

RE: Paying for Supervision Issue

Dear Paul and Members of the Board:

We appreciate that the BBS has placed the matter of “paying for supervision” on the next meeting agenda as requested. There are a number of questions that have arisen, and I am sure, will continue to arise as trainees, interns, supervisors, and employers come to grips with this change. We are also going to be interested in hearing the views from all of these stakeholders as they attempt to make changes in their operations and in the gaining of hours of experience.

Some employers charge for supervision and we understand that the Department of Labor states that it is inappropriate for employers to charge for supervision. Since volunteers are treated like employees pursuant to the licensing law, does the BBS believe it is likewise inappropriate for an employing entity to charge a volunteer for supervision?

Some employers charge training fees to supervisees. I have heard of training fees as high as \$600 or even \$1,000 per month. Does the BBS consider training fees to be inappropriate or permissible? What if the training fees are being charged by an MFT educational program counseling center? What if the training fees are being charged by an entity that claims to be a training center for aspiring mental health professionals? What if supervision costs are being incorporated into the training fees being charged? Would it be acceptable for only certain types of entities to charge for training fees and if so, what types of entities would these be.

Clinical supervision, as we know it in the mental health professions, is really a lot different than supervision as we know it in the general workforce. Thus, possibly we need to more carefully clarify what it is and come up with terminology that more correctly identifies it as a part of the training of aspiring professionals, rather than giving the impression that it is employer oversight.

Questions also arise about volunteering in private practice. The Department of Labor would likely conclude that it is unlawful to not pay persons who are working in for-profit

entities. Yet this type of experience occurs regularly throughout the business world where those in training volunteer to work in for-profit settings as volunteers because the benefit is so valuable or the opportunity to learn from a particular individual is so valuable—like working with and being supervised by a highly skilled clinician. It seems absurd that an intern might be able to gain valuable experience at a private practice where he or she would not see sufficient clients to warrant being paid, but would then not be allowed to do so because he or she would be prohibited from being a volunteer. In such a situation, it is a learning experience and not a job for hire.

Will the BBS still consider it permissible to pay an offsite supervisor for supervision with an appropriately executed letter of agreement? In other words, will employers be provided an opportunity to force interns and trainees offsite to acquire their supervision because that way the interns and trainees may pay for the supervision?

How, at this time, does the BBS plan to enforce the issue of “paying for supervision?”

These are just a few of the questions and concerns that are arising. I am sure we will come upon others before the next meeting of the Board. We look forward to a thorough discussion, and hopefully, worthwhile conclusions to protect the interests of all concerned.

Sincerely,

Mary Riemersma
Executive Director

December 4, 2009

Renee Lonner, LCSW, Chair
California Board of Behavioral Sciences
1625 N. Market Blvd.
Suite S-200
Sacramento, CA 95834

Statement of Concern

This letter is in response to information we have received from CAMFT regarding payment of a program fee by our trainees for training and education and the use of the terms "employee" and "volunteer." Regardless of the BBS distinction between the terms "trainee" and "intern," for the purpose of this statement of concern, the word "trainee" refers to all persons receiving training in counseling at our centers.

At this tumultuous economic time each center is facing tremendous financial challenges. Many of us do not take government funds, so we are dependent on client fees, foundation and corporate grants, individual donations and training fees. We are all experiencing a flood of clients who pay significantly less for treatment. Many foundations have suspended disbursements because of substantially diminished portfolios. Corporations are refusing requests because their profits are either down or nonexistent. Individuals are feeling the stress and strain of the times and are less willing or able to consider financial support.

Given all of this dire news, you can imagine our concern when we are told that we may not be able to charge fees for training and education. We ask that you consider the following and we ask to be part of your conversation on this matter:

- Our trainees are not employees. They are seeing clients at our centers in order to give back to the community, gain experience and training, and collect the hours necessary to sit for the California licensing exam.
- We all pass the 11 point Training Program Test. We prepare and educate our trainees in all aspects of our work, including, but not limited to the following: individual, couple, child, family and group counseling; domestic violence training; children affected by domestic violence; school-based counseling; gang awareness training and education; rage resolution for young adults; teen violence prevention. Our centers serve literally thousands in the community who cannot afford or do not qualify for services elsewhere. Approximately 400 trainees conduct more than 136,000 sessions each year. If we close our doors there will be absolutely nowhere for these people to go. This would be devastating to our community.
- We charge our trainees a minimal fee in order to cover a portion of the cost of running a non-profit agency that provides comprehensive training programs.
- As non-profit agencies, we seek to be distinguished from private practice situations. Considering all that we provide and the population we serve, there is no possibility that we are either exploitive or self-serving. A substantial percentage of our clients pay a minimum fee (\$15 or less) and that

percentage is growing. The cost for each hour of therapy to our centers is at least \$50. Despite the program fees we collect from our trainees, we have to devote extensive time and energy to raising funds from foundations and individual donors in order to keep our doors open.

- The graduate schools in our area are experiencing a shortage of training centers. If we are unable to remain viable, students will not be able to complete their training hours.

We ask that the BBS clarify with the Labor Board the meaning of training and supervision as those terms relate to non-profit counseling/training centers vs. for-profit businesses. On that basis, the BBS can make a case for exempting our centers from regulations that may be appropriate in cases of for-profit businesses, but are inappropriate for non-profit counseling/training centers.

We ask that you consider the information contained in this letter, Ms. Lonner, and we ask to have a voice in the conversation and decision making process of the BBS.

Center for Individual and Family Counseling
The Maple Counseling Center
Open Paths Counseling Center
Phillips Graduate Institute/California Family Counseling Center
Airport Marina Counseling Center
San Fernando Valley Counseling Center
South Bay Center for Counseling
Southern California Counseling Center



Open Paths Counseling
Center
<openpaths@earthlink.net>
12/07/2009 05:50 PM

To <Kim_Madsen@dca.ca.gov>
cc
bcc
Subject Intern fees

Dear Kim,

Kendall Evans of Open Paths was at the consortium meeting on Friday and filled us in on the items discussed. We are also part of the group that developed the letter to the BBS. I wanted to let you know how we deal with trainees/interns.

We charge a \$60 per month program fee. Our counselors get individual supervision weekly as well as group supervision, psychiatric consultation and inservice monthly. Our supervisors are on the premises and always available in person or by phone for consultation.

If we are unable to have the interns pay a fee, we may need to close our doors. In our area of Mar Vista we are the only place most of our clients have access to. In addition to providing low cost counseling, we provide free therapy services in local schools.

Thank you for being open to communication. If you need any further clarification, please feel free to contact me by email or 310-967-6072.

--

Jan Johnson, M.S., MFT
Clinical Director
(310) 967-6072
openpaths@earthlink.net

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