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To: Board Members

Date: April 29, 2010

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Subject: Licensed Professional Clinical Counselor and Clean-Up Regulations

Background

Business and Professions Code (BPC) Section 4990.20 authorizes the Board of Behavioral Sciences (BBS) to adopt rules and regulations as necessary to administer and enforce the provisions of the Chapters of the Business and Professions Code for which it is responsible. On October 11, 2009 the Governor approved Senate Bill (SB) 788 (Wyland), which created Chapter 16 (Licensed Professional Clinical Counselors) within Division 2 of the BPC and mandated the BBS implement the provisions of the new chapter. BPC Section 4999.30 prohibits any person in the State of California from practicing or advertising the performance of professional clinical counseling services without a license issued by the BBS. Furthermore, BPC Section 4999.80 mandates the BBS enforce laws designed to protect the public from incompetent, unethical or unprofessional practitioners, investigate complaints concerning the conduct of any licensed professional clinical counselor (LPCC), and take disciplinary action against licenses issued as enumerated in rules and regulations of the BBS.

The purpose of this rulemaking is to revise existing regulations to incorporate LPCC requirements and fees referenced in various sections of Chapter 16, Division 2, of the BPC. These revisions will also modify the document titled "Board of Behavioral Sciences Disciplinary Guidelines (Rev. November 2008)" referenced in Title 16 of the California Code of Regulations Section 1888. Additionally, these revisions will correct numerous erroneous authority citations and references in existing regulations that were not updated upon the Governor's approval of SB 1475 (Figueroa) on September 29, 2006, update references to new forms and revisions to previously incorporated forms, correct the title of the Bureau of Private Postsecondary Education, and correct two references to the Education Code.

Problem

The majority of proposed language changes included in this rulemaking are non-substantive and fundamental to the implementation of the professional clinical counselor license. For example, a number of proposed changes involve inserting references to LPCCs and fees in regulations currently referring to the other mental health licenses the BBS issues. Several proposed revisions and new regulatory sections, however, do raise policy-related questions, including the following:

- Will LPCCs be eligible to supervise registrants pursuing other BBS-regulated mental health licenses? (See Title 16, CCR Section 1833.1 and 1874)
- Should the professional clinical counselor intern be required to complete a *Supervisory Plan*? (See Title 16, CCR Section 1822)
- What should be the definition of “community mental health setting” as referenced in BPC section 4999.46? (See Title 16, CCR Section 1820)

The proposed regulatory language reflects the BBS staff’s attempt to make policies relating to implementation of the professional clinical counselor licensure comparable to policies reflected in the statutes and regulations for other mental health license types.

Changes Made Since Recommendation of Policy and Advocacy Committee

Several alterations to the rulemaking proposal occurred after the recommendation made at the April 9, 2010 Policy and Advocacy Committee. Specifically, these changes include:

- Adding Title 16, CCR Section 1810.1, which clarifies the entities at which an individual can complete the California law and ethics course required of LPCC and marriage and family therapist out-of-state applicants;
- Adding Title 16, CCR Section 1810.2, which clarifies the entities at which an individual can complete the crisis and trauma counseling course required of LPCC applicants;
- Revising Title 16, CCR Sections 1807, 1807.2, and 1810 to correct the title of the Bureau of Private Postsecondary Education and correct two errant references to Education Code sections; and,
- Adding Title 16, CCR Section 1816.8, which specifies the fee for LPCC “grandparenting” license applications.
- Adding Title 16, CCR Section 1820.5, which clarifies the means through which an LPCC, intern, or trainee can meet the requirements set forth in BPC Section 4990.20 (a)(3)(B).
- Incorporating provisions relating to continuing education (CE) requirements for Licensed Education Psychologists (LEPs) from a previous rulemaking package (see discussion below).

LEP Continuing Education Rulemaking Package

A prior rulemaking package was noticed with the Office of Administrative Law and published in the regulatory notice register on October 30, 2009 relating to the following Sections of this proposal: 1807, 1807.2, 1810, 1819.1, 1887, 1887.1, 1887.2, 1887.3, 1887.4, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, and 1887.14. The language included in the previous rulemaking package, Notice File Number Z-2009-1019-01, relating to required continuing education for LEPs has been incorporated into this proposed rulemaking, with the following changes:

1. Extension of the implementation date from January 1, 2011 to January 1, 2012; and,
2. Deletion of the requirement for LEPs to take the following specific CE courses:
 - a. Human Sexuality
 - b. Spousal/Partner Abuse Training
 - c. Aging and Long-term Care
 - d. AIDS/HIV Training

These changes were made in response to comments received during the public comment period associated with the LEP CE rulemaking package. The proposed regulatory language and public comments for the previously notice rulemaking can be found under agenda item XV of the Board meeting materials.

Due to the passage of SB 788 which, beginning January 1, 2011, requires the BBS to establish, license and regulate professional clinical counselors, it is necessary to develop regulations to implement those LPCC related statutes immediately. Implementation of SB 788 requires the Board to include LPCCs in all current, relevant regulations, including those relating to continuing education. In order to ensure that all BBS licensees complete statutorily mandated continuing education it is therefore necessary to include both LEP and LPCC continuing education requirements in one rulemaking package.

This rulemaking also proposes changes to the CE exception process for LPCC, LEP, clinical social worker, and marriage and family therapist licensees in order to bring this section and the BBS' forms into compliance with both the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). Other clarifying and technical changes are also proposed to CE regulations. The proposed language relating to CE was previously approved by the Board at its February 2009 meeting as part of a the LEP CE rulemaking package.

Recommendation

Direct staff to take all steps necessary to initiate the formal rulemaking process, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for a hearing.

ATTACHMENTS

1. Notice of Proposed Changes in the Regulations
2. Initial Statement of Reasons
3. Proposed Regulatory Language
4. Form 399 - Economic and Fiscal Impact Statement
5. Form 399 – Attachment A
6. Form 399 – Attachment B
7. Proposed Changes to Disciplinary Guidelines
8. Proposed Form – “Responsibility Statement for Supervisors of a Professional Clinical Counselor Intern”
9. Proposed Form – “Weekly Summary of Experience Hours for Professional Clinical Counselor Interns”
10. Proposed Revised Form – “Supervisory Plan”
11. Proposed Revised Form – “Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern”
12. Proposed Revised Form – “Responsibility Statement for Supervisors of an Associate Clinical Social Worker”
13. Proposed Revised Form – “Continuing Education Provider Application”
14. Proposed Form – “Request for Continuing Education Exception – Licensee Application”
15. Proposed Form – “Request for Continuing Education Exception Verification of Disability or Medical Condition”
16. Senate Bill 788

**TITLE 16 DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF BEHAVIORAL SCIENCES
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS**

License Professional Clinical Counselors, Licensed Educational Psychologist Continuing Education, Continuing Education Exception Process, and Language Clean-Up

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (BBS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the (Addr - TBD) at (Time - TBD), on (Date - TBD). Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the BBS at its office not later than 5:00 p.m. on (Date - TBD), or must be received by the BBS at the hearing.

The BBS, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4990.16, 4990.18, and 4990.20 of the Business and Professions Code (BPC), and to implement, interpret, or make specific Sections 4980.80, 4989.10, 4989.12, 4989.14, 4989.20, 4989.22, 4989.24, 4989.26, 4989.28, 4989.34, 4989.68, 4990, 4990.04, 4990.08, 4990.12, 4990.20, 4996.2, 4996.22, 4996.23, 4999.20, 4999.24, 4999.30, 4999.32, 4999.33, 4999.34, 4999.36, 4999.42, 4999.44, 4999.45, 4999.46, 4999.47, 4999.48, 4999.50, 4999.52, 4999.54, 4999.58, 4999.60, 4999.76, 4999.90, 4999.104, 4999.112, and 4999.120 of the BPC, the BBS is considering amending Division 18 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

BPC Section 4990.20 authorizes the BBS to adopt rules and regulations as necessary to administer and enforce the provisions of the Chapters of the BPC for which it is responsible. On October 11, 2009 the Governor approved Senate Bill (SB) 788 (Wyland), which created Chapter 16 (Licensed Professional Clinical Counselors) of Division 2 in the BPC and mandated the BBS implement the provisions of the new chapter. BPC Section 4999.30 prohibits any person in the State of California from practicing or advertising the performance of professional clinical counseling services without a license issued by the BBS. Furthermore, BPC Section 4999.80 mandates the BBS enforce laws designed to protect the public from incompetent, unethical or unprofessional practitioners, investigate complaints concerning the conduct of any licensed professional clinical counselor, and take disciplinary action against licenses issued as enumerated in rules and regulations of the BBS.

Division 18 of Title 16 of the CCR includes numerous sections relating to education requirements, experience requirements, fees, administrative actions, and disciplinary guidelines of BBS-regulated licensees and registrants.

The purpose of these regulations is to revise existing regulations to incorporate licensed professional clinical counselor (LPCC) requirements and fees referenced in various sections of Chapter 16 of Division 2 of the BPC. These revisions will also modify the document titled "Board

of Behavioral Sciences Disciplinary Guidelines (Rev. November 2008)" referenced in CCR Section 1888 (Division 18 of Title 16).

Also, the BBS administers and enforces the provisions of the Educational Psychology Act ("Act" -- Business and Professions Code (BPC) sections 4989.10 and following). BPC section 4989.34 of that Act requires licensed educational psychologists (LEPs) to certify completion of approved continuing education (CE) in, or relevant to, educational psychology and authorizes the BBS to establish "exceptions" for LEPs from CE requirements for "good cause" as determined by the BBS. Further, Section 4989.34 authorizes the BBS to establish, by regulation, a procedure for approving providers of LEP CE courses and to set minimum standards for those CE course providers.

Current law does not specify requirements for BBS-approved CE courses for LEPs, set license renewal requirements relative to CE for LEPs, or establish a procedure for the BBS to grant exceptions to those requirements. Current law also does not create a procedure for the approval of providers of LEP CE courses or set minimum standards for those CE course providers. This proposal would establish those requirements and procedures.

Additionally, these revisions will correct numerous erroneous authority citations and references in existing regulations that were not updated upon the Governor's approval of SB 1475 (Figueroa) on September 29, 2006 and update references to new forms and revisions to previously incorporated forms.

This rulemaking also proposes changes to the CE exception process for all licensees, in order to bring this section and the BBS's forms into compliance with both the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). Other clarifying and technical changes are also proposed to the BBS's CE regulations.

A prior rulemaking package was noticed with the Office of Administrative Law and published in the regulatory notice register on October 30, 2009 relating to the following Sections of this proposal: 1807, 1807.2, 1810, 1819.1, 1887, 1887.1, 1887.2, 1887.3, 1887.4, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, and 1887.14. The language included in the previous rulemaking package, Notice File Number Z-2009-1019-01, relating to required continuing education for LEPs has been incorporated into this proposed rulemaking, with the following changes:

1. Extension of the implementation date from January 1, 2011 to January 1, 2012; and,
2. Deletion of the requirement for LEPs to take the following specific CE courses:
 - a. Human Sexuality
 - b. Spousal/Partner Abuse Training
 - c. Aging and Long-term Care
 - d. AIDS/HIV Training

Due to the passage of SB 788 which, beginning January 1, 2011, requires the BBS to establish, license and regulate professional clinical counselors, it is necessary to develop regulations to implement those LPCC related statutes immediately. Implementation of SB 788 requires the Board to include LPCCs in all current, relevant regulations, including those relating to continuing education. In order to ensure that all BBS licensees complete statutorily mandated continuing education it is therefore necessary to include both LEP and LPCC continuing education requirements in one rulemaking package.

Amend Section 1800 – Declaratory Decisions

Section 1800 clarifies what decisions from the BBS are “Declaratory Decisions.”

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1802 – Definitions

Section 1802 defines references to “board” and “Code” in the rules and regulations.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section. The proposed regulation would also delete an errant reference to a BPC section.

Amend Section 1803 – Delegation of Certain Functions

Section 1803 delegates authority to the BBS to conduct a variety of functions related to formal discipline and administrative action against licensees and registrants.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section. The proposed regulation would also replace two errant references to BPC sections.

Amend Section 1804 – Filing of Addresses

Section 1804 sets forth provisions for maintaining a current address of record with the BBS.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section. The proposed regulation would also replace two errant references to BPC sections.

Amend Section 1805 – Applications

Section 1805 mandates applications submitted to the BBS be on forms prescribed by the BBS and requires a 180-day waiting period between failure and re-take of an examination.

The proposed regulation adds a reference to a BPC section relating to LPCCs.

Amend Section 1805.1 – Permit Processing Times

Section 1805.1 sets forth the maximum processing times for BBS applications.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1806 – Abandonment of Application

Section 1806 specifies the conditions under which the BBS shall abandon an application.

The proposed regulation would set forth a one-year deadline to complete an application submitted to the BBS related to professional clinical counselors. The proposed regulation would set a one-year deadline from either initial examination eligibility or notification of examination failure to take the jurisprudence and ethics examination, the examination required in BPC section 4999.54(b)(2), or the examination required in BPC section 4999.52(c)(5). Furthermore, the proposed regulation requires the initial LPCC license fee be submitted within one year after notification of successful completion of examination requirements. In addition, the proposed regulation adds references to BPC sections relating to LPCCs.

Amend Section 1807 – Human Sexuality Training

Section 1807 specifies the requirements for human sexuality training required of marriage and family therapists (MFTs) and licensed clinical social workers (LCSWs).

The proposed regulation change would require LPCC applicants complete a human sexuality training at least 10 hours in length. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section, add a reference to a BPC section relating to LCSWs, add a reference to a BPC section relating to LPCCs, correct the title of the Bureau of Private Postsecondary Education, and replace two errant references to the Education Code.

Amend Section 1807.2 – Child Abuse Assessment Training Requirements

Section 1807.2 sets forth the requirements for child abuse assessment and reporting training for MFTs and LCSWs.

The proposed regulation would require LPCC applicants complete a child abuse assessment and reporting training, which must be at least seven hours in length. In addition, the proposed regulation replaces an errant reference in the authority cited section and adds a reference to a BPC section relating to LPCCs. The proposed regulation corrects the title of the Bureau of Private Postsecondary Education and replaces two errant references to the Education Code. The proposed regulation would require an LEP, in addition to meeting all other requirements for licensure, to complete child abuse assessment and reporting training prior to applying for his or her first license renewal on or after January 1, 2012. This proposal would also clarify that in addition to meeting all other requirements for licensure, MFTs and LCSWs must have completed coursework and training in child abuse assessment prior to licensure.

Amend Section 1810 – Alcoholism and Other Chemical Substance Dependency Training

Section 1810 sets forth the requirements for substance abuse training for MFTs and LCSWs.

The proposed regulation would require LPCC applicants complete a course, which must be at least 15 hours in length, in alcoholism and other chemical dependencies. In addition, the proposed regulation replaces an errant reference in the authority cited section and adds a reference to a BPC section relating to LPCCs. The proposed regulation corrects the title of the Bureau of Private Postsecondary Education and replaces two errant references to the Education Code. The proposed regulation would require an LEP who renews his or her license after January 1, 2012 to complete at least 15 hours of instruction and training in alcoholism and other chemical substance dependency in 10 specific course content areas. In addition, the proposal would require the training and coursework received by the LEP to be obtained from an accredited or approved educational institution, a governmental entity, a licensed health facility or a CE provider approved by the BBS.

Add Section 1810.1 – California Law and Ethics Training; Acceptable Education Providers

Section 1810.1 sets forth the appropriate institutions at which an LPCC or MFT out-of-state applicant may complete required training in California law and ethics.

The proposed regulation clarifies at what entities an LPCC applicant or MFT out-of-state applicant may complete the California law and ethics training as required in BPC sections 4999.32 and 4980.80, respectively.

Add Section 1810.2 – Crisis or Trauma Counseling Training

Section 1810.2 sets forth the appropriate institutions at which an LPCC applicant may complete required training in crisis or trauma counseling.

The proposed regulation clarifies at what entities an LPCC applicant may complete the crisis or trauma counseling training as required in BPC section 4999.32.

Amend Section 1811 – Use of License Number in Directories and Advertisements

Section 1811 sets forth requirements for advertising for all current BBS licenses and registrations.

The proposed regulation would require LPCCs and professional clinical counselor interns comply with the same advertising requirements of current BBS licensees and registrants. In addition, the proposed regulation replaces an errant reference in the authority cited section and adds a reference to a BPC section relating to LPCCs.

Amend Section 1812 – Substantial Relationship Criteria

Section 1812 clarifies the criteria for determining substantial relationship of a crime or act to authority to practice.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1813 – Criteria for Rehabilitation – Denial of Licensure

Section 1813 sets forth the criteria for determining rehabilitation when considering denial of licensure.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1814 – Criteria for Rehabilitation – Suspensions or Revocations

Section 1814 sets forth the criteria for determining rehabilitation when considering suspension or revocation of licensure.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1815 – Fingerprint Submission

Section 1815 sets forth requirements for fingerprint submissions and criminal background checks for BBS licensees and registrants.

The proposed regulation would add a reference to a BPC section relating to LPCCs.

Amend Section 1816 – Renewal Fees

Section 1816 sets forth renewal fees for all BBS licenses and registrations.

The proposed regulation would add renewal fees for professional clinical counselor interns (\$100), licenses issued pursuant to BPC section 4999.54 (\$150), and the LPCC biennial renewal (\$175). In addition, the proposed regulation would add a reference to a BPC section relating to LPCCs.

Amend Section 1816.1 – Initial License and Registration Fees

Section 1816.1 sets forth initial license and registration fees.

The proposed regulation would add the LPCC initial license fee (\$200) and the professional clinical counselor intern registration fee (\$100). In addition, the proposed regulation would add a reference to a BPC section relating to LPCCs.

Amend Section 1816.2 – Examination Fees

Section 1816.2 sets forth examination fees.

The proposed regulation would add the LPCC jurisprudence and ethics examination fee (\$100), the LPCC examination fee (\$100) for the examination required by 4999.54(b), and the fee for the LPCC written examination (\$150). In addition the proposed regulation would add a reference to a BPC section relating to LPCCs.

Amend Section 1816.3 – Examination Rescoring Fees

Section 1816.3 sets the fee for rescoring any examination.

The proposed regulation would replace two errant references to BPC sections with the appropriate sections.

Amend Section 1816.4 – Examination Application Fees

Section 1816.4 sets the fees for examination eligibility applications.

The proposed regulation would add the LPCC examination eligibility fee (\$180). In addition, the proposed regulation would add a reference to a BPC section relating to LPCCs.

Amend Section 1816.5 – Replacement and Certification Fees

Section 1816.5 sets forth fees for replacement licenses and registrations and certifications of licensure and registration.

The proposed regulation would replace an errant reference to a BPC section with the appropriate section.

Amend Section 1816.6 – Inactive License Fees

Section 1816.6 sets the inactive license fees for BBS licensees.

The proposed regulation would add the LPCC biennial inactive renewal fee (\$87.50) and inactive renewal fee for license issued pursuant to BPC section 4999.54(a)(1)(\$75). In addition, the proposed regulation would add a reference to the BPC relating to LPCCs.

Amend 1816.7 – Delinquent Fees

Section 1816.7 sets the delinquent fees for BBS licensees.

The proposed regulation would add the delinquency fee for an LPCC renewal (\$87.50), add the delinquency fee for licenses issued pursuant to BPC section 4999.54(a)(1)(\$75), and delete language referring to a temporary fee reduction in effect from January 2001 to December 2002. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section, replaces an errant BPC section reference with the appropriate section, and adds a reference to a section relating to LPCCs.

Add Section 1816.8 – Applications for Licensure Pursuant to BPC Section 4999.54

Section 1816.8 sets the fees for applications for licensure submitted pursuant to BPC section 4999.54.

The proposed regulation creates this section to set a fee for applications for licensure submitted pursuant to BPC section 4999.54.

Amend Section 1819.1 – Continuing Education Provider Fees

Section 1819.1 sets the fee for CE provider applications at two hundred dollars (\$200).

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section and adds two BPC section references relating to LPCCs and one relating to LEPs.

Add Section 1820 – Experience

Section 1820 defines the term supervision, clinical mental health setting, and community mental health setting. In addition, Section 1820 sets forth the conditions under which supervision can be credited.

The proposed regulation creates this section to define terms and make specific requirements referenced in BPC section 4999.46.

Add Section 1820.5 – Experience Working Directly with Couples, Families, or Children

Section 1820.5 clarifies an exception to the LPCC scope of practice described in 4999.20.

The proposed regulation creates this section to clarify the means of acquiring the required supervised experience needed in order for LPCCs to qualify to assess and treat couples and families.

Add Section 1821 – Requirements for Supervisors

Section 1821 sets forth the qualifications licensed mental health professionals must possess prior to supervising a professional clinical counselor intern.

The proposed regulation creates this section to define the qualifications needed to supervise an individual completing the requirements referenced in BPC section 4999.46.

Add Section 1822 – Supervisory Plan

Section 1822 requires supervisors of professional clinical counselor interns sign a Supervisory Plan.

The proposed regulation creates this section mandating supervisors sign-off on a BBS prescribed form documenting the goals of professional supervision.

Amend Section 1833.1 – Requirements for Supervisors

Section 1833.1 sets forth the requirements for supervising MFT Trainees and Interns.

The proposed regulation would add LPCCs to the list of licensed mental health professionals eligible to supervise MFT Trainees and Interns, update the revision date (3/10) for the form referenced in regulation, and add a reference to a BPC section relating to LPCCs.

Amend Section 1833.2 – Supervision of Experience Gained Outside of California

Section 1833.2 sets forth the requirements for experience gained outside of California.

The proposed regulation would add “professional clinical counselor” to the list of supervisors eligible to supervise experience applied to BBS requirements that the applicant earned out-of-state.

Amend Section 1850.6 – Name of Corporation

Section 1850.6 clarifies the appropriate wording for abbreviations denoting corporations.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1850.7 – Shares: Ownership and Transfer

Section 1850.7 sets forth requirements for transfer of corporate shares and clarifies what needs to be included on the share certificates.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1870 – Requirements for Associate Clinical Social Worker Supervisors

Section 1870 sets forth requirements for supervising associate clinical social workers.

The proposed regulation would update the revision date (3/10) for the form referenced in regulation, add a reference to a BPC section relating to LPCCs, and delete an errant reference to a BPC section.

Amend Section 1870.1 – Supervisory Plan

Section 1870.1 requires associate clinical social workers develop a Supervisory Plan with their supervisors and send the original signed plan to the BBS upon application for licensure.

The proposed regulation would update the revision date (3/10) for the form referenced in regulation, replace an errant reference in the authority cited with the appropriate BPC section, and replace an errant reference to a BPC section with the appropriate section.

Amend Section 1874 – Definition of Acceptable Mental Health Professionals

Section 1874 defines the types of acceptable mental health professionals, in addition to an LCSW, who may supervise an associate clinical social worker.

The proposed regulation would delete two errant references to repealed BPC sections and replace them with the accurate reference. In addition, the proposed regulation would add the title of “licensed professional clinical counselor” to the types of mental health professionals who can supervise an associate clinical social worker.

Amend Section 1877 – Examinations

Section 1877 clarifies the types of written examinations an individual must pass to earn a clinical social work license.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1880 – Unlicensed Assistants

Section 1880 requires an unlicensed person employed under BPC section 4996.15 disclose the lack of a license and the license held by the individual’s supervisor.

The proposed regulation would add the titles of “marriage and family therapist” and “licensed professional clinical counselor” to the list of individuals who would supervise an unlicensed assistant. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1881 – Unprofessional Conduct

Section 1881 sets forth the conditions in which the BBS may suspend or revoke a license or refuse to issue a license.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1886 – Authority to Issue Citations and Fines

Section 1886 gives authority to the BBS Executive Officer to issue citations, orders of abatement, and fines against the licenses and registrants the BBS regulates.

The proposed regulation would add LPCCs and professional clinical counselor interns to the list of licenses and registrations for which the Executive Officer has authority to issue a citation, order of abatement, or fine. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1886.10 – Citations for Unlicensed Practice

Section 1886.10 gives authority to the BBS Executive Officer to issue citations, orders of abatement, and fines against individuals engaging in unlicensed practice.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1886.20 – Citation Format

Section 1886.20 sets forth the information required to be included in any citation.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1886.30 – Citation Factors

Section 1886.30 sets forth the considerations to be made by the BBS Executive Officer when assessing an administrative fine or issuing an order of abatement.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1886.40 – Amount of Fines

Section 1886.40 sets forth limits relating to citable offenses.

The proposed regulation would add BPC Chapters 13.5 (Licensed Educational Psychologists) and 16 (LPCC) to the list of statutes enforced by the BBS. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section and add references to BPC sections relating to LEPs and LPCCs.

Amend Section 1886.50 – Exceptions

Section 1886.50 sets forth exceptions for issuing citations.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1886.60 – Compliance with Citation/Order of Abatement

Section 1886.60 sets forth the terms for compliance with a citation or order of abatement.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1886.70 – Contested Citations and Request for a Hearing or Informal Citation Conference

Section 1886.70 sets forth requirements for contesting a citation.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Section 1886.80 – Disconnection of Telephone Service

Section 1886.80 specifies that nothing in Article 7 of Title 16 of the California Code of Regulations precludes the BBS from using the provisions described in BPC section 149.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

Amend Article 8 Title – Continuing Education Requirements for Marriage and Family Therapists and Licensed Clinical Social Workers

Article 8 includes all the BBS regulations related to CE.

The proposed regulation would add “Licensed Professional Clinical Counselors” and “Licensed Educational Psychologists” to the title of Article 8.

Amend Section 1887 – Definitions

Section 1887 defines several terms used in regulations related to CE.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. In addition, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references. The BBS is proposing clarifying language and a new definition for the “initial” renewal period.

Amend Section 1887.1 – License Renewal Requirements

Section 1887.1 specifies that licensees renewing must certify completion of the mandatory CE requirements.

The proposed regulation would add language referring to two BPC sections relating to LPCCs. The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section and add a section relevant to LEPs. The proposed regulation specifies the license renewal requirements for LEPs pertaining to CE. The proposed regulation would do all of the following:

- Require that, unless an exception to CE is granted, LEPs must certify in writing that he or she has completed 36 hours of CE credit.
- Require a LEP be subject to disciplinary action if the licensee falsifies or makes material misrepresentations of fact relating to the completion of CE.
- Specify a timeline for licensees to meet the proposed LEP CE requirements. LEPs renewing January 1, 2012 through December 31, 2012 would be required to complete 18 units of CE prior to renewal. On or after January 1, 2013, all LEPs would be required to complete 36 units of CE prior to renewal.

Amend Section 1887.2 – Exceptions from Continuing Education Requirements

Section 1887.2 sets forth the conditions under which the BBS may grant special accommodations or exceptions for CE requirements.

The proposed regulation would do the following:

- Add a reference to BPC section 4999.112, a form entitled “Request for Continuing Education Exception – License Application,” and a form entitled “Request for Continuing Education Exception – Verification of Disability or Medical Condition;
- Require the request for exception or accommodation be submitted at least 60 days prior to the expiration date of a license;
- Clarify the valid time period for an approved exception;
- Add the term “reasonable accommodation” in subsection (c) for consistency;
- Clarify the term disability to include physical and mental disabilities;
- Specify that a domestic partner shall be considered an immediate family member;
- Specify the time period during the previous renewal period to be one year in order to qualify for a reasonable accommodation;
- Deletes references to information that will now be included with the “Request for Continuing Education Exception – Verification of Disability or Medical Condition.”
- Delete an errant BPC section from the authority cited;
- Add two sections of the BPC and two sections of the Government Code to the authority cited; and,
- Add a BPC reference to a section related to LPCCs.

Amend Section 1887.3 - Continuing Education Course Requirements

Section 1887.3 sets forth continuing education course requirements for licensees.

The proposed regulation makes several grammatical non-substantive changes. The proposed regulation adds two sections of the BPC to the authority cited and adds references to BPC sections relating to LPCCs and LEPs. Also, the proposed regulation specifies a timeline for licensees to meet the proposed LEP CE requirements. LEPs renewing January 1, 2012 through December 31, 2012 would be required to complete 18 units of CE prior to renewal. On or after January 1, 2013, all LEPs would be required to complete 36 units of CE prior to renewal.

Amend Section 1887.4 – Continuing Education Course Content

Section 1887.4 specifies requirements for continuing education course content and sets responsibilities for course providers.

The proposed regulation adds “professional clinical counseling,” “educational psychology,” and language referring to BPC sections 4999.76 and 4989.34. In addition, the proposed regulation adds three sections of the BPC to the authority cited and adds two references to BPC sections relating to LPCCs and LEPs.

Amend Section 1887.5 – Hours of Continuing Education Credit

Section 1887.5 specifies conversions of academic units to hours of CE.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. In addition, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.6 – Continuing Education Providers

Section 1887.6 identifies the entities at which a licensee can complete CE.

The proposed regulation would require LPCCs and LEPs to take CE from an accredited or approved school or BBS-approved provider. The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. In addition, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.7 – Board-Approved Providers

Section 1887.7 sets forth the qualifications to become an approved CE provider with the BBS.

The proposed regulation would update the revision date to the “Continuing Education Provider Application.” In addition, the proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.8 – Revocation and Denial of Board-Approved Provider Status

Section 1887.8 sets forth the conditions under which the BBS can revoke its approval of a CE provider.

The proposed regulation would add language referencing Chapters 13.5 and 16 of the BPC. In addition, the proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.9 – Course Advertisements

Section 1887.9 identifies what information CE providers must include on course advertisements.

The proposed regulation would add language referring to LPCCs and LEPs. In addition, the proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.10 – Course Instructor Qualifications

Section 1887.10 sets forth the requirements for instructors for courses offered through approved BBS CE providers.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.11 – Records of Course Completion

Section 1887.11 requires approved CE providers to provide course completion records to licensees.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.12 – Licensee and Provider Course Records

Section 1887.12 sets forth record retention requirements for licensees and approved CE providers.

The proposed regulation would replace an errant reference to a BPC section in the authority

cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.13 – Renewal of Expired Approval

Section 1887.13 sets forth the time period within which an expired CE provider may renew a BBS approval.

The proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1887.14 – Time Limit for Renewal of Approval After Expiration; New Approval

Section 1887.14 requires an expired CE provider submit a new application for approval if the previous approval has been expired for more than one year.

The proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

Amend Section 1888 – Disciplinary Guidelines

Section 1888 incorporates the BBS' disciplinary guidelines by reference and grants the BBS authority to deviate from the guidelines when warranted.

The proposed regulation would update the revision date of the "Board of Behavioral Sciences Disciplinary Guidelines," replace an errant reference in the authority cited with the appropriate BPC section, and a reference to the BPC relating to LPCCs.

Forms Incorporated by Reference

This proposed rulemaking also makes changes to four forms incorporated by reference that are currently used by the BBS:

- Section 1833.1: "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern," Form 1800 37A-523 (Revised 3/10)
- Section 1870: "Responsibility Statement for Supervisors of an Associate Clinical Social Worker," Form 1800 37A-522 (Revised 3/10)
- Section 1870.1 and 1822: "Supervisory Plan," Form 1800 37A-521 (Revised 3/10)
- Section 1887.7: "Continuing Education Provider Application", Form 1800 37A-633 (Revised 3/10).

Additionally, four new forms are being added by reference:

- Section 1820: "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns," Form 1800 37A-645 (New 3/10)
- Section 1821: "Responsibility Statement for Supervisors of a Professional Clinical Counselor Intern," Form 1800 37A-643 (New 3/10)
- Section 1887.2: "Request for Continuing Education Exception – Verification of Disability or Medical Condition," Form 1800 37A-636 (New 03/10).
- Section 1887.2: "Request for Continuing Education Exception – Licensee Application," Form 1800 37A-635 (Revised 3/10).

FISCAL IMPACT ESTIMATES

Local Mandate: None

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

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact: The BBS has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Furthermore, individuals who previously could not start private businesses because no LPCC license existed now will have the opportunity to start a business.

AND

The following studies/relevant data were relied upon in making the above determination: The costs associated with this regulation include the fees an individual would be required to pay to pursue the LPCC license (e.g. application fees, examination fees, etc).

The annual salary of a Mental Health Counselor as reported by the Bureau of Labor Statistics created a baseline for the benefits attributed to an individual who earns a license as an LPCC.

There would be very minor costs to businesses to comply with the CE requirements for LEPs which would cost each business approximately \$90 per year. This is based on the cost per unit of CE averaging \$5 (it ranges from free to \$10 per unit, based on a review of seven websites offering CE to MFTs and LCSWs from BBS-approved providers) at 18 units required per year. There would be minor costs to businesses who want to provide CE courses to LEPs at \$200 initially (application fee) and \$200 every two years thereafter (renewal fee).

Impact on Jobs/New Businesses: The BBS has determined that this regulatory proposal would create job and business opportunities for those who earn a license as an LPCC. Additionally, the BBS has determined that this regulatory proposal would create job and business opportunities for those who want to provide CE to LEPs. Otherwise, this proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses:

Depending on the qualification method for the license, the cost for obtaining a LPCC license ranges between approximately \$380 and \$1050. Depending on the type of LPCC license held (e.g. annual renewal versus biennial renewal), the ongoing annual cost for maintaining an active license would range between \$87.50 and \$150. CE costs an average of \$5 per unit. LEPs will be required to complete 18 units per year for an average cost of \$90 per person per year. For LEPs who have a disability or medical condition and want to apply for an exception to CE, there would be an approximate \$300 cost related to an evaluation or forms completion by a physician or psychologist. Finally, those who wish to provide CE to LEPs and are not currently approved by the BBS as a CE provider will have an initial application cost of \$200 and \$200 renewal fee every two years.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The BBS has determined the net impact to small business will be positive because the creation of the LPCC license represents new opportunities for individuals to open small-businesses who previously could not because no LPCC license existed in the State of California. The initial cost of obtaining and maintaining the license would be surpassed over the life of the regulation if LPCCs achieve an annual income similar to the annual income of a 'Mental Health Counselor' as reported by the Bureau of Labor Statistics (approximately \$45,000).

The implementation of a CE program for LEPs would have a minimal impact on a small business. The BBS estimates that 767 LEPs own a small business and it would cost \$90 per year to comply. Additionally, there would be a minor impact on small businesses who wish to offer CE to LEPs (those that are not already registered with the BBS as a CE provider). The costs to these small businesses is \$200 to apply and \$200 to renew every two years.

The changes to the BBS's CE exception regulation could present a minimal cost impact to the approximately 85 small businesses per year owned by MFTs, LCSWs or LEPs with a disability or medical condition who apply for an exception to CE. The cost would be approximately \$300 for a physician or psychologist to evaluate the licensee and/or complete paperwork for the BBS's records.

CONSIDERATION OF ALTERNATIVES

The BBS must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing provided for in this Notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND INFORMATION

The BBS has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL AND AVAILABILITY OF MODIFIED TEXT

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person listed above.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the Contact Person named above (or by accessing the Web site listed below).

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Tracy Rhine
Address: 1625 North Market Blvd., Suite S200
Sacramento, CA 95834
Telephone: 916-574-7847
Fax: 916-574-8626
Email: tracy_rhine@dca.ca.gov

If the regulations adopted by the BBS differ from and are substantially related to the action proposed, the text of the proposed regulations with changes clearly indicated will be made available to the public for 15 days prior to the date of adoption.

WEB SITE ACCESS

Materials regarding this proposal can be found at www.bbs.ca.gov.

BOARD OF BEHAVIORAL SCIENCES INITIAL STATEMENT OF REASONS

Hearing Date: (TO BE DETERMINED)

Subject Matter of Proposed Regulations: License Professional Clinical Counselors, Licensed Educational Psychologist Continuing Education, Continuing Education Exception Process, and Language Clean-Up

Section(s) Affected: Amend Sections 1800, 1802, 1803, 1804, 1805, 1805.1, 1806, 1807, 1807.2, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1816.1, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1819.1, 1833.1, 1833.2, 1850.6, 1850.7, 1870, 1870.1, 1874, 1877, 1880, 1881, 1886, 1886.10, 1886.20, 1886.30, 1886.40, 1886.50, 1886.60, 1886.70, 1886.80, 1887, 1887.1, 1887.2, 1887.3, 1887.4, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, 1887.14, and 1888 of Division 18 of Title 16 of the California Code of Regulations. Add Sections 1810.1, 1810.2, 1816.8 1820, 1820.5, 1821, and 1822 to Division 18 of Title 16 of the California Code of Regulations.

Specific Purpose of each adoption, amendment, or repeal:

Business and Professions Code (BPC) Section 4990.20 authorizes the Board of Behavioral Sciences (BBS) to adopt rules and regulations as necessary to administer and enforce the provisions of the Chapters of the Business and Professions Code for which it is responsible. On October 11, 2009 the Governor approved Senate Bill (SB) 788 (Wyland), which created Chapter 16 (Licensed Professional Clinical Counselors) in Division 2 of the BPC and mandated the BBS implement the provisions of the new chapter. BPC Section 4999.30 prohibits any person in the State of California from practicing or advertising the performance of professional clinical counseling services without a license issued by the BBS. Furthermore, BPC Section 4999.80 mandates the BBS enforce laws designed to protect the public from incompetent, unethical or unprofessional practitioners, investigate complaints concerning the conduct of any licensed professional clinical counselor, and take disciplinary action against licenses issued as enumerated in rules and regulations of the BBS.

Division 18 of Title 16 of the California Code of Regulations (CCR) includes numerous sections relating to education requirements, supervised experience requirements, fees, administrative actions, and disciplinary guidelines of BBS-regulated licensees and registrants.

The purpose of these regulations is to revise existing regulations to incorporate licensed professional clinical counselor requirements and fees referenced in various sections of Chapter 16 of Division 2 of the BPC. These revisions will also modify the document titled "Board of Behavioral Sciences Disciplinary Guidelines (Rev. November 2008)" referenced in CCR Section 1888 (Division 18 of Title 16). Additionally, these revisions will correct numerous erroneous authority citations and references to existing regulations that were not updated upon the Governor's approval of SB 1475 (Figueroa) on September 29, 2006 and update references to

new forms and revisions to previously incorporated forms.

Also, The BBS administers and enforces the provisions of the Educational Psychology Act ("Act" -- BPC sections 4989.10 and following). BPC section 4989.34 of that Act requires licensed educational psychologists (LEP) to certify completion of approved continuing education (CE), in or relevant to, educational psychology and authorizes the BBS to establish "exceptions" for LEPs from CE requirements for "good cause" as determined by the BBS. Further, Section 4989.34 authorizes the BBS to establish, by regulation, a procedure for approving providers of LEP CE courses and to set minimum standards for those CE course providers.

Current law does not specify requirements for BBS-approved CE courses for LEPs, set license renewal requirements relative to CE for LEPs, or establish a procedure for the BBS to grant exceptions to those requirements. Current law also does not create a procedure for the approval of providers of LEP CE courses or set minimum standards for those CE course providers. This proposal would establish those requirements and procedures.

This rulemaking also proposes changes to the CE exception process for all licensees, in order to bring this section and the BBS' forms into compliance with both the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). Other clarifying and technical changes are also proposed to the BBS' CE regulations.

A prior rulemaking package was noticed with the Office of Administrative Law and published in the regulatory notice register on October 30, 2009 relating to the following Sections of this proposal: 1807, 1807.2, 1810, 1819.1, 1887, 1887.1, 1887.2, 1887.3, 1887.4, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, and 1887.14. The language included in the previous rulemaking package, Notice File Number Z-2009-1019-01, relating to required continuing education for LEPs has been incorporated into this proposed rulemaking, with the following changes:

1. Extension of the implementation date from January 1, 2011 to January 1, 2012; and,
2. Deletion of the requirement for LEPs to take the following specific CE courses:
 - a. Human Sexuality
 - b. Spousal/Partner Abuse Training
 - c. Aging and Long-term Care
 - d. AIDS/HIV Training

Due to the passage of SB 788 which, beginning January 1, 2011, requires the BBS to establish, license and regulate professional clinical counselors, it is necessary to develop regulations to implement those LPCC related statutes immediately. Implementation of SB 788 requires the Board to include LPCCs in all current, relevant regulations, including those relating to continuing education. In order to ensure that all BBS licensees complete statutorily mandated continuing education it is therefore necessary to include both LEP and LPCC continuing education requirements in one rulemaking package.

Specifically, the regulation would incorporate amendments to Division 18 of Title 16 of the CCR as follows:

Replacement of Errant References and Addition of LPCC BPC Section References

- Replace errant references to BPC sections 4990.1, 4990.8, 4990.11, 4990.13, 4990.14, and 4986.80. SB 1475, Chapter 659, Statutes of 2006 repealed and recast law relating to BBS administration and Licensed Educational Psychologist licensure requirements and moved the previous content in the above code sections to BPC Sections 4990, 4990.04, 4990.08, 4990.12, 4990.20, and 4989.68, respectively. Delete errant references to BPC sections 4996.20 and 4996.21 relating to experience requirements for Licensed Clinical Social Workers. SB 819, Chapter 308, Statutes of 2009 repealed BPC section 4996.20 and 4996.21. Replace reference to BPC section 4996.20 and 4996.21 with reference to BPC section 4996.23 (SB 724, Chapter 728, Statutes of 2001), which is the most recent and only existing reference to requirements previously described in BPC Section 4996.20. The purpose of this proposed change is to make the CCR sections mentioned above consistent with these current statutes.
- Add references to BPC sections 4999.20, 4999.24, 4999.30, 4999.32, 4999.33, 4999.42, 4999.44, 4999.45, 4999.46, 4999.50, 4999.52, 4999.54, 4999.58, 4999.60, 4999.76, 4999.90, 4999.104, 4999.112, 4999.120. SB 788, Chapter 619, Statutes of 2009 created BP, Division 2, Chapter 16 and all BPC sections.
- Add references to BPC sections 4996.2, 4996.22, 4989.10, 4989.12, 4989.14, 4989.20, 4989.22, 4989.24, 4989.26, 4989.28, and 4989.34. The purpose of this proposed change is to update references to relevant code sections.
- Replace errant references to the Bureau of Private Postsecondary and Vocational Education and Education Code sections 94900 and 94901. The correct agency name is now the Bureau for Private Postsecondary Education and the appropriate Education Code sections are 94887 and 94802.

Addition of LPCC Language in Existing Regulations

- Add grounds for abandonment of applications for LPCC jurisprudence and ethics examination, the examination required in BPC section 4999.54(b)(2), and the examination required in 4999.52(c)(5). The one-year requirement to sit for any of these examinations is consistent with requirements for existing license types referenced in the same section (Section 1806).
- Add title of professional clinical counselor and reference to BPC section 4999.32, which requires applicants complete a human sexuality course (Section 1807).
- Add title of professional clinical counselor. BPC section 4999.32 requires applicants to complete coursework in child abuse assessment and reporting (Section 1807.2).
- Add reference to BPC section 4999.32 (Section 1810).
- Add LPCC license type and language referring to advertisements of unlicensed professional clinical counselor interns (Section 1811).

- Add the annual renewal fee for professional clinical counselor interns (\$100), the biennial active renewal fee for licensed professional clinical counselors (\$175), and the annual renewal fee for licenses issued pursuant to BPC section 4999.54(a)(1) (\$150). BPC section 4999.120 authorizes charging fees for these renewals. The amounts do not exceed the cap specified in BPC section 4999.120 (Section 1816).
- Add the LPCC initial license issuance fee (\$200) and the professional clinical counselor intern registration fee (\$100). BPC section 4999.120 authorizes charging fees for initial license issuance. The amounts do not exceed the cap specified in BPC section 4999.120 (Section 1816.1).
- Add the LPCC jurisprudence and ethics examination fee (\$100), the LPCC examination fee (\$100) for the examination required by 4999.54(b), and the fee for the LPCC written examination (\$150). BPC section 4999.120 authorizes charging fees for examinations. The amounts do not exceed the cap specified in BPC section 4999.120 (Section 1816.2).
- Add the LPCC examination eligibility fee (\$180). BPC section 4999.120 authorizes charging a fee for examination eligibility. The amount does not exceed the cap specified in BPC section 4999.120 (Section 1816.4).
- Add LPCC biennial inactive renewal fee (\$87.50) and inactive renewal fee for licenses issued pursuant to BPC section 4999.54(a)(1)(\$75). BPC section 4999.112 mandates setting an inactive fee that is half of the active license renewal fee. (Section 1816.6)
- Add the delinquency fee for LPCC license (\$87.50) and the delinquency fee for a license issued pursuant to BPC section 4999.54(a)(1)(\$75). BPC section 4999.104 authorizes the BBS to collect a delinquency fee. The delinquency fee for all other BBS license types is half of the active license renewal fee. (Section 1816.7)
- Add the application fee (\$180) for LPCC licensure pursuant to BPC section 4999.54. BPC section 4999.120 authorizes charging a fee for applications for licensure. The amount does not exceed the cap specified in BPC section 4999.120 (Section 1816.8).
- Add the updated revision date to the “Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern” form (3/10), the title of licensed professional clinical counselors and professional clinical counselor intern, and reference to BPC section 4999.76 (Section 1833.1). The changes to this section will also require a change to the form “Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern.” The necessary changes include the following:
 - Update the letterhead;
 - Update the form revision date (3/10);
 - Add the license title “Licensed Professional Clinical Counselor” under item number one on the form; and,
 - Add the registration title “professional clinical counselor intern” under item number three on the form.

- Add professional clinical counselor license type (Section 1833.2).
- Update revision date of “Responsibility Statement for Supervisors of an Associate Clinical Social Worker” form (Section 1870). The form incorporated by reference in this section will also need to be changed due to changes to Section 1874. The necessary changes include the following:
 - Update the form revision date (3/10);
 - Add the license title “Licensed Professional Clinical Counselor” under item number one on the form; and,
 - Add a reference to “LPCCs” under the asterisk.
- Add the title of licensed professional clinical counselor (Section 1874).
- Add the title of licensed professional clinical counselor (Section 1880).
- Add the title of licensed professional clinical counselor and professional clinical counselor intern (Section 1886).
- Add language referencing Chapter 16 of the BPC (Section 1886.40).
- Add the title of licensed professional clinical counselor (Article 8).
- Add a reference to BPC section 4999.76 and 4999.90(b) (Section 1887.1).
- Make several grammatical and non-substantive changes (Section 1887.3).
- Add the title of professional clinical counselors and a reference to BPC section 4999.76 (Section 1887.4).
- Add reference to BPC section 4999.76(d) (Section 1887.6).
- Update revision date of “Continuing Education Provider Application” (rev 3/10) (Section 1887.7). The changes to the form “Continuing Education Provider Application,” which is incorporated by reference in Section 1887.7, follow:
 - Update the letterhead;
 - Update the form revision date (3/10);
 - Update address of BBS on instructions page;
 - Replace item number five in the current version with a question asking the applicant if he or she has ever applied to be a CE provider before; and,
 - Make several non-substantive grammatical changes to the instructions page.
- Add reference to Chapter 16 of the BPC (Section 1887.8).
- Add reference to LPCCs (Section 1887.9).

Addition of New LPCC Sections Relating to Work Experience, Supervision and Education

- Add Section 1810.1 (California Law and Ethics Training; Acceptable Education Providers), which clarifies from what entities LPCC applicants and marriage and family therapy out-of-state applicants may obtain required coursework.
- Add Section 1810.2 (Crisis or Trauma Counseling Training), which clarifies from what entities LPCC applicants may obtain required coursework.
- Add Section 1820 (Experience), which defines the term supervision, clinical mental health setting, and community mental health setting. In addition, Section 1820 sets forth the conditions under which supervision can be credited.
- Add Section 1820.5 (Experience Working Directly with Couples, Families, or Children), which clarifies means of acquiring the required supervised experience needed in order for LPCCs to qualify to assess and treat couples and families.
- Add Section 1821 (Requirements for Supervisors), which sets forth the qualifications licensed mental health professionals must possess prior to supervising a professional clinical counselor intern.
- Add Section 1822 (Supervisory Plan), which requires supervisors of professional clinical counselor interns complete a Supervisory Plan. The changes to the form Supervisory Plan, which is incorporated by reference, follow:
 - Add the titles professional clinical counselor interns and Professional Clinical Counselor to the introductory paragraph;
 - Add references to BPC sections 4996.23(a) and 4999.12(h) to the introductory paragraph;
 - Add reference to Section 1822 to the introductory paragraph;
 - Replace references to “Associate Clinical Social Worker,” “Associate,” and “ASW” with “registrant” and “registration” in introductory paragraph and headings;
 - Replace “licensure” with “examination eligibility” in the introductory paragraph;
 - Add “Community Mental Health Facility” to the list of Employment Settings;
 - Update the letterhead; and,
 - Update the form revision date (3/10).

Addition of LPCC Language to Disciplinary Guidelines

- Update revision date for “Board of Behavioral Sciences Disciplinary Guidelines” (Section 1888).
- Add references to BPC Section 4999.90 subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), and (z), BPC section 4990.38, and BPC section 728 to “Penalty Guidelines.”
- Add reference to LPCCs to “Education” and “Law and Ethics Course” under “Optional Terms and Conditions of Probation.”

- Add reference to BPC section 4999.32 and 4999.33 to “Law and Ethics” under “Optional Terms and Conditions of Probation.” Add reference to BPC section 4999.20 to “Residing of Practicing Out-of-State” and “Failure to Practice – California Resident” under “Optional Terms and Conditions of Probation.”
- Add reference to professional clinical counselor to “Reinstatement/Reduction of Penalty Hearings.”
- Add reference to BPC section 4990.38 to “Residing or Practicing Out-of-State” under “Optional Terms and Conditions of Probation.”

Clean-up Due to Revised Forms and Previously Repealed or Moved BPC Sections

- Add reference to BPC section 4996.2, which is the BPC section requiring the Human Sexuality Training for clinical social workers (Section 1807).
- Update revision date (3/10) of Supervisory Plan (Section 1870.1). The changes to the Supervisory Plan, which is incorporated by reference in Section 1870.1, follow:
 - Add the titles professional clinical counselor interns and Professional Clinical Counselor to the introductory paragraph;
 - Add references to BPC sections 4996.23(a) and 4999.12(h) to the introductory paragraph;
 - Add reference to Section 1822 to the introductory paragraph;
 - Replace references to “Associate Clinical Social Worker,” “Associate,” and “ASW” with “registrant” and “registration” in introductory paragraph and headings;
 - Replace “licensure” with “examination eligibility” in the introductory paragraph;
 - Add “Community Mental Health Facility” to the list of Employment Settings;
 - Update the letterhead; and,
 - Update the form revision date (3/10).
- Add language referring to marriage and family therapists. All other types of licensed mental health professionals are referenced in the code section (Section 1880).
- Add language referring to BPC Chapter 13.5. All other chapters pertaining to BBS issued licenses are listed (Section 1886.40).
- Change language to refer to 4980.44(c) and 4996.18(h). The current references are erroneous (Section 1811).

Add Mandatory Continuing Education Requirements for Licensed Educational Psychologists

- Require that an LEP, in addition to meeting all other requirements for licensure, complete child abuse assessment training prior to applying for his or her first license renewal on or after January 1, 2012 (Section 1807.2).

- Require that an LEP that renews his or her license after January 1, 2012 complete at least 15 hours of instruction and training in alcoholism and other chemical substance dependency. In addition, require that the training and coursework received by the LEP be obtained from an accredited or approved educational institution, a governmental entity, a licensed health facility or a CE provider approved by the BBS (Section 1810).
- Set the application fee for CE providers that offer LEP CE courses at two hundred dollars (\$200) (Section 1819.1).
- Add the phrase “And Licensed Educational Psychologists” to the Title of Article 8, which sets forth mandatory CE requirements for all BBS licensees.
- Add a new definition to the CE requirements for Marriage and Family Therapists, Licensed Clinical Social Workers, LPCCs, and LEPs entitled “initial renewal period” (Section 1887).
- Add a reference to BPC sections 4989.34 and 4989.54 (b). Specify a timeline for licensees to meet the proposed LEP CE requirements in which licensees renewing January 1, 2012 through December 31, 2012 are required to complete 18 units of CE. On or after January 1, 2013, all LEP licensees are required to complete 36 units of CE prior to biennial renewal (Section 1887.1).
- Require LEPs complete six hours of training or coursework in law and ethics each renewal period. Specify a timeline for licensees to meet the proposed LEP CE requirements in which licensees renewing January 1, 2012 through December 31, 2012 are required to complete 18 units of CE. On or after January 1, 2013, all LEP licensees are required to complete 36 units of CE prior to biennial renewal (Section 1887.3)
- Add a reference to educational psychology and BPC Section 4989.34 (Section 1887.4).
- Add a reference to Chapter 13.5 of the BPC (Section 1887.8).
- Add language referring to LEPs (Section 1887.9).
- Add a reference to BPC Section 4989.34 (Sections 1807.2, 1810, 1819.1, 1887, 1887.1, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, and 1887.14).

Clarifications Relating to Continuing Education Exceptions and Reasonable Accommodations

- Make numerous changes to Section 1887 (Exceptions from Continuing Education Requirements). Current language allows the BBS to grant reasonable accommodations if during the licensee’s previous renewal period, the licensee or an immediate family member for whom the licensee is a primary caregiver suffered a disability. The proposed changes will:

- Add a reference to BPC section 4999.112, a form entitled “Request for Continuing Education Exception – License Application,” and a form entitled “Request for Continuing Education Exception – Verification of Disability or Medical Condition;”
- Require the request for exception or accommodation be submitted at least 60 days prior to the expiration date of a license;
- Clarify the valid time period for an approved exception;
- Add the term “reasonable accommodation” in subsection (c) for consistency;
- Clarify the term disability to include physical and mental disabilities;
- Specify that a domestic partner shall be considered an immediate family member;
- Specify the time period during the previous renewal period to be one year in order to qualify for a reasonable accommodation; and,
- Deletes references to information that will now be included with the “Request for Continuing Education Exception – Verification of Disability or Medical Condition.”

Factual Basis/Necessity

SB 788 created a new mental health license type in California and mandates the BBS implement the regulations of the new license. BPC Section 4990.20 authorizes the BBS to adopt rules and regulations as necessary to administer and enforce the provisions of the Chapters of the BPC for which it is responsible, which now includes Chapter 16 (Licensed Professional Clinical Counselors) of Division 2.

In order to administer and enforce the new mental health license type, the BBS must make modifications to existing regulations relating to application fees, examination fees, license renewal fees, supervision requirements, continuing education requirements, administrative actions, and disciplinary guidelines.

Furthermore, other changes to existing regulations correct erroneous BPC section references. The Governor’s approval of SB 1475 (Figueroa) on September 29, 2006 moved various sections of the BPC. The authority cited and code references in numerous regulations must be updated to refer to the appropriate BPC sections. Currently, multiple regulations refer to erroneous BPC sections.

The language of several regulations also includes references to repealed BPC sections, specifically BPC section 4996.20 and 4996.21. Upon the Governor’s approval of SB 819 (Yee) on October 11, 2009, these BPC sections were repealed. The only remaining BPC section referring to qualifying supervised work experience for licensed clinical social workers is BPC section 4996.23.

The BBS has made several non-substantive changes to forms relating to mandatory supervision requirements for registrants pursuing licenses as clinical social workers and marriage and family therapists. Revision dates for these forms are referenced in regulation; thus, those dates must be changed.

Changes to the sections relating to continuing education are necessary to make specific and implement the statutory mandates set forth in BPC Section 4989.34. BPC section 4989.34 requires an LEP, upon renewal of his or her license, to provide proof of not less than 36 hours

of approved CE in the preceding two years. These specific regulatory changes are also necessary to allow licensees sufficient time to comply with the new CE requirements. Assuming this proposed rulemaking becomes law January 1, 2011 this provision will give licensees required to renew an LEP license January 1, 2012, through December 31, 2012 one year to complete required CE. Renewal is biennial, allowing licensees two years to complete 36 units of CE, or 18 units per year. This regulatory change takes into consideration the time limitation in completing the new requirement and therefore requires 18 units for the first renewal occurring after January 1, 2012. (See proposed amendments to Sections 1887.1 through 1887.3.)

Beginning in 2012, this proposed rulemaking would mandate that an LEP complete specific coursework prior to his or her renewal. BPC section 4989.34(c) specifies that CE training, education and coursework shall incorporate aspects of the discipline that are fundamental to the understanding or practice of educational psychology. This proposal mandates specific coursework that is consistent with those requirements.

The scope of practice of an LEP as described in BPC Section 4989.16 includes providing psychological counseling for individuals, groups and families. In order to accomplish the statutory mandate to include course work integral to the practice of an LEP, as set forth in section 4989.34, it is necessary to require the specific coursework outlined in the proposed regulatory changes. This specific coursework is required of LCSWs and MFTs, who also are permitted to provide psychological counseling to individuals, groups and families. Additionally, it is necessary to ensure that all licensees under the jurisdiction of the BBS have comparable competencies and education with special populations and issues in order to provide the same level of consumer protection to all consumers of services from each of the BBS's licensees.

Also, this proposed rulemaking applies regulation sections related to CE currently applicable to MFTs and LCSWs to LEPs. Business and Professions Code section 4989.34 authorizes the BBS to establish, by regulation, a procedure for approving providers of LEP CE courses and to set minimum standards for those CE course providers. The BBS's current minimum standards effectively implement the CE provider approval process for other BBS licensees' CE and such implementation would help ensure consistent standards across all licensing categories. These standards include: setting CE course content (Section 1887.4), crediting hours of CE (1887.5), a process for recognizing approved providers (1887.6), setting instructor qualifications (1887.7, 1887.10), a procedure for issuing approvals (Section 1887.7), a process for disciplining or denying approvals (1887.8), minimum advertising requirements (1887.9), detailing course completion requirements (1887.11), specifying records retention requirements for the CE provider and the licensee (1887.12), setting procedures for renewal of an expired CE provider approval (1887.13), and specifying a time limit for renewal of an approval after it expires (1887.14). Changes to these sections are necessary to implement such standards and to make the BBS's current CE provider requirements applicable to those providers who wish to be approved to offer CE to LEPs.

This proposed rulemaking also makes changes to the CE exception process. In particular, this rulemaking makes changes to the regulation language and to the forms incorporated by reference and revises the BBS's processes for the granting of reasonable accommodations. The federal Americans with Disabilities Act (ADA) (42 U.S.C. §§ 12101 and following) and the California Fair Employment and Housing Act (FEHA) (Government Code Sections 12900-12996) are both civil rights laws enacted for individuals with disabilities. The ADA provides

protections for those with disabilities from discrimination. Similarly, the FEHA was enacted to provide added protections for those individuals with disabilities in California. The FEHA is made applicable to the BBS and other state licensing agencies through Government Code section 12944, subdivision (b). FEHA contains broad definitions of physical disability, mental disability and medical condition. In passing FEHA, the legislature found and declared the following:

- The importance of the interactive process between the applicant or employee and the employer in determining a reasonable accommodation, as this requirement has been articulated by the equal Employment Opportunity Commission in its interpretive guidance of the ADA;
- The definition of physical disability and mental disability under California law require a “limitation” upon major life activity, but do not require, as does the ADA, a “substantial limitation.” According to FEHA, this distinction is intended to result in broader coverage under California law than under the federal ADA;
- That it is intended that State law be independent of the ADA; and,
- California state agencies must comply with the federal ADA and the California FEHA. (Government Code section 12926.1.)

In recognition of the foregoing, proposed changes to Section 1887.2 set forth the criteria for granting an exception to the CE requirements for MFTs, LEPs, LCSWs and LPCCs pursuant to BPC sections 4980.54, 4989.34, 4996.22, and 4999.76, consistent with FEHA. Further, this proposed rulemaking will clarify that other reasonable accommodations may be provided rather than a complete exception for persons with a disability or medical condition. This change is necessary to bring this section and the BBS’s forms into compliance with both the ADA and the broader protections of FEHA. Originally, this regulatory section was adopted consistent with the ADA definition of disability. However, FEHA has since changed the definition of disability in California. FEHA requires that a mental or physical disability present a “limitation” upon a major life activity, but does not require, as does the ADA, a “substantial limitation.” (Government Code section 12926.1(c); 42 U.S.C. section 12102). As a result, it is necessary to revise subdivisions (d) of this Section and add and make changes to existing forms to provide updated documents and procedures for granting reasonable accommodations as required by law.

Other regulatory changes to this Section that would help to ensure compliance with FEHA are as follows:

- In addition to disability, permit a medical condition to be considered for an exception, as defined in FEHA; and,
- Clarify that a disability may be physical or mental, as defined in Government Code section 12926.

Other changes to this Section include that the CE exception request and form must be received at least sixty (60) days prior to the expiration date of the license for the request for exception to be considered by the BBS. This is necessary to permit the BBS time to process

the request before the expiration of a license and to ensure that the licensee will have time to meet the CE requirements if the exception is not approved.

Underlying Data

None

Business Impact

This proposal will not have adverse economic impact on businesses. This proposal would only affect individuals who choose to pursue license as a professional clinical counselor and imposes no new fees or fee increases for current licensees of the BBS.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

This regulation mandates the use of specific technologies or equipment. Such mandates or prescriptive standards are required for the following reasons:

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the BBS would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

ARTICLE 1. GENERAL PROVISIONS

§1800. DECLARATORY DECISIONS

No decision or opinion issued by the Board is a declaratory decision under Government Code Sections 11465.10.-11465.70. unless the decision or opinion specifically states that it is a "Declaratory Decision".

Note: Authority cited: Sections 4980.60 and ~~4990.14~~4990.20, Business and Professions Code. Reference: Sections 11465.10-11465.70, Government Code.

§1802. DEFINITIONS

For the purpose of the rules and regulations contained in this chapter, the term "board" means the Board of Behavioral Sciences; and the term "Code" means the Business and Professions Code.

Note: Authority cited: Sections 4980.60 and ~~4990.14~~4990.20, Business and Professions Code. Reference: Sections 4990 ~~and~~ ~~4990.1~~, Business and Professions Code.

§1803. DELEGATION OF CERTAIN FUNCTIONS

The power and discretion conferred by law upon the board to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing, issue orders compelling an evaluation of a licensee's physical or mental condition in accordance with Section 820 of the Business and Professions Code and perform other functions necessary to the efficient dispatch of the business of the board in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the executive officer, or, in his or her absence from the office of the board, the acting executive officer.

Note: Authority cited: Sections 4980.60 and ~~4990.14~~4990.20, Business and Professions Code. Reference: Sections 820, 4980.07, ~~4990.8~~ and ~~4990.13~~ 4990.04 and 4990.12, Business and Professions Code; and Section 11500-11528, Government Code.

§1804. FILING OF ADDRESSES

Each person or professional corporation regulated by the board shall maintain a current mailing address with the board and shall notify the board within thirty (30) days concerning any change of address giving both the old and new addresses.

Note: Authority cited: Sections 4980.60, 4990.11 and ~~4990.14~~4990.20, Business and Professions Code. Reference: Sections 4980.07, ~~4990.11~~ and ~~4990.13~~4990.08 and 4990.12, Business and Professions Code.

§1805. APPLICATIONS

(a) Applications submitted to the board for registration or licensure shall be on a form prescribed by the board.

(b) A 180-day waiting period is required between examinations for any applicant retaking an examination. In the event special or unusual circumstances occur that impact the examination, the Board's Executive Officer may allow for a lesser period of time, as long as the integrity of the examination or examination security is not compromised.

Note: Authority Cited: Sections 4980.60, 4988.2, and 4990.20 (a), Business and Professions Code. Reference: Sections 4980.30, 4980.40, 4989.20,

§1805.1. PERMIT PROCESSING TIMES

"Permit" as defined by the Permit Reform Act of 1981 means any license, certificate, registration, permit or any other form of authorization required by a state agency to engage in a particular activity or act. Processing times for the board's various programs are set forth below. The actual processing times reflect the period from the date the board receives an application to the date a license or registration is issued, and apply to those persons who take and pass the first actual available examination.

PROGRAM	Maximum time for notifying that application is complete or deficient	Maximum time after receipt of a complete application to issue or deny license or registration	ACTUAL PROCESSING TIMES BASED ON PRIOR TWO YEARS		
			Minimum	Median	Maximum
MFT Intern Registration	60 days	30 days	15	100	186
MFT License	90 days	120 days	104	182	260
LCSW Associate Registration	60 days	30 days	15	53	90
LCSW License	90 days	120 days	104	178	253
LEP License	90 days	120 days	98	179	260
CE Provider Approval	30 days	30 days	n/a	n/a	n/a
MFT Referral Service Registration	30 days	30 days	n/a	n/a	n/a
All Renewals	30 days	60 days	28	42	56

Note: Authority Cited: Sections 650.4, 4980.60 and 4990.14 4990.20, Business and Professions Code. Reference: Section 15376, Government Code.

§1806. ABANDONMENT OF APPLICATION

An application shall be deemed abandoned under any of the following circumstances:

(a) The application has not been completed by the applicant within one (1) year after it has been filed. An application shall be deemed complete when all documents and information required have been submitted to the board.

(b) The applicant does not submit information required in order to correct the deficiencies specified in a deficiency letter within one (1) year from the date of the deficiency letter.

(c) The applicant fails to sit for the standard written examination within one (1) year after being notified of initial eligibility to take the standard written examination.

(d) The applicant fails to sit for the clinical vignette examination within one (1) year of being notified of passing the standard written examination.

(e) The applicant fails to sit for the jurisprudence and ethics examination required in Section 4999.52 and 4999.54 of the Code within one (1) year after being notified of initial eligibility to take the jurisprudence and ethics examination.

(f) The applicant fails to sit for the examination required in 4999.54 (b) (2) of the Code within one (1) year after being notified of initial eligibility to take the examination.

(g) The applicant fails to sit for an examination required in 4999.52 (c) (5) of the Code within one (1) year after

being notified of initial eligibility to take that examination.

~~(e)~~ (h) An applicant fails to retake an examination within one (1) year from the date the applicant was notified of failing an examination.

~~(f)~~ (i) The applicant fails to pay the initial license fee within one (1) year after notification by the board of successful completion of examination requirements.

An application submitted after an application has been abandoned shall be treated as a new application, including any fees required, and current requirements.

Note: Authority Cited: Sections 4980.60 and 4990.20 (a), Business and Professions Code. Reference: Sections 4980.30, 4980.35, 4984.7, 4989.20, 4989.68, 4992, and 4996.3, 4999.50, 4999.52, 4999.54, and 4999.120, Business and Professions Code.

§1807. HUMAN SEXUALITY TRAINING

The human sexuality training required of marriage and family therapists, ~~and clinical social workers, and professional clinical counselors~~ by Sections 25, ~~and~~ 4980.41, 4996.2, and 4999.32 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 94904~~ 94887 and 94802 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.

Note: Authority cited: Sections 4980.60 and ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Sections 25, 4980.41, 4980.54, 4996.2, and 4996.22, and 4999.32, Business and Professions Code.

§1807.2. CHILD ABUSE ASSESSMENT TRAINING REQUIREMENTS

In addition to all other requirements for licensure, All all persons applying for a license as a marriage and family therapist, clinical social worker, or professional clinical counselor or renewal of a license as an ~~marriage and family therapist or clinical social worker~~ 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 94904~~ 94887 and 94802 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, 2012.

Note: Authority cited: Sections 28, 4980.60, 4989.34 and 4990.14 4990.20, Business and Professions Code. Reference: Sections 28, 4980.54, and 4989.34, 4996.22, and 4999.32 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, and 4999.32 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 94904~~ 94887 and 94802 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, 2012 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 4990.14 and 4990.20, Business and Professions Code. Reference: Sections 4980.41, 4980.80, 4980.90, 4989.34, 4996.2, and 4996.17, and 4999.32, Business and Professions Code.

§1810.1. CALIFORNIA LAW AND ETHICS TRAINING; ACCEPTABLE EDUCATION PROVIDERS

The California law and ethics training required of professional clinical counselors and out-of-state marriage and family therapist applicants required by Sections 4999.32 and 4980.80 of the Code shall:

(a) Have been obtained from one of the educational institutions or entities specified herein:

(1) An educational institution accredited by the Western Association of Schools and Colleges or 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 Education pursuant to Sections 94887 and 94802 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, offered, or approved by a state, county, or local department of health services or department of mental health.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4980.80 and 4999.32, Business and Professions Code.

§1810.2. CRISIS OR TRAUMA COUNSELING TRAINING

The crisis or trauma counseling training required by Sections 4999.32 of the Code shall:

(a) Have been obtained from one of the educational institutions or entities specified herein:

(1) An educational institution accredited by the Western Association of Schools and Colleges or 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 Education pursuant to Sections 94887 and 94802 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, offered, or approved by a state, county, or local department of health services or department of mental health.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Section 4999.32, Business and Professions Code.

§1811. USE OF LICENSE NUMBER IN DIRECTORIES AND ADVERTISEMENTS

All persons or referral services regulated by the board who advertise their services shall include their license or registration number in the advertisement unless such advertisement contains the following specific information:

(a) The full name of the licensee or registered referral service as filed with the board; and

(b) A designation of the type of license or registration held as follows:

(1) Licensed Marriage and Family Therapist.

(2) Licensed Educational Psychologist.

(3) Licensed Clinical Social Worker.

(4) Registered MFT Referral Service.

(5) Licensed Professional Clinical Counselor

(c) An unlicensed Marriage and Family Therapist Registered Intern may advertise if such advertisement complies with Section 4980.44(a)(4)(c) of the Code making disclosures required by that section.

(d) An unlicensed Associate Clinical Social Worker may advertise if such advertisement complies with Section 4996.18 (e) of the Code making disclosures required by that section.

(e) An unlicensed Professional Clinical Counselor Intern may advertise if such advertisement complies with Section 4999.45(c) of the Code making disclosures required by that section.

Note: Authority cited: Sections 137, 650.4, 4980.60 and 4990.14 4990.20, Business and Professions Code. Reference: Sections 137, 4980.44, and 4996.18, and 4999.45, Business and Professions Code.

§1812. SUBSTANTIAL RELATIONSHIP CRITERIA

For purposes of denial, suspension, or revocation of a license or registration pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under Chapter 17 of Division 3 and Chapter 4 of Part 3 of Division 7 of the Code if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare.

Note: Authority cited: Sections 4980.60 and 4990.14 4999.20, Business and Professions Code. Reference: Sections 481, 490 and 4982, Business and Professions Code.

§1813. CRITERIA FOR REHABILITATION-DENIAL OF LICENSURE

When considering the denial of a license or registration under Section 480 of the Code, the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration shall consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in Section 480 of the Code.
- (d) The extent to which the applicant has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the applicant.
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 4980.60 and 4990.14 4990.20, Business and Professions Code. Reference: Sections 482 and 4982, Business and Professions Code.

§1814. CRITERIA FOR REHABILITATION-SUSPENSIONS OR REVOCATIONS

(a) When considering the suspension or revocation of a license, the board, in evaluating the rehabilitation of such person and his or her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may

have been unintentional, inadvertent or immaterial.

(7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.

(8) Evidence, if any, of rehabilitation submitted by the licensee.

(b) When considering a petition for reinstatement of a license or registration under the provisions of Section 11522 of the Government Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in Section 1813 of this article.

Note: Authority cited: Sections 4980.60 4990.14 4990.20, Business and Professions Code. Reference: Sections 482 and 4982, Business and Professions Code.

§1815. FINGERPRINT SUBMISSION

(a) All licensees and registrants who have not previously submitted fingerprints as a condition of licensure or registration or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's criminal offender record identification database shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice by the licensee's or registrant's renewal date that occurs on or after October 31, 2009, or as directed by the board.

(b) Failure of a licensee or registrant to comply with subdivision (a) is grounds for disciplinary action by the board against the license or registration.

(c) Licensees and registrants shall retain, for at least three years, as evidence of their having complied with subdivision (a) either a receipt showing that he or she has electronically transmitted his or her fingerprint images to the Department of Justice or, for those licensees or registrants who did not use an electronic fingerprinting system, a receipt evidencing that the licensee's or registrant's fingerprints were taken.

(d) Licensees and registrants shall pay, as directed by the Board, the actual cost of compliance with subdivision (a).

(e) As a condition of petitioning the board for reinstatement of a revoked or surrendered license or registration, an applicant shall comply with subsection (a).

(f) The board may waive the requirements of this section for licensees or registrants who are actively serving in the United States military. The board may not return a license or registration to active status until the licensee or registrant has complied with subdivision (a).

Note: Authority cited: Sections 4990.16, 4990.18, 4990.20 and 4996.6, Business and Professions Code. Reference: Sections 4982(a), 4989.54(a), 4992.3(a), and 4996.6, and 4999.90 (a) Business and Professions Code; and Sections 11105(b)(10), and 11105(e), Penal Code.

ARTICLE 2. FEES

§1816. RENEWAL FEES

(a) The annual renewal fee for marriage and family therapist intern registration is seventy-five dollars (\$75.00).

(b) The annual renewal fee for associate clinical social worker registration is seventy-five dollars (\$75.00).

(c) The fee for associate clinical social worker extension is fifty dollars (\$50.00).

(d) The annual renewal fee for professional clinical counselor interns is one hundred dollars (\$100.00).

~~(d)~~ (e) The biennial active renewal fee for a marriage and family therapist is one hundred thirty dollars (\$130.00).

~~(e)~~ (f) The biennial active renewal fee for a licensed educational psychologist is eighty dollars (\$80.00).

~~(f)~~ (g) The biennial active renewal fee for a licensed clinical social worker is one hundred dollars (\$100.00).

(h) The biennial active renewal fee for a licensed professional clinical counselor is one hundred seventy-five dollars (\$175.00).

(i) The annual renewal fee for licenses issued pursuant to Section 4999.54 (a)(1) of the Code is one hundred fifty dollars (\$150.00).

~~(g)~~ (j) The biennial renewal fee for a board-approved continuing education provider is two hundred dollars (\$200.00).

~~(h)~~ (k) For the period of January 1, 2001 through December 31, 2002, the biennial renewal fee for a marriage and family therapist is twenty-five dollars (\$25.00).

~~(i)~~ (l) For the period of January 1, 2001 through December 31, 2002, The biennial renewal fee for a licensed educational psychologist is twenty-five dollars (\$25.00).

~~(j)~~ (m) For the period of January 1, 2001 through December 31, 2002, The biennial renewal fee for a licensed clinical social worker is twenty-five dollars (\$25.00).

Note: Authority Cited: Sections 4980.54, 4980.60, and 4990.20 (a), Business and Professions Code. Reference: Sections 4980.54, 4984.7, 4989.68, 4996.3, 4996.6, 4996.18, and 4996.22, and 4999.120, Business and Professions Code.

§1816.1. INITIAL LICENSE AND REGISTRATION FEES

(a) The fee for initial issuance of the marriage and family therapist license shall be one hundred thirty dollars (\$130.00).

(b) The fee for initial issuance of the licensed educational psychologist license shall be eighty dollars (\$80.00).

(c) The fee for initial issuance of the licensed clinical social worker license shall be one hundred dollars (\$100.00).

(d) The fee for initial issuance of the licensed professional clinical counselor license shall be two hundred dollars (\$200.00).

(e) The fee for initial issuance of the professional clinical counselor intern registration shall be one hundred dollars (\$100.00).

Note: Authority Cited: Sections 4980.60, and 4990.20 (a), Business and Professions Code. Reference: Sections 4984.7, 4989.68, 4996.3, and 4996.18, and 4999.120, Business and Professions Code.

§1816.2. EXAMINATION FEES

(a) The licensed clinical social worker standard written examination fee shall be one hundred dollars (\$100.00).

(b) The licensed clinical social worker written clinical vignette examination fee shall be one hundred dollars (\$100).

(c) The marriage and family therapist standard written examination fee shall be one hundred dollars (\$100.00).

(d) The marriage and family therapist written clinical vignette examination fee shall be one hundred dollars (\$100.00).

(e) The licensed educational psychologist written examination fee shall be one hundred dollars (\$100.00).

(f) The licensed professional clinical counselor jurisprudence and ethics examination shall be one hundred dollars (\$100.00).

(g) The licensed professional clinical counselor examination described in Section 4999.54(b) of the Code shall be one hundred dollars (\$100.00).

(h) The fee for the licensed professional clinical counselor written examination shall be one hundred and fifty dollars (\$150.00).

Note: Authority Cited: 4980.60 and 4990.20 (a), Business and Professions Code. Reference: Sections 4984.7, 4989.68, 4996.3(a), and 4996.4, and 4999.120, Business and Professions Code.

§1816.3. EXAMINATION RESCORING FEES

The fee for rescoring any marriage and family therapist, licensed clinical social worker, or licensed educational psychologist written examination shall be twenty dollars (\$20.00).

Note: Authority cited: Sections 4980.60 and 4990.14 4990.20, Business and Professions Code. Reference: Sections 4984.7, ~~4986.80~~ 4989.68, and 4996.3, Business and Professions Code.

§1816.4. EXAMINATION APPLICATION FEES

(a) The fee for the marriage and family therapist examination eligibility application shall be one hundred dollars (\$100.00).

(b) The fee for the licensed clinical social worker examination eligibility application shall be one hundred dollars (\$100.00).

(c) The fee for the licensed educational psychologist examination eligibility application shall be one hundred dollars (\$100.00).

(d) The fee for the licensed professional clinical counselor examination eligibility application shall be one hundred and eighty dollars (\$180.00).

Note: Authority Cited: Sections 4980.60 and 4990.20 (a), Business and Professions Code. Reference: Sections 4984.7, 4989.68, and 4996.3, and 4999.120, Business and Professions Code.

§1816.5. REPLACEMENT AND CERTIFICATION FEES

(a) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20.00).

(b) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25.00).

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4984.7, ~~4986.80~~ 4989.68, and 4996.6, Business

and Professions Code.

§1816.6. INACTIVE LICENSE FEES

(a) The fee for issuance or renewal of an inactive marriage and family therapist license shall be sixty-five dollars (\$65.00).

(b) The fee for issuance or renewal of an inactive licensed clinical social worker license shall be fifty dollars (\$50.00).

(c) The fee for issuance or renewal of an inactive licensed educational psychologist license shall be forty dollars (\$40.00).

(d) The fee for issuance or biennial renewal of an inactive licensed professional clinical counselor license shall be eighty seven dollars and fifty cents (\$87.50).

(e) The fee for issuance or annual renewal of an inactive license issued pursuant to Section 4999.54(a)(1) of the Code shall be seventy five dollars (\$75.00).

Note: Authority Cited: Sections 4980.60 and 4990.20 (a), Business and Professions Code. Reference: Sections 4984.8, 4989.44, and 4997, and 4999.112, Business and Professions Code.

§1816.7. DELINQUENT FEES

(a) The delinquency fee for the marriage and family therapist license shall be sixty-five dollars (\$65.00) ~~except for the period of time in subsection (e).~~

(b) The delinquency fee for the licensed clinical social worker license shall be fifty dollars (\$50.00) ~~except for the period of time in subsection (f).~~

(c) The delinquency fee for the licensed educational psychologist license shall be forty dollars (\$40.00) ~~except for the period of time in subsection (g).~~

(d) The delinquency fee for the licensed professional clinical counselor license shall be eighty seven dollars and fifty cents (\$87.50).

(e) The delinquency fee for the license issued pursuant to Section 4999.54(a)(1) of the Code shall be seventy five dollars (\$75.00).

~~(d)-(f) The delinquency fee for the continuing education provider approval shall be one hundred dollars (\$100).~~

~~(e) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the marriage and family therapist license shall be twenty five dollars (\$25.00).~~

~~(f) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the licensed clinical social worker license shall be twenty five dollars (\$25.00).~~

~~(g) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the licensed educational psychologist license shall be twenty five dollars (\$25.00).~~

Note: Authority cited: Sections 4980.60 and 4990.144990.20, Business and Professions Code. Reference: Sections 4984.7, 4986.804989.60, and 4996.6, and 4999.104, Business and Professions Code.

§1816.8. APPLICATIONS FOR LICENSURE PUSUANT TO BUSINESS AND PROFESSIONS

CODE SECTION 4999.54

(a) The application fee for licensure pursuant to Business and Professions Code Section 4999.54 shall be one hundred and eighty dollars.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4999.54 and 4999.120, 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 4990.144990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, 4999.32, and 4999.76, Business and Professions Code.

ARTICLE 3. LICENSED PROFESSIONAL CLINICAL COUNSELORS

§1820 EXPERIENCE

(a) In order for experience to qualify under Section 4999.50(a)(2) of the Code, it must have been gained in accordance with Sections 4999.44 through 4999.47 of the Code and the regulations contained in this article.

(b) The term "supervision", as used in this article, includes ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised; reviewing client/patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the intern; monitoring and evaluating the ability of the intern to provide services at the site(s) where he or she will be practicing and to the particular clientele being served; and ensuring compliance with laws and regulations governing the practice of professional clinical counseling. Supervision shall include that amount of direct observation, or review of audio or video tapes of counseling, if deemed appropriate by the supervisor.

(c) The term "clinical mental health setting," as used in this article means any setting that meets all the following requirements:

(1) Lawfully and regularly provides mental health counseling or psychotherapy; and,

(2) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in Chapter 16 (Commencing with Section 4999.10) of Division 2 of the Business and Professions Code and is within the scope of practice of the profession as specified therein.

(d) The term "community mental health setting," as used in this article, means a clinical setting that meets all of the following requirements:

(1) A majority of clients routinely receive psychopharmacological interventions in conjunction with psychotherapy, counseling, or other psycho-social interventions;

(2) Clients receive coordinated care that includes the collaboration of mental health providers; and,

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

(e) Supervision shall be credited only upon the following conditions:

(1) During each week in which experience is claimed and for each work setting in which experience is gained, an applicant or intern shall have at least one (1) hour of one-on-one, individual, face-to-face supervisor contact or two (2) hours of face-to-face supervisor contact in a group of not more than eight (8) persons receiving supervision. No more than five (5) hours of supervision, whether individual or group, shall be credited during any single week.

(2) The applicant or intern shall have received at least one (1) hour of one-on-one, individual, face-to-face supervisor contact per week for a minimum of fifty-two (52) weeks.

(3) In a setting which is not a private practice, the authorized supervisor may be employed by the applicant's employer on either a paid or a voluntary basis. If such employment is on a voluntary basis, a written agreement must be executed between the supervisor and the organization, prior to commencement of supervision, in which the supervisor agrees to ensure that the extent, kind, and quality of counseling performed by the intern is consistent with the intern's training, education, and experience, and is appropriate in extent, kind, and quality. The agreement shall contain an acknowledgment by the employer that the employer:

(A) Is aware of the licensing requirements that must be met by the intern and agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements; and

(B) Agrees to provide the supervisor access to clinical records of the clients counseled by the intern.

(4) The applicant or intern maintains a record of all hours of experience gained toward licensure on the "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" (form. No. 1800 37A-645 New 03/10). The record of hours must be signed by the supervisor on a weekly basis. An intern shall retain all "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" until such time as the applicant is licensed by the board. The board shall have the right to require an applicant to submit all or such portions of the "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" as it deems necessary to verify hours of experience.

(f) When an intern employed in private practice is supervised by someone other than the employer, the supervisor must be employed by and practice at the same site(s) as the intern's employer.

NOTE: Authority cited: Section 4990.20, 4999.48 and 4999.50, Business and Professions Code. Reference: Sections 4999.44, 4999.45, 4999.46, 4999.47 Business and Professions Code.

§1820.5 EXPERIENCE WORKING DIRECTLY WITH COUPLES, FAMILIES, OR CHILDREN

(a) Professional clinical counselor interns and clinical counselor trainees shall be exempt from Section 4999.20 (a)(3) of the Code if the intern or trainee meets both of the following requirements:

(1) Is gaining supervised experience to comply with 4999.20(a)(3)(B) of the Code; and,

(2) The supervised experience is gained under the direct supervision of a marriage and family therapist or a licensed professional clinical counselor who meets all requirements specified in Section 4999.20 (a)(3) of the Code.

(b) A licensed professional clinical counselor shall be exempt from Section 4999.20 (a)(3) of the Code if the licensee meets all of the following requirements:

(1) Is gaining supervised experience to comply with Section 4999.20(a)(3)(B) of the Code;

(2) The supervised experience is gained under the direct supervision of a marriage and family therapist or a licensee who meets all requirements specified in Section 4999.20 (a)(3) of the Code.

(3) The licensed professional clinical counselor gaining the hours of supervised work experience to comply with Section 4999.20(a)(3) of the Code meets both of the following requirements:

(A) Has completed, beyond the minimum training and education, six semester units or nine quarter units specifically focused on the theory and application of marriage and family therapy or a named specialization or emphasis area on the qualifying degree in marriage and family therapy; marital and family therapy; marriage, family, and child counseling; or couple and family therapy.

(B) Completes a minimum of six hours of continuing education specific to marriage and family therapy, completed in each renewal cycle.

NOTE: Authority cited: Sections 4990.20 and 4999.20, Business and Professions Code. Reference: Sections 4999.20 and 4999.20 Business and Professions Code.

§1821. REQUIREMENTS FOR SUPERVISORS

(a) Any person supervising an intern (hereinafter "supervisor") within California shall comply with the requirements set forth in this section.

(b) Prior to the commencement of any counseling or supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of a Professional Clinical Counselor Intern" (form No.1800 37A-643, New 3/10) requiring that:

(1) The supervisor possesses and maintains a current valid California license as either a professional clinical counselor, marriage and family therapist, licensed clinical social worker, licensed psychologist, or physician who is certified in psychiatry as specified in Section 4999.12 (h) of the Code and has been so licensed in California for at least two years prior to commencing any supervision.

(2) A supervisor who is not licensed as a professional clinical counselor, shall have sufficient experience, training, and education in professional clinical counseling to competently practice professional clinical counseling in California.

(3) The supervisor keeps himself or herself informed of developments in professional clinical counseling and in California law governing the practice of professional clinical counseling.

(4) The supervisor has and maintains a current license in good standing and will immediately notify the intern of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or any lapse in licensure that affects the supervisor's ability or right to supervise.

(5) The supervisor has practiced psychotherapy or provided direct supervision of trainees, interns, or associate clinical social workers who perform psychotherapy for at least two (2) years within the five (5) year period immediately preceding any supervision.

(6) The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise interns.

(A) Persons licensed by the board who provide supervision shall complete a minimum of six (6) hours of supervision training or coursework in each renewal period while providing supervision. This training or coursework may apply towards the continuing education requirements set forth in Sections 4999.76, 4980.54, and 4996.22 of the Code.

(B) Persons licensed by the board who provide supervision and who have not met requirements of subsection (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty (60) days of commencement of supervision.

(7) The supervisor knows and understands the laws and regulations pertaining to both the supervision of

interns and the experience required for licensure as a professional clinical counselor.

(8) The supervisor shall ensure that the extent, kind, and quality of counseling performed by the intern is consistent with the education, training, and experience of the intern.

(9) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the intern by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor.

(10) The supervisor shall address with the intern the manner in which emergencies will be handled.

(c) Each supervisor shall provide the intern with the original signed "Responsibility Statement for Supervisors of a Professional Clinical Counselor Intern"(new 03/10, form #1800 37A-643) prior to the commencement of any counseling or supervision. Interns shall provide the board with the signed "Responsibility Statement for Supervisors of a Professional Clinical Counselor Intern" (new 03/10, form #1800 37A-634) from each supervisor upon application for examination eligibility.

(d) A supervisor shall give at least one (1) week's prior written notice to an intern of the supervisor's intent not to sign for any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(e) The supervisor shall obtain from each intern for whom supervision will be provided, the name, address, and telephone number of the intern's most recent supervisor and employer.

(f) In any setting that is not a private practice, a supervisor shall evaluate the site(s) where an intern will be gaining hours of experience toward licensure and shall determine that: (1) the site(s) provides experience which is within the scope of practice of a professional clinical counselor; and (2) the experience is in compliance with the requirements set forth in section 1820 and section 4999.46 of the Code.

(g) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

(h) The board shall not deny hours of experience gained towards licensure by any supervisee due to failure of his or her supervisor to complete the training or coursework requirements in subsection (a) (6) (A).

NOTE: Authority cited: Sections 4990.20 and 4999.48 Business and Professions Code. Reference: Sections 4999.12, 4999.34, 4999.36, 4999.44 through 4999.48 and 4999.54, Business and Professions Code.

§1822. SUPERVISORY PLAN

(a) All licensed mental health professionals acceptable to the board as defined in Section 4999.12 of the Code who assume responsibility for providing supervision shall develop a supervisory plan that describes the goals and objectives of supervision and shall complete and sign under penalty of perjury the "Supervisory Plan", (form no. 1800 37A-521, revised 03/10), hereby incorporated by reference.

(b) This supervisory plan shall be completed by each supervisor providing supervision and the original signed plan shall be submitted by the professional clinical counselor intern to the board upon application for examination eligibility.

Note: Authority cited: Section 4990.20 and 4999.48 Business and Professions Code. Reference: Sections 4999.12, 4999.34, 4999.36, 4999.44 through 4999.48 and 4999.54 Business and Professions Code.

ARTICLE 4. MARRIAGE AND FAMILY THERAPIST

§1829. EXAMINATIONS

The written examinations shall consist of the following:

- (a) A standard written examination designed to determine an applicant's knowledge, familiarity with the field, and practical understanding of the principles, techniques, objectives, theory and laws under which he or she must operate; and
- (b) A written clinical vignette examination designed to assess the applicant's judgment, knowledge of the application of psychosocial and psychotherapeutic methods and measures in treatment, and ability to assume professional responsibilities.

Note: Authority cited: Sections 4980.40 and 4980.60, Business and Professions Code. Reference: Section 4980.40, Business and Professions Code.

§1832. EQUIVALENT ACCREDITING AGENCIES

The following accrediting agencies are essentially equivalent to Western College Association, which has been renamed the Western Association of Schools and Colleges, and Northwest Association of Secondary and Higher Schools:

- (a) Middle States Association of Colleges and Secondary Schools.
- (b) New England Association of Schools and Colleges.
- (c) North Central Association of Colleges and Secondary Schools.
- (d) Southern Association of Colleges and Schools.
- (e) The Credentials Evaluation Service of the International Education Research Foundation, Inc. when it evaluates the foreign degree as being equivalent to the required degrees, and those foreign degree programs meet the educational requirements for equivalent degrees and the specific course content and educational requirements as set forth in sections 4980.40 and 4980.41 of the Code.
- (f) State of California, Department of Education, Bureau of School Approvals with respect to its functions under Education Code section 29023(a)(2), when applied to master's degree and/or doctoral programs which meet the requirements for an equivalent degree pursuant to section 1830 of these regulations, and the specific course content and educational requirements as set forth in sections 4980.40 and 4980.41, of the Code.

Note: Authority cited: Section 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4980.40, and 4980.41, and 4999.12, Business and Professions Code.

§1832.5 REQUIREMENTS FOR DEGREES FROM EDUCATIONAL INSTITUTIONS APPROVES BY THE BUREAU FOR PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION

- (a) A doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university that held an approval to operate from the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007 shall be considered by the board to meet the course requirements necessary to qualify for licensure under Section 4980.40 or registration under 4980.44 of the Code provided that the degree is awarded on or before June 30, 2012.

(b) This Section will become inoperative if legislation reenacts the Private Postsecondary and Vocational Education Reform Act of 1989, Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of the Education Code and the Bureau for Private Postsecondary and Vocational Education, or if legislation provides for a successor agency to the Bureau for Private Postsecondary and Vocational Education and that agency commences operations on or after January 1, 2009.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4980.40, 4980.40.5 and 4980.44, Business and Professions Code.

§1833. EXPERIENCE

(a) In order for experience to qualify under Section 4980.40(f) of the Code, it must meet the following criteria:

(1) It must have been gained in accordance with Sections 4980.42 through 4980.45 of the Code and the regulations contained in this article.

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

(3) No more than five hundred (500) hours of experience will be credited for providing group therapy or group_counseling.

(4) No more than two hundred fifty (250) hours of experience will be credited for administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes; except that for any person who enrolled in a qualifying degree program prior to January 1, 1990, no more than five hundred (500) hours of experience may be credited for such activities.

(5) For any person who enrolls in a qualifying degree program on or after January 1, 1990, no more than two hundred fifty (250) hours of experience will be credited for actual time spent counseling or crisis counseling on the telephone.

(6) For any person who enrolls in a qualifying degree program on or after January 1, 1990, not less than five hundred (500) total hours of experience shall have been gained in diagnosing and treating couples, families, and children.

(b) The term "supervision", as used in this article, includes ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised; reviewing client/patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the intern or trainee; monitoring and evaluating the ability of the intern or trainee to provide services at the site(s) where he or she will be practicing and to the particular clientele being served; and ensuring compliance with laws and regulations governing the practice of marriage and family therapy. Supervision shall include that amount of direct observation, or review of audio or video tapes of therapy, as deemed appropriate by the supervisor. Supervision shall be credited only upon the following conditions:

(1) During each week in which experience is claimed and for each work setting in which experience is gained, an applicant shall have at least one (1) hour of one-on-one, individual, face-to-face supervisor contact or two (2) hours of face-to-face supervisor contact in a group of not more than eight (8) persons receiving supervision. No more than five (5) hours of supervision, whether individual or group, shall be credited during any single week.

(2) The applicant shall have received at least one (1) hour of one-on-one, individual, face-to-face supervisor contact per week for a minimum of fifty-two (52) weeks.

(3) Any experience obtained under the supervision of a spouse, relative, or domestic partner 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 had or currently has a personal or business relationship which

undermines the authority or effectiveness of the supervisor shall not be credited toward the required hours of supervised experience.

(4) In a setting which is not a private practice, the authorized supervisor may be employed by the applicant's employer on either a paid or a voluntary basis. If such employment is on a voluntary basis, a written agreement must be executed between the supervisor and the organization, prior to commencement of supervision, in which the supervisor agrees to ensure that the extent, kind, and quality of counseling performed by the intern or trainee is consistent with the intern or trainee's training, education, and experience, and is appropriate in extent, kind, and quality. The agreement shall contain an acknowledgment by the employer that the employer:

(A) Is aware of the licensing requirements that must be met by the intern or trainee and agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements; and

(B) Agrees to provide the supervisor access to clinical records of the clients counseled by the intern or trainee.

(C) Professional enrichment activities may be credited toward the experience requirement as specified in this article and by Section 4980.43(d)(1) of the Code.

(1) No more than two hundred fifty (250) hours of verified attendance, with the approval of the applicant's supervisor, at workshops, seminars, training sessions, or conferences directly related to marriage and family therapy will be credited.

(2) No more than one hundred (100) hours of psychotherapy, which will be triple counted, received as specified in Section 4980.43(d)(2) of the Code, will be credited.

(d) Experience gained by interns and trainees shall be subject to the following conditions, as applicable:

(1) When an intern employed in private practice is supervised by someone other than the employer, the supervisor must be employed by and practice at the same site(s) as the intern's employer.

(2) A trainee shall not perform services in a private practice.

(3) Interns and trainees may only perform services as employees or volunteers and not as independent contractors.

(e) Effective January 1, 1991, trainees and interns shall maintain a log of all hours of experience gained toward licensure. The log shall be in the form specified below and shall be signed by the supervisor on a weekly basis. An applicant shall retain all logs until such time as the applicant is licensed by the board. The board shall have the right to require an applicant to submit all or such portions of the log as it deems necessary to verify hours of experience.

[See Barclays Official California Code of Regulations for original illustration]

NOTE: Authority cited: Section 4980.35 and 4980.60, Business and Professions Code. Reference: Sections 4980.35, 4980.40(f), and 4980.42 through 4980.45, Business and Professions Code.

§1833.1. REQUIREMENTS FOR SUPERVISORS

Any person supervising a trainee or an intern (hereinafter "supervisor") within California shall comply with the requirements below.

(a) Prior to the commencement of any counseling or supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern"

(revised ~~08/07~~ 3/10, form #1800 37A-523) requiring that:

(1) The supervisor possesses and maintains a current valid California license as either a marriage and family therapist, licensed clinical social worker, licensed professional clinical counselor, licensed psychologist, or physician who is certified in psychiatry as specified in Section 4980.03 (g) of the Code and has been so licensed in California for at least two years prior to commencing any supervision; or

(A) Provides supervision only to trainees at an academic institution that offers a qualifying degree program as specified in Section 4980.40 (a) of the Code; and

(B) Has been licensed in California as specified in Section 4980.03 (g) of the Code, and in any other state, for a total of at least two years prior to commencing any supervision.

(2) A supervisor who is not licensed as a marriage and family therapist, shall have sufficient experience, training, and education in marriage and family therapy to competently practice marriage and family therapy in California.

(3) The supervisor keeps himself or herself informed of developments in marriage and family therapy and in California law governing the practice of marriage and family therapy.

(4) The supervisor has and maintains a current license in good standing and will immediately notify the trainee or intern of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or any lapse in licensure that affects the supervisor's ability or right to supervise.

(5) The supervisor has practiced psychotherapy or provided direct supervision of trainees, interns, ~~or~~ associate clinical social workers, or professional clinical counselor interns who perform psychotherapy for at least two (2) years within the five (5) year period immediately preceding any supervision.

(6) The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise trainees or interns.

(A) Persons licensed by the board who provide supervision shall complete a minimum of six (6) hours of supervision training or coursework in each renewal period while providing supervision. This training or coursework may apply towards the continuing education requirements set forth in Sections 4980.54, ~~and 4996.22,~~ and 4999.76 of the Code.

(B) Persons licensed by the board who provide supervision and who have not met requirements of subsection (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty (60) days of commencement of supervision.

(7) The supervisor knows and understands the laws and regulations pertaining to both the supervision of trainees and interns and the experience required for licensure as a marriage and family therapist.

(8) The supervisor shall ensure that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the trainee or intern.

(9) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the trainee or intern by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor.

(10) The supervisor shall address with the trainee or intern the manner in which emergencies will be handled.

(b) Each supervisor shall provide the trainee or intern with the original signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee"(revised ~~08/07~~ 3/10, form #1800 37A-523)

prior to the commencement of any counseling or supervision. Trainees and interns shall provide the board with the signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" (revised 08/07 3/10, form #1800 37A-523) from each supervisor upon application for licensure.

(c) A supervisor shall give at least one (1) week's prior written notice to a trainee or intern of the supervisor's intent not to sign for any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(d) The supervisor shall obtain from each trainee or intern for whom supervision will be provided, the name, address, and telephone number of the trainee's or intern's most recent supervisor and employer.

(e) In any setting that is not a private practice, a supervisor shall evaluate the site(s) where a trainee or intern will be gaining hours of experience toward licensure and shall determine that: (1) the site(s) provides experience which is within the scope of practice of a marriage and family therapist; and (2) the experience is in compliance with the requirements set forth in section 1833 and section 4980.43 of the Code.

(f) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

(g) The board shall not deny hours of experience gained towards licensure by any supervisee due to failure of his or her supervisor to complete the training or coursework requirements in subsection (a) (6) (A).

NOTE: Authority cited: Sections 4980.40, 4980.60, and 4990.20 Business and Professions Code. Reference: Sections 4980.03, 4980.35, 4980.42 through 4980.45, 4980.48, 4980.54 and 4996.22, and 4999.76, Business and Professions Code.

§1833.2. SUPERVISION OF EXPERIENCE GAINED OUTSIDE OF CALIFORNIA

Experience gained outside of California on or after January 1, 1991 must have been supervised in accordance with the following criteria:

At the time of supervision, the supervisor was licensed or certified by the state in which the supervision occurred and possessed a current license which was not under suspension or probation. The supervisor was licensed or certified by that state, for at least two (2) years prior to acting as supervisor, as either a psychologist, clinical social worker, physician certified in psychiatry as specified in Section 4980.40(f) of the code, professional clinical counselor, or a marriage and family therapist or similarly titled marriage and family practitioner.

In a state which does not license or certify marriage and family therapists or similarly titled marriage and family practitioners, experience may be obtained under the supervision of a person who at the time of supervision held a clinical membership in the American Association of Marriage and Family Therapists for at least two years and who maintained such membership throughout the period of supervision.

Note: Authority cited: Sections 4980.35, 4980.40(f) and 4980.60, Business and Professions Code. Reference: Sections 4980.35, 4980.40(f), 4980.42-4980.45 and 4980.90, Business and Professions Code.

§1833.3. REEXAMINATION (REPEALED)

§1845. UNPROFESSIONAL CONDUCT

As used in Section 4982 of the code, unprofessional conduct includes, but is not limited to:

(a) Performing or holding himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.

(b) Permitting a trainee or intern under his or her supervision or control to perform or permitting the trainee or intern to hold himself or herself out as competent to perform professional services beyond the trainee's or intern's level of education, training and/or experience.

(c) Failing to comply with the child abuse reporting requirements of Penal Code Section 11166.

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

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Sections 4980.03, 4980.60 and 4982, Business and Professions Code; and Section 11166, Penal Code, and Section 15630, Welfare and Institutions Code.

§1846. MARRIAGE AND FAMILY THERAPIST INTERNS

The registration of each intern shall expire at midnight one year from the last day of the month in which the registration was issued.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Sections 4980.03(b), 4980.44 and 4984.7(e), Business and Professions Code.

ARTICLE 4.5. PROFESSIONAL CORPORATIONS

§1850.6. NAME OF CORPORATION

The wording or abbreviation denoting corporate existence shall be limited to one of the following: "Professional Corporation," "Prof. Corp.," "Corporation," "Corp.," "Incorporated," or "Inc."

Note: Authority cited: Sections 4980.60 and ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Sections 4987.8 and 4998.3, Business and Professions Code.

§1850.7. SHARES: OWNERSHIP AND TRANSFER

(a) The shares of a marriage and family therapist corporation may be issued or transferred only to the issuing corporation or to an appropriately licensed person in accordance with Section 13401.5 of the Corporations Code.

(b) The shares of a licensed clinical social worker corporation may be issued or transferred only to the issuing corporation or to an appropriately licensed person in accordance with Section 13401.5 of the Corporations Code.

(c) Where there are two or more shareholders in a corporation and one of its shareholders dies, or becomes a disqualified person as defined in Section 13401(d) of the Corporations Code, for a period exceeding ninety (90) days, his or her shares shall be sold and transferred to a licensed person or to the issuing corporation, on such terms as are agreed upon. Such sale or transfer shall not be later than six (6) months after any such death and not later than ninety (90) days after the date the shareholder became a disqualified person.

(d) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when he or she again ceases to become a disqualified person.

(e) The restrictions of subdivisions (a) or (b) where appropriate and, if appropriate, subdivision (c) of this section shall be set forth in the corporation's by-laws or articles of incorporation.

(f) The income of the corporation attributable to professional, licensed services rendered while a shareholder is a

disqualified person shall not in any manner accrue to the benefit of such shareholder or his or her shares.

(g) The share certificates of the corporation shall contain either:

(1) An appropriate legend setting forth the restriction of subdivision (a) or (b) where appropriate, and where applicable, the restriction of subdivision (c), or

(2) An appropriate legend stating that ownership and transfer of the shares are restricted and specifically referring to an identified section of the by-laws or articles of incorporation of the corporation wherein the restrictions are set forth.

Note: Authority cited: Sections 4980.60 and ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Sections 4987.9, 4988, 4998.4 and 4998.5, Business and Professions Code; and Sections 13401, 13401.5, 13403 and 13407, Corporations Code.

ARTICLE 5. LICENSED EDUCATIONAL PSYCHOLOGISTS

§1854. EQUIVALENT DEGREES

Educational institutions approved by the board are defined as a college or university accredited by one of the following agencies:

(a) Western Association of Schools and Colleges.

(b) Northwest Association of Secondary and Higher Schools.

(c) Middle States Association of Colleges and Secondary Schools.

(d) New England Association of Colleges and Secondary Schools.

(e) North Central Association of Colleges and Secondary Schools.

(f) Southern Association of Colleges and Schools.

(g) The Credentials Evaluation Service of the International Education Research Foundation, Inc., where it evaluates the foreign degree as being equivalent to the required degree or degrees.

Note: Authority cited: Section 4990.20(a), Business and Professions Code. Reference: Section 4989.20(a)(1), Business and Professions Code.

§1855. EQUIVALENT EXPERIENCE IN PUPIL PERSONNEL SERVICES (REPEALED)

§1856. EXPERIENCE EQUIVALENT TO THREE (3) YEARS FULL-TIME EXPERIENCE AS CREDENTIALLED SCHOOL PSYCHOLOGIST

(a) No more than one year of experience will be granted for any 12 month period.

(b) Part time experience may be accumulated provided that the experience is obtained within six (6) calendar years.

(c) Experience as a credentialed school psychologist employed by a parochial or private school may, at the board's discretion, be deemed equivalent to experience as a credentialed school psychologist in the public schools.

Note: Authority cited: Section 4990.20(a), Business and Professions Code. Reference: Section 4982.20, Business and Professions Code.

§1857. EXPERIENCE EQUIVALENT TO ONE YEAR OF SUPERVISED PROFESSIONAL EXPERIENCE (REPEALED)

§1858. UNPROFESSIONAL CONDUCT

The Board may suspend or revoke the license of a licensee who:

(a) Impersonates a licensee or allows another person to use his or her license.

(b) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.

Note: Authority cited: Section 4989.18, Business and Professions Code. Reference: Sections 4989.18 and 4989.54, Business and Professions Code.

ARTICLE 6. LICENSED CLINICAL SOCIAL WORKERS

§1870. REQUIREMENTS FOR ASSOCIATE CLINICAL SOCIAL WORKER SUPERVISORS

Any person supervising an associate clinical social worker registered with the board (hereinafter called "supervisor") within California shall comply with the requirements set forth below.

(a) Prior to the commencement of any therapy or supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised ~~08/07~~ 3/10, form #1800 37A-522), which requires that:

(1) The supervisor possesses and will maintain a current valid California license as a licensed clinical social worker or a licensed mental health professional acceptable to the Board as specified in Section 1874.

(2) The supervisor has and will maintain a current license in good standing and will immediately notify the associate of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or any lapse in licensure, that affects the supervisor's ability or right to supervise.

(3) The supervisor has practiced psychotherapy or provided direct supervision of associates, or marriage and family therapist interns or trainees who perform psychotherapy for at least two (2) years within the last five (5) years immediately preceding supervision.

(4) The supervisor has had sufficient experience, training and education in the area of clinical supervision to competently supervise associates.

(A) Persons licensed by the board who provide supervision shall have a minimum of fifteen (15) contact hours in supervision training obtained from a state agency or approved continuing education provider. This training may apply towards the approved continuing education requirements set forth in Sections 4980.54, and 4996.22, and 4999.76 of the Code. The content of such training shall include, but not be limited to:

(i) Familiarity with supervision literature through reading assignments specified by course instructors;

- (ii) Facilitation of therapist-client and supervisor-therapist relationships;
- (iii) Evaluation and identification of problems in therapist-client and supervisor-therapist relationships;
- (iv) Structuring to maximize supervision, including times and conditions of supervision sessions, problem solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;
- (v) Knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and
- (vi) The practice of clinical social work, including the mandated reporting laws, and knowledge of ethical and legal issues.

(5) The supervisor knows and understands the laws and regulations pertaining to both supervision of associates and the experience required for licensure as a clinical social worker.

(6) The supervisor shall do all of the following:

(A) Ensure that the extent, kind and quality of clinical social work performed by the associate is consistent with the training and experience of the person being supervised.

(B) Review client/patient records and monitor and evaluate assessment and treatment decisions of the associate clinical social worker.

(C) Monitor and evaluate the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served.

(D) Ensure compliance with all laws and regulations governing the practice of clinical social work.

(7) The supervisor and the associate shall develop the "Supervisory Plan" as described in Section 1870.1. The associate shall submit the original signed plan for each supervisor to the board upon application for licensure.

(8) The supervisor shall provide the associate with the original, signed "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised ~~08/07~~ 3/10, form #1800 37A-522), prior to commencement of any supervision. The associate shall provide the board with the original signed form for each supervisor upon application for licensure.

(9) A supervisor shall give at least one (1) week's written notice to an associate of the supervisor's intent not to sign for any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(10) The supervisor shall complete an assessment of the ongoing strengths and limitations of the associate. The assessments shall be completed at least once a year and at the completion or termination of supervision. A copy of all assessments shall be provided to the associate by the supervisor.

(11) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

(b) The board shall not deny hours of experience gained toward licensure by any associate due to the failure of his or her supervisor to complete the training requirements specified in subsection (a)(4)(A).

and 4996.23, Business and Professions Code.

§1870.1. SUPERVISORY PLAN

(a) On and after January 1, 1999, all associate clinical social workers and licensed clinical social workers or licensed mental health professionals acceptable to the board as defined in Section 1874 who assume responsibility for providing supervision shall develop a supervisory plan that describes the goals and objectives of supervision and shall complete and sign under penalty of perjury the "Supervisory Plan", (form no. 1800 37A-521, revised ~~12/05~~ 3/10), hereby incorporated by reference.

(b) This supervisory plan shall be completed by each supervisor providing supervision and the original signed plan shall be submitted by the associate clinical social worker to the board upon application for licensure.

Note: Authority cited: Section ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Sections 4996.18 and ~~4996.24~~ 4996.23, Business and Professions Code.

§1874. DEFINITION OF ACCEPTABLE MENTAL HEALTH PROFESSIONALS

For purposes of Sections ~~4996.20(b) and 4996.21(a)~~ 4996.23 (a), a licensed mental health professional acceptable to the board is one who, at the time of supervision, has possessed for at least two years a valid license as a psychologist, marriage and family therapist, licensed professional clinical counselor or physician certified in psychiatry by the American Board of Psychiatry and Neurology.

Note: Authority cited: Section ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Sections ~~4996.20 and 4996.24~~ 4996.23, Business and Professions Code.

§1877. EXAMINATIONS

The written examinations shall consist of the following:

(a) A standard written examination designed to determine an applicant's knowledge, familiarity with the field, and practical understanding of the principles, techniques, objectives, theory and laws under which he or she must operate; and

(b) A written clinical vignette examination designed to assess the applicant's judgment, knowledge of the application of psychosocial and psychotherapeutic methods and measures in treatment, and ability to assume professional responsibilities.

Note: Authority cited: Section ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Section 4992.1, Business and Professions Code.

§1880. UNLICENSED ASSISTANTS

An unlicensed person employed under Section 4996.15 of the Code to perform limited social work functions shall inform each patient or client prior to performing any such functions that he or she is not a licensed clinical social worker and is under the supervision of a licensed clinical social worker, marriage and family therapist, licensed professional clinical counselor, or a licensed psychologist or a licensed psychiatrist, whichever is applicable.

Note: Authority cited: Section ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Section 4996.15, Business and Professions Code.

§1881. UNPROFESSIONAL CONDUCT

The board may suspend or revoke the license of a licensee or may refuse to issue a license to a person who:

(a) Misrepresents the type or status of license held by such person or otherwise misrepresents or permits the misrepresentation of his or her professional qualifications or affiliations.

(b) Impersonates a licensee or who allows another person to use his or her license.

(c) Aids or abets an unlicensed person to engage in conduct requiring a license.

(d) Intentionally or recklessly causes physical or emotional harm to a client.

(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.

(f) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of a Licensed Clinical Social Worker.

(g) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.

(h) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.

(i) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.

(j) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.

(k) Advertises in a manner which is false or misleading.

(l) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate such test or device. The licensee shall limit access to such test or device to persons with professional interest who are expected to safeguard their use.

(m) Commits an act or omission which falls sufficiently below that standard of conduct of the profession as to constitute an act of gross negligence.

(n) Pays, accepts or solicits any consideration, compensation or remuneration for the referral of professional clients. All consideration, compensation or remuneration must be in relation to professional counseling services actually provided by the licensee. Nothing in this section shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for such collaboration except when disclosure of such fee is made in compliance with subparagraph (j) above.

(o) Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.

(p) Fails to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institution Code Section 15630.

ARTICLE 7. CITATIONS AND FINES

§1886. AUTHORITY TO ISSUE CITATIONS AND FINES

The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for violations by a licensed marriage and family therapist (MFT), licensed educational psychologist (LEP), licensed clinical social worker (LCSW), licensed professional clinical counselor (LPCC), MFT Intern, ~~or Associate Clinical Social Worker~~, or professional clinical counselor intern of the statutes and regulations enforced by the Board of Behavioral Sciences.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14 4990.20, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

§1886.10. CITATIONS FOR UNLICENSED PRACTICE

The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, as defined in Section 302(d) of the Code, who are performing or who have performed services for which a license is required under the statutes and regulations enforced by the Board of Behavioral Sciences. Each citation issued for unlicensed activity shall contain an order of abatement. Where appropriate, the executive officer shall levy a fine for such unlicensed activity in accordance with section 1886.40 of these regulations. The provisions of sections 1886-1886.80 shall apply to the issuance of citations for unlicensed activity under this section. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14 4990.20, Business and Professions Code. Reference: Sections 125.9, 125.95, 148, 149 and 302(d), Business and Professions Code.

§1886.20. CITATION FORMAT

A citation shall be issued whenever any fine is levied or any order of abatement is issued. Each citation shall be in writing and shall describe with particularity the nature and facts of each violation, including a reference to the statute(s) or regulation(s) alleged to have been violated. The citation shall inform the cited person of the right to contest the citation. The citation shall be served upon the cited person personally or by certified mail in accordance with the provisions of Section 11505 (c) of the Government Code.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14 4990.20, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

§1886.30. CITATION FACTORS

In assessing an administrative fine or issuing an order of abatement, the executive officer of the board shall give due consideration to the following factors:

- (a) The gravity of the violation.
- (b) The good or bad faith exhibited by the cited person.
- (c) The history of previous violations of the same or similar nature.
- (d) Evidence that the violation was or was not willful.

(e) The extent to which the cited person has cooperated with the board's investigation.

(f) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by the violation.

(g) Any other factors as justice may require.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

§1886.40. AMOUNT OF FINES

(a) For purposes of this section, a "citable offense" is defined as any violation of the statutes and regulations enforced by the Board of Behavioral Sciences, including Chapters 13, ~~and 13.5,~~ 14, ~~and 16~~ of Division Two of the Business and Professions Code and Title 16, Division 18, California Code of Regulations.

(b) The executive officer of the board may assess fines for citable offenses which shall not exceed two thousand five hundred dollars (\$2,500) for each investigation except as otherwise provided in this section. The executive officer shall not impose any duplicate fines for the same violation.

(c) The executive officer of the board may assess fines for citable offenses which shall not exceed five thousand (\$5,000) for each investigation if the violation or count includes one or more of the following circumstances:

(1) The cited person has a history of two or more prior citations for similar violations, except for citations withdrawn or dismissed after appeal.

(2) The citation involves multiple violations that demonstrate a willful disregard of the statutes or regulations.

(3) The citation is for a violation or violations involving a minor, elder or dependent adult, or a person with a physical or mental disability as defined in Section 12926 of the Government Code.

(4) The citation involves unlicensed practice.

(5) The citation involves an unlawful or unauthorized breach of confidentiality.

(6) The citation is for failure to submit fingerprints to the Department of Justice as required by the Board.

(d) The executive officer of the board may assess fines which shall not exceed five thousand dollars (\$5,000) for each violation or count if the violation or count involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare.

Note: Authority cited: Sections 125.9, 148, 149, 4980.60, and ~~4990.14~~ 4990.20, Business and Professions Code. Reference: Sections 123, 125, 125.9, 136, 141, 148, 149, 480, 651, 654.2, 703, 728, 4980, 4980.02, 4980.30, 4980.43, 4980.44, 4980.45, 4980.46, 4980.48, 4982, 4982.25, 4984, 4987.7, 4987.8, 4988, 4988.1, 4989.10, 4989.12, 4989.14, 4989.20, 4989.22, 4989.24, 4989.26, 4989.28, 4989.34, 4992.3, 4992.36, 4996, 4996.5, 4996.7, 4996.8, 4996.9, 4996.16, 4996.18, 4996.19, 4996.22 4996.20, 4996.23, 4998.2, 4998.3, 4998.4, 4999.20, 4999.24, 4999.30, 4999.32, 4999.33, 4999.42, 4999.44, 4999.45, 4999.46, 4999.54, 4999.58, 4999.60, and 4999.76. Business and Professions Code; and Section 15630, Welfare and Institutions Code.

§1886.50. EXCEPTIONS

A citation shall not be issued in any of the following circumstances:

(a) The violation is of such a nature and/or severity that revocation of the license or restrictions on the cited person are necessary in order to ensure consumer protection.

(b) The cited person failed to comply with any requirement of any previous citation, including any order of

abatement or fine.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14 4990.20, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

§1886.60. COMPLIANCE WITH CITATION/ORDER OF ABATEMENT

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the cited person may request an extension of time in which to complete the correction from the executive officer of the board. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) If a citation is not contested, or if the citation is contested and the cited person does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the board or other appropriate judicial action being taken against the cited person.

(d) If a fine is not paid after a citation has become final, the fine shall be added to the cited person's license or registration renewal fee. A license or registration shall not be renewed without payment of the renewal fee and fine.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14 4990.20, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code; Section 11505(c), Government Code.

§1886.70. CONTESTED CITATIONS AND REQUEST FOR A HEARING OR INFORMAL CITATION CONFERENCE

(a) If a cited person wishes to contest the citation, assessment of the administrative fine, or order of abatement, the cited person shall, within thirty (30) days after service of the citation, file in writing a request for an administrative hearing to the executive officer regarding the acts charged in the citation, as provided for in subdivision (b)(4) of Section 125.9 of the Code.

(b) In addition to or instead of requesting an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, the cited person may, within 30 days after service of the citation, contest the citation by submitting a written request for an informal citation conference to the executive officer or his/her designee.

(c) Upon receipt of a written request for an informal citation conference, the executive officer or his/her designee shall, within 60 days, hold an informal citation conference with the cited person. The cited person may be accompanied and represented at the informal citation conference by an attorney or other authorized representative.

(d) If an informal citation conference is held, the request for an administrative hearing shall be deemed to be withdrawn and the executive officer or his/her designee may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued, at the conclusion of the informal citation conference. If affirmed or modified, the citation originally issued shall be considered withdrawn and an affirmed or modified citation, including reasons for the decision, shall be issued. The affirmed or modified citation shall be mailed to the cited person and his/her counsel, if any, within 10 days from the date of the informal citation conference.

(e) If a cited person wishes to contest an affirmed or modified citation, the cited person shall, within 30 days after service of the citation, contest the affirmed or modified citation by submitting a written request for an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, to the executive

officer or his or her designee. An informal citation conference shall not be held on affirmed or modified citations.

NOTE: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990-14 4990.20, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

§1886.80. DISCONNECTION OF TELEPHONE SERVICE

Nothing in this section shall preclude the board from using the provisions of Section 149 of the Code in addition to any citation issued to an unlicensed person.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990-14 4990.20, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

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

§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, 4999.76 and 4990.20 4990.14, Business and Professions Code. Reference: Sections 4980.54 and , 4989.34, 4996.22, and 4999.76 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,~~ 4989.34, and 4999.76 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),~~ 4989.54 (b) and 4999.90(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, 2012 and through December 31, 2012 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, 2013 licensees shall meet all of the requirements of subdivisions (a) and (b).

Note: Authority Cited: Sections 4980.60, ~~4989.34~~ and ~~4990.14~~ ~~4990.20~~, and ~~4999.76~~ Business and Professions Code. Reference: Sections 4980.54, ~~4989.34~~, and ~~4996.22~~, and ~~4999.90~~ 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 nine (9) 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, 2012 and through December 31, 2012 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~~, and ~~4997~~ or ~~4999.112~~ of the Code.

(c) 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 (Rev 3/10) 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:

~~(4)~~ (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 3/10).

~~(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, and 4999.76 Business and Professions Code; Sections 12944 and 12926, Government Code. Reference: Sections 4980.54, 4989.34, and 4996.22, 4999.76 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 eighteen (18) 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~~ marriage and family therapist and clinical social worker 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) ~~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) ~~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) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.

(g) 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.

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

(1) Beginning January 1, 2012 and through December 31, 2012 licensees shall complete at least eighteen (18) hours of continuing education prior to his or her license renewal, in accordance with subdivision (d) through (g).

(2) On and after January 1, 2013, licensees shall meet the requirements of subdivision (a) through (g).

Note: Authority Cited: Sections 4980.60, ~~and 4990.20(a)~~ 4989.34, 4990.20 and 4999.76 Business and Professions Code. Reference: Sections 29, 32, 4980.54, ~~4989.34, and 4996.22,~~ and 4999.76 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, professional clinical counselor, or clinical social work and meet the requirements set forth in Sections 4980.54, ~~and 4996.22, 4989.34 and 4999.76~~ 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, ~~and 4990.44~~ 4989.34, 4990.20 and 4999.76 Business and Professions Code. Reference: Sections 4980.54, ~~and 4996.22, 4989.34, and 4999.76~~ 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, ~~and 4990.44~~ 4989.34, 4990.20, and 4999.76, Business and Professions Code. Reference: Sections 4980.54, ~~and 4989.34, 4996.22, and 4999.76~~ 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), or 4999.76(d) 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, ~~and 4990.44, 4989.34, 4990.20 and 4999.76~~ Business and Professions Code. Reference: Sections 4980.54, ~~and 4989.34, 4996.22 and 4999.76~~ 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 03/10), 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 ~~4990.144~~990.20 and 4999.76 Business and Professions Code. Reference: Sections 4980.54, ~~4989.34~~ and 4996.22, and 4999.76 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 and 16 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 ~~4990.144~~990.20 and 4999.76 Business and Professions Code. Reference: Sections 4980.54, and ~~4989.34~~, 4996.22, and 4999.76 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, LPCCs, 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~~ and 4999.76 Business and Professions Code. Reference: Sections 4980.54, ~~4989.34~~ and 4996.22, and 4999.76 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 4990.144990.20 and 4999.76 Business and Professions Code. Reference: Sections 4980.54, 4982.15, 4989.34 and 4996.22, and 4999.76 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 4990.144990.20 and 4999.76 Business and Professions Code. Reference: Sections 4980.54, 4989.34, and 4996.22, and 4999.76 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 4990.144990.20 and 4999.76 Business and Professions Code. Reference: Sections 4980.54, 4989.34, and 4996.22, and 4999.76 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, 4989.34, and 4999.76 Business and Professions Code. Reference: Sections 4980.54, 4989.34, and 4996.22, and 4999.76 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, 4989.34 and 4980.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, and 4999.76 Business and Professions Code.

ARTICLE 9. DISCIPLINARY GUIDELINES

§1888. DISCIPLINARY GUIDELINES

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Behavioral Sciences shall consider the disciplinary guidelines entitled "Board of Behavioral Sciences Disciplinary Guidelines" [Rev. ~~November 2008~~ March 2010] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Sections 4980.60, 4987, and 4980.20 4990.14, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 4982, 4986.70, and 4992.3, and 4990.90, Business and Professions Code; and Sections 11400.20, and 11425.50(e), Government Code.

ARTICLE 10. GROUP ADVERTISING AND REFERRAL SERVICES FOR MARRIAGE AND FAMILY THERAPIST

§1889. DEFINITIONS

An "MFT referral service" means a group advertising and referral service for marriage and family therapists as provided for in Section 650.4 of the Code.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

§1889.1. REGISTRATION

(a) The board shall issue a registration for an MFT referral service to an applicant who submits:

(1) a completed MFT Referral Service Registration Application (form no. 37A-309, new 8/97), hereby incorporated by reference;

(2) a copy of the service's standard form contract regulating its relationship with member marriage and family therapists, demonstrating compliance with Section 650.4 of the Code and this article; and

(3) a copy of the service's advertising, demonstrating compliance with Section 650.4 of the Code and this article.

(b) An MFT referral service registration issued under this section shall remain valid until suspended or revoked, or until the MFT referral service notifies the board in writing that the service has discontinued referrals to any marriage and family therapists and no longer desires registration, provided there are no pending disciplinary actions on the MFT referral service's registration.

(c) It is unlawful for any MFT referral service to make referrals to participating or member marriage and family therapists unless at the time of so doing such service holds a registration that is valid and in good standing.

(d) An MFT referral service registration is non-transferable.

(e) An MFT referral service shall notify the board within thirty (30) days concerning any changes or modifications to the service's standard form contract regulating its relationship with member marriage and family therapists, providing a copy of the new contract to the board.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

§1889.2. REVOCATION OR DENIAL OF REGISTRATION

(a) The board may revoke its registration of an MFT referral service or deny an MFT referral service application for good cause. For the purposes of this subsection, "responsible party" includes any owner, co-owner, or member on the board of directors of an MFT referral service. Good cause includes, but is not limited to, the following:

(1) the responsible party of an MFT referral service is convicted of a felony or misdemeanor offense substantially related to the activities of an MFT referral service;

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

(3) an MFT referral service fails to comply with any provisions of Sections 650, 650.4, or 651 of the Code or these regulations; or

(4) an MFT referral service 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 registration of an MFT referral service, it shall give the MFT referral service written notice setting forth its reasons for revocation or denial. The MFT referral service may appeal the revocation or denial in writing, within fifteen (15) days after service 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 MFT referral service may appeal the decision of the board's designee in writing, within fifteen (15) days after service of the decision of the board's designee, and request a hearing with a referral services 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 referral services appeals committee shall contain three board members, one of whom shall be a public member, and two of whom shall be members representing two of the three license types regulated by the board. The decision of the referral services appeals committee is final.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

§1889.3. ADVERTISING AND REFERRAL GUIDELINES

(a) An MFT referral service shall advertise and make referrals in accordance with Sections 650.4 and 651 of the Code and Section 1811 of these regulations.

(b) An MFT referral service shall only make referrals to marriage and family therapists with current, valid licenses. Referrals made to marriage and family therapists on probation shall be made in accordance with the terms of probation set by the board.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

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To: Board Members

Date: April 29, 2010

From: Tracy Rhine
Assistant Executive Officer

Telephone: (916) 574-7830

Subject: Proposed Amendments to SB 1489 (Business, Professions and Economic Development Committee)

Marriage and Family Therapist Experience Hours

Background

Senate Bill 33 (Correa), Chapter 26, Statutes of 2009, amended Business and Professions Code (BPC) section 4980.43 relating to experience requirements for marriage and family therapist (MFT) licensure. This law went into effect January 1, 2010.

Issue

BPC section 4980.43 begins:

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

With the passage of SB 33 the requirements for supervised hours changed, and therefore, any hours gained after the effective date of the law must meet the new requirements. Hours gained prior to the effective date of the revised requirements would have to meet the requirements in place at the time those hours were gained. However, the language in subdivision (a) of Section 4980.43 is not clear on how the law applies to hours gained before or after the effective date of the section, but instead simply states that prior to applying for licensure examination the hours gained must comply with the requirements of the section. This ambiguity may cause some confusion for applicants and Board staff as to which set of requirements, those in place before the passage of SB 33 or those in place after the new law went into effect, would apply to an applicant's hours of experience.

Amendment

In order to clarify how the requirements of section 4980.43 apply to hours gained by an applicant for MFT licensure, staff suggests the following amendment:

BPC §4980.43(a) For all hours gained on or after January 1, 2010, prior ~~Prior to~~ applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

Associate Clinical Social Worker Experience Hours

Background

A provision of MFT licensing law, Business and Professions Code (BPC) Section 4980.43(c)(2) was amended last year to read as follows:

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

This change in statute requires an *additional* hour of supervisor contact for every week in which *more than* 10 hours of client contact is gained. Previously, a supervisee would have to gain an *average* of one hour for every 10 hours.

At its January 23, 2010 meeting, the Board approved a legislative change to make conforming amendments to related provisions governing the supervised hours of Licensed Professional Clinical Counselors (LPCC) interns (BPC Section 4999.46(g)).

However an inconsistency remains with the related provision in Licensed Clinical Social Worker (LCSW) licensing law. Current BPC section 4996.23(c)(3) reads:

*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. [Emphasis added]*

Issue

The language above (BPC section 4996.23(c)(3)) would allow an Associate Clinical Social Worker (ASW) to receive an *average* of one hour of supervision for every week in which over 10 hours of face-to-face psychotherapy is gained.

Because each Board-licensed mental health care practitioner can supervise any Board registrant (pending regulations for LPCCs and notwithstanding hour limitations for ASWs), there should be consistency for supervisors that are supervising across professions.

Amendment

Amend BPC Section 4996.23 as follows:

(3) On or after January 1, 2011, ~~An~~ an associate shall receive ~~an average of~~ at least one additional 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.

Failure to Comply with Telemedicine Provisions

Background

The unprofessional conduct statutes for MFTs (BPC section 4982(z)), Licensed Educational Psychologists (4989.54 (d)) and LCSWs (4992.3(x)) allow the Board to take action against an applicant, registrant or licensee that fails to comply with the provisions set forth in BPC Section 2290.5 related to telemedicine.

Issue

Violation of provisions relating to telemedicine statute were not included in LPCC licensing law. In order to have consistent unprofessional conduct provisions across the professions, LPCC licensing law should be amended to add a violation of telemedicine statute to the unprofessional conduct section.

Amendment

Add the following:

4999.90 (ac) Failure to comply with Section 2290.5.

Licensed Professional Clinical Counselor Intern Experience Setting

Background

BPC section 4999.46 sets forth supervised experience requirements for LPCC interns to qualify for licensure.

Issue

BPC section 4999.46(b)(2) makes reference to a “clinical mental health counseling setting” that is vague and not defined in statute. However, BPC section 4999.44 describes an applicable setting in which an intern may gain hours.

Amendment

Amend 4999.46(b)(2) to reference the setting parameters in Section 4999.44, clarifying the appropriate setting in which an intern may gain experience:

4999.46(b)(2) Not less than 1,750 hours of direct counseling with individuals or groups in a ~~clinical mental health counseling~~ setting described in Section 4999.44 using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

Marriage and Family Therapist Practicum Requirement

Background

In early 2007, the Board began discussing some needed revisions to the education requirements for MFT licensure. Through a number of meetings of the Marriage and Family Therapist Education Committee (Committee), and subsequent discussion at Board meetings, board staff, MFT educators, licensee member associations and other stakeholders developed the concepts that eventually became Board sponsored legislation to change the education requirements of MFTs. SB 1218 (Correa) containing the Board's education change proposal was vetoed by the Governor in 2008, however, subsequent and identical legislation, SB 33 (Correa) Chapter 26, Statutes of 2009 was signed into law the following year and became effective January 1, 2010.

One change in the new law requires MFT trainees, after August 1, 2012, to be enrolled in a practicum course while counseling clients (BPC §4980.36(d)(1)(B)(iii)). Currently a trainee must take 6 semester units or 9 quarter units of practicum as part of his or her degree program, and may not practice as a trainee until he or she has completed 12 semester units or 18 quarter units of coursework in a qualifying degree program and obtains an approval and written agreement from his or her degree program. Additionally, a trainee treating clients must be enrolled in a master's or doctorate degree program designed to qualify him or her for licensure (BPC §4980.03(c)). According to Committee minutes, the provision requiring enrollment in a practicum course for trainees counseling clients evolved from an initial proposal brought to the Committee that would have simply increased the number of units of practicum required for licensure to the equivalent of 9 semester units, which represented a proportional increase corresponding to the increase in the direct client contact hours required. However, during discussions stakeholders conveyed to Board

members that the increasing of the practicum unit requirement would be burdensome to some schools and the increase in units required may displace other courses integral to the MFT education program. In response to these concerns the Board did not mandate increased units of practicum, but instead, included in legislation the language currently found in law requiring trainees to be enrolled in practicum if he or she is counseling clients.

Issues

Two issues have been brought to staff's attention surrounding this change in law. First, with the passage of SB 33, there is a conflict between the following sections of the BPC:

BPC §4980.36(d)(1)(B)(iii) *A student must be enrolled in a practicum course while counseling clients.*

§4980.42(a) *Trainees performing services in any work setting specified in subdivision (e) of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee's supervised course of study and that the person is designated by the title "trainee." **Trainees may gain hours of experience outside the required practicum.** Those hours shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter. [emphasis added]*

Currently, a conflict exists only for those students enrolled in educational institutions that have, or are going to transition their educational programs to meet the post 2012 requirements before that date. Current requirements for those educational programs not choosing to move to the new requirements before the mandated date (August 1, 2012) allow for trainees to counsel clients and gain experience outside of practicum.

This conflict can be remedied by clarifying that trainees may only gain experience outside required practicum if he or she is enrolled in a degree program in compliance with BPC section 4999.37 (current education requirements).

The second issue is related to the operation of this provision. Staff has been made aware of possible implementation problems with requiring a trainee to be enrolled in practicum while counseling clients. Several schools have inquired on how this provision would operate during intersession and summer break, when students may not be able to enroll in a practicum course. This could present both issues related to continuity of care, when a trainee would have to take a summer off of work leaving those clients with a different practitioner or without care, and barriers to licensure when a trainee will not be able to gain direct client hours because they are unable to enroll in practicum. However, it should be noted that only 225 hours of face-to-face experience is required, and if these hours were completed within one school year (approximately 34 weeks of course enrollment – with time off between semesters), it would require a trainee to complete only seven hours of client contact per week.

The intent of the Board in requiring practicum for trainees counseling clients is to ensure that these minimally trained individuals have greater oversight from the school and to also provide mentorship and support for the trainees that they would not get outside the practicum course. By requiring enrollment in practicum and not increasing the total units of practicum required for MFT licensure, the Board afforded the flexibility to the schools to provide more practicum with the same amount of units. For example, one school contacted staff and stated that their institution would be offering one quarter unit practicum courses so that the trainee could be enrolled in a course every quarter, but not have to take extra units to meet the requirement.

Amendments

Several options are available to the Board to address the issues outlined above.

Option 1. Exempt trainees from the practicum requirement during specified periods when enrollment may not possible: Amend section 4980.42(a) to correct the inconsistency allowing trainees to gain experience outside of practicum if the trainee is in a degree program meeting the pre 2012 education

requirements. An additional amendment would have to be made to BPC 4980.42(a) and to BPC §4980.36(d)(1)(B)(iii) to allow for an exception during intersession or summer break periods. See attachment A for proposed language.

Option 2. Retain current law requiring enrollment in practicum to counsel clients: Alternatively, if the Board decides that a trainee should be enrolled in practicum during intersession or summer break periods (or not counsel clients during those time periods), the committee can leave the current language in BPC §4980.36(d)(1)(B)(iii) and simply amend BPC Section 4980.42(a) to correct the inconsistency (below).

§4980.42(a) Trainees performing services in any work setting specified in subdivision (e) of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee's supervised course of study and that the person is designated by the title "trainee." Trainees may only gain hours of experience outside the required practicum if the qualifying degree program in which the trainee is enrolled is in compliance with the requirements set forth in section 4980.37. Those hours shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.

Option 3. Strike requirement that a trainee must be enrolled in practicum to counsel clients: If the Board decides that they believe the practicum requirement is too burdensome, they can recommend to the board amending BPC §4980.36(d)(1)(B)(iii) to delete the reference to practicum and instead require trainees to be enrolled in a course (current law) while counseling clients.

Recommendation

At its April 9, 2010 meeting the Policy and Advocacy Committee voted to recommend that the Board sponsor legislation making discussed changes for all items except those related to the marriage and family therapist practicum requirement. The Committee requested that staff prepare draft language for Option 1 outlined above and bring the issue back to the full Board for discussion.

Attachment

- A. Proposed Draft Language for Practicum Amendments, Option 1
- B. Proposed Amendments without reference to Practicum Options
- C. Senate Bill 1489

SB 1489 – Proposed Amendments Related to Practicum.

Option 1.

4980.42. TRAINEES' SERVICES

(a) Trainees performing services in any work setting specified in subdivision (e) of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee's supervised course of study and that the person is designated by the title "trainee." Trainees may gain hours of experience outside the required practicum if one, or both of the following requirements are met:

(1) The qualifying degree program in which the trainee is enrolled is in compliance with the requirements set forth in section 4980.37.

(2) The trainee completed a practicum course in the semester or quarter preceding a period in which the trainee's degree program did not offer a practicum course, and the trainee successfully completes a practicum course in the semester or quarter subsequent to the period.

(b) All hours of experience gained pursuant to subdivision (a) These hours shall be subject to the requirements of subdivision (c) and to the other requirements of this chapter.

~~(b)~~ (c) On and after January 1, 1995, all hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party's responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student's performance at the site. If an applicant has gained hours of experience while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant's responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

§4980.36 QUALIFYING DEGREE PROGRAM FOR LICENSURE OR REGISTRATION; BEGINNING GRADUATE STUDY AFTER AUGUST 1, 2012 OR COMPLETING GRADUATE STUDY AFTER DECEMBER 31, 2018

(a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree meeting the requirements of this section in marriage, family, and child counseling, marriage 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 or accredited by either the Commission on the Accreditation of Marriage and Family Therapy Education or a regional accrediting agency recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

(c) A doctor's or master's degree program that qualifies for licensure or registration shall do the following:

(1) Integrate all of the following throughout its curriculum:

(A) Marriage and family therapy principles.

(B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.

(C) An understanding of various cultures and the social and psychological implications of socioeconomic position, and an understanding of how poverty and social stress impact an individual's mental health and recovery.

(2) Allow for innovation and individuality in the education of marriage and family therapists.

(3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

(1) Both of the following:

(A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, including elder adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.

(B) Practicum that involves direct client contact, as follows:

(i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.

(ii) A minimum of 225 hours of face-to-face experience counseling individuals, couples, families, or groups. Up to 75 of those hours may be gained performing client centered advocacy, as defined in Section 4980.03.

(iii) A student must be enrolled in a practicum course while counseling clients, except as specified in Section 4980.42(a).

(iv) The practicum shall provide training in all of the following areas:

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, and prognosis.

(III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.

(IV) Professional writing, including documentation of services, treatment plans, and progress notes.

(V) How to connect people with resources that deliver the quality of services and support needed in the community.

(v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low-income and multicultural mental health settings.

(2) Instruction in all of the following:

(A) Diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature.

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

(i) The effects of developmental issues on individuals, couples, and family relationships.

(ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.

(iii) Aging and its biological, social, cognitive, and psychological aspects.

(iv) A variety of cultural understandings of human development.

(v) The understanding of human behavior within the social context of socioeconomic

status and other contextual issues affecting social position.

(vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

(C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:

(i) Child and adult abuse assessment and reporting.

(ii) Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) Cultural factors relevant to abuse of partners and family members.

(iv) Childbirth, child rearing, parenting, and stepparenting.

(v) Marriage, divorce, and blended families.

(vi) Long-term care.

(vii) End of life and grief.

(viii) Poverty and deprivation.

(ix) Financial and social stress.

(x) Effects of trauma.

(xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.

(D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

(E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(F) The effects of socioeconomic status on treatment and available resources.

(G) Resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.

(H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and

treatment of psychosexual dysfunction.

(I) Substance use disorders, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:

(i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, "co-occurring disorders" means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(ii) Medical aspects of substance use disorders and co-occurring disorders.

(iii) The effects of psychoactive drug use.

(iv) Current theories of the etiology of substance abuse and addiction.

(v) The role of persons and systems that support or compound substance abuse and addiction.

(vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.

(vii) Legal aspects of substance abuse.

(viii) Populations at risk with regard to substance use disorders and co-occurring disorders.

(ix) Community resources offering screening, assessment, treatment, and follow-up for the affected person and family.

(x) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.

(xi) The prevention of substance use disorders and addiction.

(J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(iii) The current legal patterns and trends in the mental health professions.

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

(v) A recognition and exploration of the relationship between a practitioner's sense of self

and human values and his or her professional behavior and ethics.

(vi) Differences in legal and ethical standards for different types of work settings.

(vii) Licensing law and licensing process.

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.

SB 1489 PROPOSED AMENDMENTS (3/28/10)

§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~~ at least one additional 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.

.....
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 described in Section 4999.44 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.

(f) 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. Experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(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 at least one additional 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.

(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 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.*

.....

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 a 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.

4999.90 (ac) Failure to comply with Section 2290.5.

Introduced by Committee on Business, Professions and Economic Development (Senators Negrete McLeod (Chair), Aanestad, Calderon, Correa, Florez, Oropeza, Walters, Wyland, and Yee)

March 11, 2010

An act to amend Sections 2065, 2096, 2102, 2103, 2177, 2184, 2397, 2570.19, 3025.1, 3046, 3057.5, 3147, 3147.6, 3147.7, 4017, 4028, 4037, 4052.3, 4059, 4072, 4101, 4119, 4127.1, 4169, 4181, 4191, 4196, 4425, 4426, 4980.40.5, 4980.43, 4980.80, 4982.25, 4984.8, 4989.54, 4990.02, 4990.12, 4990.18, 4990.22, 4990.30, 4990.38, 4992.36, 4996.17, 4996.23, 4999.46, 4999.58, and 4999.90 of, to add Section 4200.1 to, to add and repeal Sections 4999.57 and 4999.59 of, to repeal Sections 4980.07, 4982.2, and 4984.6 of, and to repeal Article 3 (commencing with Section 4994) of Chapter 14 of Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1489, as introduced, Committee on Business, Professions and Economic Development. Healing arts.

(1) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and for the licensure and regulation of podiatrists by the California Board of Podiatric Medicine within the Medical Board of California. Existing law exempts a licensee of either of those boards from liability for civil damages for acts or omissions by the licensee in rendering specified emergency care and for injury or death caused in an emergency situation occurring in the licensee's office or a hospital on account of a failure to inform a patient of the possible consequences of a medical procedure, as specified. Existing law prohibits construing

these provisions to authorize a podiatrist to act beyond certain scope of practice limitations.

This bill would delete that prohibition.

Existing law requires an applicant for a physician's and surgeon's certificate whose professional instruction was acquired in a country other than the United States or Canada to provide evidence satisfactory to the board of, among other things, satisfactory completion of at least one year of specified postgraduate training.

This bill would require the applicant to instead complete at least 2 years of that postgraduate training.

Existing law requires an applicant for a physician's and surgeon's certificate to obtain a passing score on the written examination designated by the board and makes passing scores on a written examination valid for 10 years from the month of the examination for purposes of qualification for a license. Existing law authorizes the board to extend this period of validity for good cause or for time spent in a postgraduate training program.

This bill would limit this 10-year period of validity to passing scores obtained on Step 3 of the United States Medical Licensing Examination and would also authorize the board to extend that period for applicants who hold a valid, unlimited license as a physician and surgeon in another state or a Canadian province and have actively practiced medicine in that state or province.

(2) Existing law, the Optometry Practice Act, provides for the licensure and regulation of optometrists by the State Board of Optometry. Existing law authorizes the renewal of an expired license within 3 years after its expiration if the licensee files an application for renewal and pays all accrued and unpaid renewal fees and the delinquency fee prescribed by the board.

This bill would also require the licensee to submit proof of completion of the required hours of continuing education for the last 2 years.

Existing law authorizes the restoration of a license that is not renewed within 3 years after its expiration if the holder of the expired license, among other requirements, passes the clinical portion of the regular examination of applicants, or other clinical examination approved by the board, and pays a restoration fee equal to the renewal fee in effect on the last regular renewal date for licenses.

This bill would instead require the holder of the expired license to take the National Board of Examiners in Optometry's Clinical Skills

examination, or other clinical examination approved by the board, and to also pay any delinquency fees prescribed by the board.

Existing law alternatively authorizes the restoration of a license that is not renewed within 3 years after its expiration if the person provides proof that he or she holds an active license from another state, files an application for renewal, and pays the accrued and unpaid renewal fees and the delinquency fee prescribed by the board.

This bill would also require the person to submit proof of completion of the required hours of continuing education for the last 2 years and take and satisfactorily pass the board's jurisprudence examination. The bill would also require that the person not have committed specified crimes or acts constituting grounds for licensure denial.

(3) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and requires an applicant for a license to pass a national licensure examination and the board's jurisprudence examination. Existing law prohibits boards in the Department of Consumer Affairs from restricting an applicant who failed a licensure examination from taking the examination again, except as specified.

This bill would authorize an applicant for a pharmacist license to take the licensure examination and the jurisprudence examination 4 times each. The bill would also authorize the applicant to take those examinations 4 additional times each if additional pharmacy coursework is completed, as specified.

(4) Existing law provides for the licensure and regulation of marriage and family therapists, licensed clinical social workers, educational psychologists, and professional clinical counselors by the Board of Behavioral Sciences. Existing law authorizes a licensed marriage and family therapist, licensed clinical social worker, or licensed educational psychologist whose license has been revoked, suspended, or placed on probation to petition the board for reinstatement or modification of the penalty, as specified. Existing law also authorizes the board to deny an application or suspend or revoke those licenses due to the revocation, suspension, or restriction by the board of a license to practice as a clinical social worker, marriage and family therapist, or educational psychologist.

This bill would make those provisions apply with respect to licensed professional clinical counseling, as specified.

Existing law requires an applicant applying for a marriage and family therapist license to complete a minimum of 3,000 hours of experience

during a period of at least 104 weeks. Existing law requires that this experience consist of at least 500 hours of experience in diagnosing and treating couples, families, and children, and requires that an applicant be credited with 2 hours of experience for each hour of therapy provided for the first 150 hours of treating couples and families in conjoint therapy.

This bill would instead require that an applicant receive that 2-hour credit for up to 150 hours of treating couples and families in conjoint therapy.

Existing law requires an applicant for a professional clinical counselor license to complete a minimum of 3,000 hours of clinical mental health experience under the supervision of an approved supervisor and prohibits a supervisor from supervising more than 2 interns.

This bill would prohibit the board from crediting an applicant for experience obtained under the supervision of a spouse or relative by blood or marriage, or a person with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision. The bill would also delete the provision prohibiting a supervisor from supervising more than 2 interns.

Existing law requires an intern to receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting and authorizes an intern working in a governmental entity, a school, college, or university, or a nonprofit and charitable institution to obtain up to 30 hours of the required weekly direct supervisor contact via two-way, real time videoconferencing.

This bill would delete that 30-hour limit and would require an intern to receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy, as defined, is performed in each setting in which experience is obtained.

Existing law imposes specified requirements with respect to persons who apply for a professional clinical counselor license between January 1, 2011, and December 31, 2013, inclusive. With respect to those applicants, existing law authorizes the board to accept experience gained outside of California if it is substantially equivalent to that required by the Licensed Professional Clinical Counselor Act and if the applicant has gained a minimum of 250 hours of supervised clinical experience in direct counseling in California while registered as an intern with the board.

This bill would eliminate that 250-hour requirement with respect to persons with a counseling license in another jurisdiction, as specified, who have held that license for at least 2 years immediately prior to applying with the board.

Existing law authorizes the board to refuse to issue or suspend or revoke a professional clinical counselor license or intern registration if the licensee or registrant has been guilty of unprofessional conduct, as specified.

This bill would specify that unprofessional conduct includes (1) engaging in conduct that subverts a licensing examination, (2) revocation, suspension, or restriction by the board of a license to practice as a clinical social worker, educational psychologist, or marriage and family therapist, and (3) conduct in the supervision of an associate clinical social worker that violates the profession's governing professional clinical counseling or regulations of the board.

The bill would make other technical, nonsubstantive changes in various provisions governing the healing arts and would delete certain obsolete and duplicative language.

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

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

1 SECTION 1. Section 2065 of the Business and Professions
2 Code is amended to read:

3 2065. Unless otherwise provided by law, no postgraduate
4 trainee, intern, resident, postdoctoral fellow, or instructor may
5 engage in the practice of medicine, or receive compensation
6 therefor, or offer to engage in the practice of medicine unless he
7 or she holds a valid, unrevoked, and unsuspended physician's and
8 surgeon's certificate issued by the board. However, a graduate of
9 an approved medical school, who is registered with the ~~Division~~
10 ~~of Licensing~~ *board* and who is enrolled in a postgraduate training
11 program approved by the ~~division~~ *board*, may engage in the
12 practice of medicine whenever and wherever required as a part of
13 the program under the following conditions:

14 (a) A graduate enrolled in an approved first-year postgraduate
15 training program may so engage in the practice of medicine for a
16 period not to exceed one year whenever and wherever required as

1 a part of the training program, and may receive compensation for
2 that practice.

3 (b) A graduate who has completed the first year of postgraduate
4 training may, in an approved residency or fellowship, engage in
5 the practice of medicine whenever and wherever required as part
6 of that residency or fellowship, and may receive compensation for
7 that practice. The resident or fellow shall qualify for, take, and
8 pass the next succeeding written examination for licensure ~~given~~
9 ~~by the division~~, or shall qualify for and receive a physician's and
10 surgeon's certificate by one of the other methods specified in this
11 chapter. If the resident or fellow fails to receive a license to practice
12 medicine under this chapter within one year from the
13 commencement of the residency or fellowship or if the ~~division~~
14 *board* denies his or her application for licensure, all privileges and
15 exemptions under this section shall automatically cease.

16 SEC. 2. Section 2096 of the Business and Professions Code is
17 amended to read:

18 2096. (a) In addition to other requirements of this chapter,
19 before a physician's and surgeon's license may be issued, each
20 applicant, including an applicant applying pursuant to Article 5
21 (commencing with Section 2100), *except as provided in subdivision*
22 *(b)*, shall show by evidence satisfactory to the board that he or she
23 has satisfactorily completed at least one year of postgraduate
24 ~~training, which includes at training.~~

25 (b) *An applicant applying pursuant to Section 2102 shall show*
26 *by evidence satisfactory to the board that he or she has*
27 *satisfactorily completed at least two years of postgraduate training.*

28 (c) *The postgraduate training required by this section shall*
29 *include at least four months of general medicine; and shall be*
30 *obtained in a postgraduate training program approved by the*
31 *Accreditation Council for Graduate Medical Education (ACGME)*
32 *or the Royal College of Physicians and Surgeons of Canada*
33 *(RCPSC).*

34 ~~The~~

35 (d) *The amendments made to this section at the 1987 portion*
36 *of the 1987–88 session of the Legislature shall not apply to*
37 *applicants who completed their one year of postgraduate training*
38 *on or before July 1, 1990.*

39 SEC. 3. Section 2102 of the Business and Professions Code is
40 amended to read:

1 2102. ~~Any~~An applicant whose professional instruction was
2 acquired in a country other than the United States or Canada shall
3 provide evidence satisfactory to the board of compliance with the
4 following requirements to be issued a physician's and surgeon's
5 certificate:

6 (a) Completion in a medical school or schools of a resident
7 course of professional instruction equivalent to that required by
8 Section 2089 and issuance to the applicant of a document
9 acceptable to the board that shows final and successful completion
10 of the course. However, nothing in this section shall be construed
11 to require the board to evaluate for equivalency any coursework
12 obtained at a medical school disapproved by the board pursuant
13 to this section.

14 (b) Certification by the Educational Commission for Foreign
15 Medical Graduates, or its equivalent, as determined by the board.
16 This subdivision shall apply to all applicants who are subject to
17 this section and who have not taken and passed the written
18 examination specified in subdivision (d) prior to June 1, 1986.

19 (c) Satisfactory completion of the postgraduate training required
20 under *subdivision (b) of* Section 2096. An applicant shall be
21 required to have substantially completed the professional
22 instruction required in subdivision (a) and shall be required to
23 make application to the board and have passed steps 1 and 2 of
24 the written examination relating to biomedical and clinical sciences
25 prior to commencing any postgraduate training in this state. In its
26 discretion, the board may authorize an applicant who is deficient
27 in any education or clinical instruction required by Sections 2089
28 and 2089.5 to make up any deficiencies as a part of his or her
29 postgraduate training program, but that remedial training shall be
30 in addition to the postgraduate training required for licensure.

31 (d) ~~Pass~~*Passage of* the written examination as provided under
32 Article 9 (commencing with Section 2170). An applicant shall be
33 required to meet the requirements specified in subdivision (b) prior
34 to being admitted to the written examination required by this
35 subdivision.

36 ~~Nothing~~

37 (e) *Nothing* in this section prohibits the board from disapproving
38 ~~any~~ a foreign medical school or from denying an application if, in
39 the opinion of the board, the professional instruction provided by
40 the medical school or the instruction received by the applicant is

1 not equivalent to that required in Article 4 (commencing with
2 Section 2080).

3 SEC. 4. Section 2103 of the Business and Professions Code is
4 amended to read:

5 2103. An applicant who is a citizen of the United States shall
6 be eligible for a physician’s and surgeon’s certificate if he or she
7 has completed the following requirements:

8 ~~(a) Official transcripts or other official evidence satisfactory to~~
9 ~~the Division of Licensing of compliance with Section 2088.~~

10 ~~(b) Official~~
11 *(a) Submitted official* evidence satisfactory to the ~~division board~~
12 of completion of a resident course or professional instruction
13 equivalent to that required in Section 2089 in a medical school
14 located outside the United States or Canada. However, nothing in
15 this section shall be construed to require the ~~division board~~ to
16 evaluate for equivalency any coursework obtained at a medical
17 school disapproved by the ~~division board~~ pursuant to Article 4
18 (commencing with Section 2080).

19 ~~(c) Official~~
20 *(b) Submitted official* evidence satisfactory to the ~~division board~~
21 of completion of all formal requirements of the medical school for
22 graduation, except the applicant shall not be required to have
23 completed an internship or social service or be admitted or licensed
24 to practice medicine in the country in which the professional
25 instruction was completed.

26 ~~(d)~~
27 *(c)* Attained a score satisfactory to an approved medical school
28 on a qualifying examination acceptable to the ~~division board~~.

29 ~~(e) Successful completion of~~
30 *(d) Successfully completed* one academic year of supervised
31 clinical training in a program approved by the ~~division board~~
32 pursuant to Section 2104. The ~~division board~~ shall also recognize
33 as compliance with this subdivision the successful completion of
34 a one-year supervised clinical medical internship operated by a
35 medical school pursuant to Chapter 85 of the Statutes of 1972 and
36 as amended by Chapter 888 of the Statutes of 1973 as the
37 equivalent of the year of supervised clinical training required by
38 this section.

39 (1) Training received in the academic year of supervised clinical
40 training approved pursuant to Section 2104 shall be considered as

1 part of the total academic curriculum for purposes of meeting the
2 requirements of Sections 2089 and 2089.5.

3 (2) An applicant who has passed the basic science and English
4 language examinations required for certification by the Educational
5 Commission for Foreign Medical Graduates may present evidence
6 of those passing scores along with a certificate of completion of
7 one academic year of supervised clinical training in a program
8 approved by the ~~division~~ *board* pursuant to Section 2104 in
9 satisfaction of the formal certification requirements of subdivision
10 (b) of Section 2102.

11 ~~(f) Satisfactory completion of~~

12 ~~(e) Satisfactorily completed~~ the postgraduate training required
13 under Section 2096.

14 ~~(g)~~

15 ~~(f)~~ Passed the written examination required for certification as
16 a physician and surgeon ~~in~~ *under* this chapter.

17 SEC. 5. Section 2177 of the Business and Professions Code is
18 amended to read:

19 2177. (a) A passing score is required for an entire examination
20 or for each part of an examination, as established by resolution of
21 the ~~Division of Licensing~~ *board*.

22 (b) Applicants may elect to take the written examinations
23 conducted or accepted by the ~~division~~ *board* in separate parts.

24 (c) (1) An applicant shall have obtained a passing score on ~~Part~~
25 ~~III Step 3~~ of the United States Medical Licensing Examination
26 within not more than four attempts in order to be eligible for a
27 physician's and surgeon's certificate.

28 (2) Notwithstanding paragraph (1), an applicant who obtains
29 a passing score on ~~Part III Step 3~~ of the United States Medical
30 Licensing Examination in more than four attempts and who meets
31 the requirements of Section 2135.5 shall be eligible to be
32 considered for issuance of a physician's and surgeon's certificate.

33 SEC. 6. Section 2184 of the Business and Professions Code is
34 amended to read:

35 2184. (a) Each applicant shall obtain on the written
36 examination a passing score, established by the ~~division~~ *board*
37 pursuant to Section 2177.

38 (b) (1) Passing scores on ~~a written examination~~ *Step 3 of the*
39 *United States Medical Licensing Examination* shall be valid for a

1 period of 10 years from the month of the examination for purposes
2 of qualification for licensure in California.

3 ~~This~~

4 (2) *The period of validity provided for in paragraph (1) may*
5 *be extended by the ~~division for good cause and for board for any~~*
6 *of the following:*

7 (A) *For good cause.*

8 (B) *For time spent in a postgraduate training program, including,*
9 *but not limited to, residency training, fellowship training, remedial*
10 *or refresher training, or other training that is intended to maintain*
11 *or improve medical skills.*

12 (C) *For an applicant who holds a valid, unlimited license as a*
13 *physician and surgeon in another state or a Canadian province*
14 *and has actively practiced medicine in that state or province.*

15 ~~Upon~~

16 (3) *Upon expiration of the 10-year period plus any extension*
17 *granted by the ~~division board under paragraph (2), the applicant~~*
18 *shall pass the Special Purpose Examination of the Federation of*
19 *State Medical Boards or a clinical competency written examination*
20 *determined by the ~~division board~~ to be equivalent.*

21 ~~This subdivision applies to all passing scores achieved in a~~
22 ~~written examination for a physician's and surgeon's certificate~~
23 ~~conducted by the division.~~

24 SEC. 7. Section 2397 of the Business and Professions Code is
25 amended to read:

26 2397. (a) A licensee shall not be liable for civil damages for
27 injury or death caused in an emergency situation occurring in the
28 licensee's office or in a hospital on account of a failure to inform
29 a patient of the possible consequences of a medical procedure
30 where the failure to inform is caused by any of the following:

31 (1) The patient was unconscious.

32 (2) The medical procedure was undertaken without the consent
33 of the patient because the licensee reasonably believed that a
34 medical procedure should be undertaken immediately and that
35 there was insufficient time to fully inform the patient.

36 (3) A medical procedure was performed on a person legally
37 incapable of giving consent, and the licensee reasonably believed
38 that a medical procedure should be undertaken immediately and
39 that there was insufficient time to obtain the informed consent of
40 a person authorized to give such consent for the patient.

1 (b) This section is applicable only to actions for damages for
2 injuries or death arising because of a licensee’s failure to inform,
3 and not to actions for damages arising because of a licensee’s
4 negligence in rendering or failing to render treatment.

5 (c) As used in this section:

6 (1) “Hospital” means a licensed general acute care hospital as
7 defined in subdivision (a) of Section 1250 of the Health and Safety
8 Code.

9 (2) “Emergency situation occurring in the licensee’s office”
10 means a situation occurring in an office, other than a hospital, used
11 by a licensee for the examination or treatment of patients, requiring
12 immediate services for alleviation of severe pain, or immediate
13 diagnosis and treatment of unforeseeable medical conditions,
14 which, if not immediately diagnosed and treated, would lead to
15 serious disability or death.

16 (3) “Emergency situation occurring in a hospital” means a
17 situation occurring in a hospital, whether or not it occurs in an
18 emergency room, requiring immediate services for alleviation of
19 severe pain, or immediate diagnosis and treatment of unforeseeable
20 medical conditions, which, if not immediately diagnosed and
21 treated, would lead to serious disability or death.

22 ~~(d) Nothing in this article shall be construed to authorize practice
23 by a podiatrist beyond that set forth in Section 2473.~~

24 SEC. 8. Section 2570.19 of the Business and Professions Code
25 is amended to read:

26 2570.19. (a) There is hereby created a California Board of
27 Occupational Therapy, hereafter referred to as the board. The board
28 shall enforce and administer this chapter.

29 (b) The members of the board shall consist of the following:

30 (1) Three occupational therapists who shall have practiced
31 occupational therapy for five years.

32 (2) One occupational therapy assistant who shall have assisted
33 in the practice of occupational therapy for five years.

34 (3) Three public members who shall not be licentiates of the
35 board or of any board referred to in Section 1000 or 3600.

36 (c) The Governor shall appoint the three occupational therapists
37 and one occupational therapy assistant to be members of the board.
38 The Governor, the Senate ~~Rules~~ Committee *on Rules*, and the
39 Speaker of the Assembly shall each appoint a public member. Not
40 more than one member of the board shall be appointed from the

1 full-time faculty of any university, college, or other educational
2 institution.

3 (d) All members shall be residents of California at the time of
4 their appointment. The occupational therapist and occupational
5 therapy assistant members shall have been engaged in rendering
6 occupational therapy services to the public, teaching, or research
7 in occupational therapy for at least five years preceding their
8 appointments.

9 (e) The public members may not be or have ever been
10 occupational therapists or occupational therapy assistants or in
11 training to become occupational therapists or occupational therapy
12 assistants. The public members may not be related to, or have a
13 household member who is, an occupational therapist or an
14 occupational therapy assistant, and may not have had, within two
15 years of the appointment, a substantial financial interest in a person
16 regulated by the board.

17 (f) The Governor shall appoint two board members for a term
18 of one year, two board members for a term of two years, and one
19 board member for a term of three years. Appointments made
20 thereafter shall be for four-year terms, but no person shall be
21 appointed to serve more than two consecutive terms. Terms shall
22 begin on the first day of the calendar year and end on the last day
23 of the calendar year or until successors are appointed, except for
24 the first appointed members who shall serve through the last
25 calendar day of the year in which they are appointed, before
26 commencing the terms prescribed by this section. Vacancies shall
27 be filled by appointment for the unexpired term. The board shall
28 annually elect one of its members as president.

29 (g) The board shall meet and hold at least one regular meeting
30 annually in the Cities of Sacramento, Los Angeles, and San
31 Francisco. The board may convene from time to time until its
32 business is concluded. Special meetings of the board may be held
33 at any time and place designated by the board.

34 (h) Notice of each meeting of the board shall be given in
35 accordance with the Bagley-Keene Open Meeting Act (Article 9
36 commencing with Section 11120) of Chapter 1 of Part 1 of
37 Division 3 of Title 2 of the Government Code).

38 (i) Members of the board shall receive no compensation for
39 their services, but shall be entitled to reasonable travel and other

1 expenses incurred in the execution of their powers and duties in
2 accordance with Section 103.

3 (j) The appointing power shall have the power to remove any
4 member of the board from office for neglect of any duty imposed
5 by state law, for incompetency, or for unprofessional or
6 dishonorable conduct.

7 ~~(k) A loan is hereby authorized from the General Fund to the
8 Occupational Therapy Fund on or after July 1, 2000, in an amount
9 of up to one million dollars (\$1,000,000) to fund operating,
10 personnel, and other startup costs of the board. Six hundred ten
11 thousand dollars (\$610,000) of this loan amount is hereby
12 appropriated to the board to use in the 2000-01 fiscal year for the
13 purposes described in this subdivision. In subsequent years, funds
14 from the Occupational Therapy Fund shall be available to the board
15 upon appropriation by the Legislature in the annual Budget Act.
16 The loan shall be repaid to the General Fund over a period of up
17 to five years, and the amount paid shall also include interest at the
18 rate accruing to moneys in the Pooled Money Investment Account.
19 The loan amount and repayment period shall be minimized to the
20 extent possible based upon actual board financing requirements
21 as determined by the Department of Finance.~~

22 ~~(l)~~

23 (k) This section shall become inoperative on July 1, 2013, and,
24 as of January 1, 2014, is repealed, unless a later enacted statute
25 that is enacted before January 1, 2014, deletes or extends the dates
26 on which it becomes inoperative and is repealed. The repeal of
27 this section renders the board subject to the review required by
28 Division 1.2 (commencing with Section 473).

29 SEC. 9. Section 3025.1 of the Business and Professions Code
30 is amended to read:

31 3025.1. The board may adopt rules and regulations that are, in
32 its judgment, reasonable and necessary to ensure that optometrists
33 have the knowledge to adequately protect the public health and
34 safety by establishing educational requirements for admission to
35 the ~~examination~~ *examinations* for licensure.

36 SEC. 10. Section 3046 of the Business and Professions Code
37 is amended to read:

38 3046. In order to obtain a license to practice optometry in
39 California, an applicant shall have graduated from an accredited
40 school of optometry, passed the required ~~examination~~ *examinations*

1 for licensure, and not have met any of the grounds for denial
 2 established in Section 480. The proceedings under this section
 3 shall be in accordance with Chapter 5 (commencing with Section
 4 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

5 SEC. 11. Section 3057.5 of the Business and Professions Code
 6 is amended to read:

7 3057.5. ~~(a)~~ Notwithstanding any other provision of this chapter,
 8 the board shall permit a person who meets all of the following
 9 requirements to take the ~~examination~~ *examinations* for a certificate
 10 of registration as an optometrist:

- 11 ~~(1)~~
- 12 (a) Is over the age of 18 years.
- 13 ~~(2)~~
- 14 (b) Is not subject to denial of a certificate under Section 480.
- 15 ~~(3)~~
- 16 (c) Has a degree as a doctor of optometry issued by a university
 17 located outside of the United States.

18 ~~(b) This section shall become operative on January 1, 1996.~~

19 SEC. 12. Section 3147 of the Business and Professions Code
 20 is amended to read:

21 3147. Except as otherwise provided by Section 114, an expired
 22 license may be renewed at any time within three years after its
 23 expiration ~~on by filing of an application for renewal on a form~~
 24 ~~prescribed by the board, and payment of paying~~ all accrued and
 25 unpaid renewal fees, *paying any delinquency fees prescribed by*
 26 *the board, and submitting proof of completion of the required*
 27 *number of hours of continuing education for the last two years,*
 28 *as prescribed by the board pursuant to Section 3159. If an expired*
 29 ~~license is renewed, the licenseholder shall pay the delinquency fee~~
 30 ~~prescribed by the board.~~ Renewal under this section shall be
 31 effective on the date on which ~~the application is filed, on the date~~
 32 ~~on which the accrued renewal fees are paid, or on the date on which~~
 33 ~~the delinquency fee, if any, is paid, whichever last occurs~~ *all of*
 34 *those requirements are satisfied.* If so renewed, the license shall
 35 continue as provided in ~~Section~~ *Sections* 3146 and 3147.5.

36 SEC. 13. Section 3147.6 of the Business and Professions Code
 37 is amended to read:

38 3147.6. Except as otherwise provided by Section 114, a license
 39 that is not renewed within three years after its expiration may be
 40 restored thereafter, if no fact, circumstance, or condition exists

1 that, if the license were restored, would justify its revocation or
2 suspension, provided all of the following conditions are met:

3 (a) The holder of the expired license is not subject to denial of
4 a license under Section 480.

5 (b) The holder of the expired license applies in writing for its
6 restoration on a form prescribed by the board.

7 ~~(e) He or she~~

8 (c) *The holder of the expired license pays the fee or fees as*
9 *would be required of him or her if he or she were then applying*
10 *for a license for the first time and had not previously taken the*
11 *examination for a license.*

12 ~~(d) He or she takes and satisfactorily passes the clinical portion~~
13 ~~of the regular examination of applicants, or other clinical~~
14 ~~examination approved by the board, and takes and satisfactorily~~
15 ~~passes the California law and regulations examination.~~

16 (d) *The holder of the expired license satisfactorily passes both*
17 *of the following examinations:*

18 (1) *The National Board of Examiners in Optometry's Clinical*
19 *Skills examination or other clinical examination approved by the*
20 *board.*

21 (2) *The board's jurisprudence examination.*

22 (e) ~~After having taken and satisfactorily passed the clinical~~
23 ~~portion of the regular examination of applicants, or other clinical~~
24 ~~examination approved by the board, he or she taking and~~
25 ~~satisfactorily passing the examinations identified in subdivision~~
26 ~~(d), the holder of the expired license pays a restoration fee equal~~
27 ~~to the sum of the license renewal fee in effect on the last regular~~
28 ~~renewal date for licenses and any delinquency fees prescribed by~~
29 ~~the board.~~

30 SEC. 14. Section 3147.7 of the Business and Professions Code
31 is amended to read:

32 3147.7. The provisions of Section 3147.6 shall not apply to a
33 person holding a license that has not been renewed within three
34 years of expiration, if the person provides satisfactory proof that
35 he or she holds an active license from another state. ~~In this event,~~
36 ~~the person may renew his or her license in the manner provided~~
37 ~~for under Section 3147. and meets all of the following conditions:~~

38 (a) *Is not subject to denial of a license under Section 480.*

39 (b) *Applies in writing for restoration of the license on a form*
40 *prescribed by the board.*

1 (c) Pays all accrued and unpaid renewal fees and any
2 delinquency fees prescribed by the board.

3 (d) Submits proof of completion of the required number of hours
4 of continuing education for the last two years.

5 (e) Takes and satisfactorily passes the board's jurisprudence
6 examination.

7 SEC. 15. Section 4017 of the Business and Professions Code
8 is amended to read:

9 4017. "Authorized officers of the law" means inspectors of the
10 California State Board of Pharmacy, inspectors of the Food and
11 Drug Branch of the State Department of *Public Health Services*,
12 and investigators of the department's Division of Investigation or
13 peace officers engaged in official investigations.

14 SEC. 16. Section 4028 of the Business and Professions Code
15 is amended to read:

16 4028. "Licensed hospital" means an institution, place, building,
17 or agency that maintains and operates organized facilities for one
18 or more persons for the diagnosis, care, and treatment of human
19 illnesses to which persons may be admitted for overnight stay, and
20 includes any institution classified under regulations issued by the
21 State Department of *Public Health Services* as a general or
22 specialized hospital, as a maternity hospital, or as a tuberculosis
23 hospital, but does not include a sanitarium, rest home, a nursing
24 or convalescent home, a maternity home, or an institution for
25 treating alcoholics.

26 SEC. 17. Section 4037 of the Business and Professions Code
27 is amended to read:

28 4037. (a) "Pharmacy" means an area, place, or premises
29 licensed by the board in which the profession of pharmacy is
30 practiced and where prescriptions are compounded. "Pharmacy"
31 includes, but is not limited to, any area, place, or premises
32 described in a license issued by the board wherein controlled
33 substances, dangerous drugs, or dangerous devices are stored,
34 possessed, prepared, manufactured, derived, compounded, or
35 repackaged, and from which the controlled substances, dangerous
36 drugs, or dangerous devices are furnished, sold, or dispensed at
37 retail.

38 (b) "Pharmacy" shall not include any area in a facility licensed
39 by the State Department of *Public Health Services* where floor
40 supplies, ward supplies, operating room supplies, or emergency

1 room supplies of dangerous drugs or dangerous devices are stored
2 or possessed solely for treatment of patients registered for treatment
3 in the facility or for treatment of patients receiving emergency care
4 in the facility.

5 SEC. 18. Section 4052.3 of the Business and Professions Code
6 is amended to read:

7 4052.3. (a) Notwithstanding any other provision of law, a
8 pharmacist may furnish emergency contraception drug therapy in
9 accordance with either of the following:

10 (1) Standardized procedures or protocols developed by the
11 pharmacist and an authorized prescriber who is acting within his
12 or her scope of practice.

13 (2) Standardized procedures or protocols developed and
14 approved by both the board and the Medical Board of California
15 in consultation with the American College of Obstetricians and
16 Gynecologists, the California Pharmacist Association, and other
17 appropriate entities. Both the board and the Medical Board of
18 California shall have authority to ensure compliance with this
19 clause, and both boards are specifically charged with the
20 enforcement of this provision with respect to their respective
21 licensees. Nothing in this clause shall be construed to expand the
22 authority of a pharmacist to prescribe any prescription medication.

23 (b) Prior to performing a procedure authorized under this
24 paragraph, a pharmacist shall complete a training program on
25 emergency contraception that consists of at least one hour of
26 approved continuing education on emergency contraception drug
27 therapy.

28 (c) A pharmacist, pharmacist's employer, or pharmacist's agent
29 may not directly charge a patient a separate consultation fee for
30 emergency contraception drug therapy services initiated pursuant
31 to this paragraph, but may charge an administrative fee not to
32 exceed ten dollars (\$10) above the retail cost of the drug. Upon an
33 oral, telephonic, electronic, or written request from a patient or
34 customer, a pharmacist or pharmacist's employee shall disclose
35 the total retail price that a consumer would pay for emergency
36 contraception drug therapy. As used in this subparagraph, total
37 retail price includes providing the consumer with specific
38 information regarding the price of the emergency contraception
39 drugs and the price of the administrative fee charged. This
40 limitation is not intended to interfere with other contractually

1 agreed-upon terms between a pharmacist, a pharmacist's employer,
2 or a pharmacist's agent, and a health care service plan or insurer.
3 Patients who are insured or covered and receive a pharmacy benefit
4 that covers the cost of emergency contraception shall not be
5 required to pay an administrative fee. These patients shall be
6 required to pay copayments pursuant to the terms and conditions
7 of their coverage. The provisions of this subparagraph shall cease
8 to be operative for dedicated emergency contraception drugs when
9 these drugs are reclassified as over-the-counter products by the
10 federal Food and Drug Administration.

11 (d) A pharmacist may not require a patient to provide
12 individually identifiable medical information that is not specified
13 in Section 1707.1 of Title 16 of the California Code of Regulations
14 before initiating emergency contraception drug therapy pursuant
15 to this section.

16 (e) For each emergency contraception drug therapy initiated
17 pursuant to this section, the pharmacist shall provide the recipient
18 of the emergency contraception drugs with a standardized factsheet
19 that includes, but is not limited to, the indications for use of the
20 drug, the appropriate method for using the drug, the need for
21 medical followup, and other appropriate information. The board
22 shall develop this form in consultation with the State Department
23 of *Public Health Services*, the American College of Obstetricians
24 and Gynecologists, the California Pharmacists Association, and
25 other health care organizations. The provisions of this section do
26 not preclude the use of existing publications developed by
27 nationally recognized medical organizations.

28 SEC. 19. Section 4059 of the Business and Professions Code
29 is amended to read:

30 4059. (a) A person may not furnish any dangerous drug, except
31 upon the prescription of a physician, dentist, podiatrist, optometrist,
32 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A
33 person may not furnish any dangerous device, except upon the
34 prescription of a physician, dentist, podiatrist, optometrist,
35 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

36 (b) This section does not apply to the furnishing of any
37 dangerous drug or dangerous device by a manufacturer, wholesaler,
38 or pharmacy to each other or to a physician, dentist, podiatrist,
39 optometrist, veterinarian, or naturopathic doctor pursuant to Section
40 3640.7, or to a laboratory under sales and purchase records that

1 correctly give the date, the names and addresses of the supplier
2 and the buyer, the drug or device, and its quantity. This section
3 does not apply to the furnishing of any dangerous device by a
4 manufacturer, wholesaler, or pharmacy to a physical therapist
5 acting within the scope of his or her license under sales and
6 purchase records that correctly provide the date the device is
7 provided, the names and addresses of the supplier and the buyer,
8 a description of the device, and the quantity supplied.

9 (c) A pharmacist, or a person exempted pursuant to Section
10 4054, may distribute dangerous drugs and dangerous devices
11 directly to dialysis patients pursuant to regulations adopted by the
12 board. The board shall adopt any regulations as are necessary to
13 ensure the safe distribution of these drugs and devices to dialysis
14 patients without interruption thereof. A person who violates a
15 regulation adopted pursuant to this subdivision shall be liable upon
16 order of the board to surrender his or her personal license. These
17 penalties shall be in addition to penalties that may be imposed
18 pursuant to Section 4301. If the board finds any dialysis drugs or
19 devices distributed pursuant to this subdivision to be ineffective
20 or unsafe for the intended use, the board may institute immediate
21 recall of any or all of the drugs or devices distributed to individual
22 patients.

23 (d) Home dialysis patients who receive any drugs or devices
24 pursuant to subdivision (c) shall have completed a full course of
25 home training given by a dialysis center licensed by the State
26 Department of *Public Health Services*. The physician prescribing
27 the dialysis products shall submit proof satisfactory to the
28 manufacturer or wholesaler that the patient has completed the
29 program.

30 (e) A pharmacist may furnish a dangerous drug authorized for
31 use pursuant to Section 2620.3 to a physical therapist. A record
32 containing the date, name and address of the buyer, and name and
33 quantity of the drug shall be maintained. This subdivision shall
34 not be construed to authorize the furnishing of a controlled
35 substance.

36 (f) A pharmacist may furnish electroneuromyographic needle
37 electrodes or hypodermic needles used for the purpose of placing
38 wire electrodes for kinesiological electromyographic testing to
39 physical therapists who are certified by the Physical Therapy

1 ~~Examining Committee~~ *Board* of California to perform tissue
2 penetration in accordance with Section 2620.5.

3 (g) Nothing in this section shall be construed as permitting a
4 licensed physical therapist to dispense or furnish a dangerous
5 device without a prescription of a physician, dentist, podiatrist,
6 optometrist, or veterinarian.

7 (h) A veterinary food-animal drug retailer shall dispense, furnish,
8 transfer, or sell veterinary food-animal drugs only to another
9 veterinary food-animal drug retailer, a pharmacy, a veterinarian,
10 or to a veterinarian's client pursuant to a prescription from the
11 veterinarian for food-producing animals.

12 SEC. 20. Section 4072 of the Business and Professions Code
13 is amended to read:

14 4072. (a) Notwithstanding any other provision of law, a
15 pharmacist, registered nurse, licensed vocational nurse, licensed
16 psychiatric technician, or other healing arts licentiate, if so
17 authorized by administrative regulation, who is employed by or
18 serves as a consultant for a licensed skilled nursing, intermediate
19 care, or other health care facility, may orally or electronically
20 transmit to the furnisher a prescription lawfully ordered by a person
21 authorized to prescribe drugs or devices pursuant to Sections 4040
22 and 4070. The furnisher shall take appropriate steps to determine
23 that the person who transmits the prescription is authorized to do
24 so and shall record the name of the person who transmits the order.
25 This section shall not apply to orders for Schedule II controlled
26 substances.

27 (b) In enacting this section, the Legislature recognizes and
28 affirms the role of the *State* Department of *Public Health Services*
29 in regulating drug order processing requirements for licensed health
30 care facilities as set forth in Title 22 of the California Code of
31 Regulations as they may be amended from time to time.

32 SEC. 21. Section 4101 of the Business and Professions Code
33 is amended to read:

34 4101. (a) A pharmacist may take charge of and act as the
35 pharmacist-in-charge of a pharmacy upon application by the
36 pharmacy and approval by the board. Any pharmacist-in-charge
37 who ceases to act as the pharmacist-in-charge of the pharmacy
38 shall notify the board in writing within 30 days of the date of that
39 change in status.

1 (b) A designated representative or a pharmacist may take charge
2 of, and act as, the designated representative-in-charge of a
3 wholesaler or ~~veterinary-food-drug-animal~~ *food-animal drug*
4 retailer upon application by the wholesaler or ~~veterinary-food~~
5 ~~drug-animal~~ *food-animal drug* retailer and approval by the board.
6 Any designated representative-in-charge who ceases to act as the
7 designated representative-in-charge at that entity shall notify the
8 board in writing within 30 days of the date of that change in status.

9 SEC. 22. Section 4119 of the Business and Professions Code
10 is amended to read:

11 4119. (a) Notwithstanding any other provision of law, a
12 pharmacy may furnish a dangerous drug or dangerous device to a
13 licensed health care facility for storage in a secured emergency
14 pharmaceutical supplies container maintained within the facility
15 in accordance with facility regulations of the State Department of
16 ~~Public Health Services~~ set forth in Title 22 of the California Code
17 of Regulations and the requirements set forth in Section 1261.5 of
18 the Health and Safety Code. These emergency supplies shall be
19 approved by the facility's patient care policy committee or
20 pharmaceutical service committee and shall be readily available
21 to each nursing station. Section 1261.5 of the Health and Safety
22 Code limits the number of oral dosage form or suppository form
23 drugs in these emergency supplies to 24.

24 (b) Notwithstanding any other provision of law, a pharmacy
25 may furnish a dangerous drug or a dangerous device to an approved
26 service provider within an emergency medical services system for
27 storage in a secured emergency pharmaceutical supplies container,
28 in accordance with the policies and procedures of the local
29 emergency medical services agency, if all of the following are
30 met:

31 (1) The dangerous drug or dangerous device is furnished
32 exclusively for use in conjunction with services provided in an
33 ambulance, or other approved emergency medical services service
34 provider, that provides prehospital emergency medical services.

35 (2) The requested dangerous drug or dangerous device is within
36 the licensed or certified emergency medical technician's scope of
37 practice as established by the Emergency Medical Services
38 Authority and set forth in Title 22 of the California Code of
39 Regulations.

1 (3) The approved service provider within an emergency medical
2 services system provides a written request that specifies the name
3 and quantity of dangerous drugs or dangerous devices.

4 (4) The approved emergency medical services provider
5 administers dangerous drugs and dangerous devices in accordance
6 with the policies and procedures of the local emergency medical
7 services agency.

8 (5) The approved emergency medical services provider
9 documents, stores, and restocks dangerous drugs and dangerous
10 devices in accordance with the policies and procedures of the local
11 emergency medical services agency.

12 Records of each request by, and dangerous drugs or dangerous
13 devices furnished to, an approved service provider within an
14 emergency medical services system, shall be maintained by both
15 the approved service provider and the dispensing pharmacy for a
16 period of at least three years.

17 The furnishing of controlled substances to an approved
18 emergency medical services provider shall be in accordance with
19 the California Uniform Controlled Substances Act.

20 SEC. 23. Section 4127.1 of the Business and Professions Code
21 is amended to read:

22 4127.1. (a) A pharmacy shall not compound injectable sterile
23 drug products in this state unless the pharmacy has obtained a
24 license from the board pursuant to this section. The license shall
25 be renewed annually and is not transferable.

26 (b) A license to compound injectable sterile drug products may
27 only be issued for a location that is licensed as a pharmacy.
28 Furthermore, the license to compound injectable sterile drug
29 products may only be issued to the owner of the pharmacy license
30 at that location. A license to compound injectable sterile drug
31 products may not be issued until the location is inspected by the
32 board and found in compliance with this article and regulations
33 adopted by the board.

34 (c) A license to compound injectable sterile drug products may
35 not be renewed until the location has been inspected by the board
36 and found to be in compliance with this article and regulations
37 adopted by the board.

38 (d) Pharmacies operated by entities that are licensed by either
39 the board or the State Department of *Public Health Services* and
40 that have current accreditation from the Joint Commission on

1 Accreditation of Healthcare Organizations, or other private
2 accreditation agencies approved by the board, are exempt from
3 the requirement to obtain a license pursuant to this section.

4 (e) The reconstitution of a sterile powder shall not require a
5 license pursuant to this section if both of the following are met:

6 (1) The sterile powder was obtained from a manufacturer.

7 (2) The drug is reconstituted for administration to patients by
8 a health care professional licensed to administer drugs by injection
9 pursuant to this division.

10 ~~(f) This section shall become effective on the earlier of July 1,~~
11 ~~2003, or the effective date of regulations adopted by the board~~
12 ~~pursuant to Section 4127.~~

13 SEC. 24. Section 4169 of the Business and Professions Code
14 is amended to read:

15 4169. (a) A person or entity may not do any of the following:

16 (1) Purchase, trade, sell, or transfer dangerous drugs or
17 dangerous devices at wholesale with a person or entity that is not
18 licensed with the board as a wholesaler or pharmacy.

19 (2) Purchase, trade, sell, or transfer dangerous drugs that the
20 person knew or reasonably should have known were adulterated,
21 as set forth in Article 2 (commencing with Section 111250) of
22 Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

23 (3) Purchase, trade, sell, or transfer dangerous drugs that the
24 person knew or reasonably should have known were misbranded,
25 as defined in Section 111335 of the Health and Safety Code.

26 (4) Purchase, trade, sell, or transfer dangerous drugs or
27 dangerous devices after the beyond use date on the label.

28 (5) Fail to maintain records of the acquisition or disposition of
29 dangerous drugs or dangerous devices for at least three years.

30 (b) Notwithstanding any other provision of law, a violation of
31 this section or of subdivision (c) or (d) of Section 4163 may subject
32 the person or entity that has committed the violation to a fine not
33 to exceed the amount specified in Section 125.9 for each
34 occurrence, pursuant to a citation issued by the board.

35 (c) Amounts due from any person under this section shall be
36 offset as provided under Section 12419.5 of the Government Code.
37 Amounts received by the board under this section shall be deposited
38 into the Pharmacy Board Contingent Fund.

1 (d) This section shall not apply to a pharmaceutical manufacturer
2 licensed by the Food and Drug Administration or by the State
3 Department of *Public Health Services*.

4 ~~(e) This section shall become operative on January 1, 2008.~~

5 SEC. 25. Section 4181 of the Business and Professions Code
6 is amended to read:

7 4181. (a) Prior to the issuance of a clinic license authorized
8 under Section 4180, the clinic shall comply with all applicable
9 laws and regulations of the State Department of *Public Health*
10 ~~*Services*~~ relating to the drug distribution service to ensure that
11 inventories, security procedures, training, protocol development,
12 recordkeeping, packaging, labeling, dispensing, and patient
13 consultation occur in a manner that is consistent with the promotion
14 and protection of the health and safety of the public. The policies
15 and procedures to implement the laws and regulations shall be
16 developed and approved by the consulting pharmacist, the
17 professional director, and the clinic administrator.

18 (b) The dispensing of drugs in a clinic shall be performed only
19 by a physician, a pharmacist, or other person lawfully authorized
20 to dispense drugs, and only in compliance with all applicable laws
21 and regulations.

22 SEC. 26. Section 4191 of the Business and Professions Code
23 is amended to read:

24 4191. (a) Prior to the issuance of a clinic license authorized
25 under this article, the clinic shall comply with all applicable laws
26 and regulations of the State Department of *Public Health Services*
27 and the board relating to drug distribution to ensure that
28 inventories, security procedures, training, protocol development,
29 recordkeeping, packaging, labeling, dispensing, and patient
30 consultation are carried out in a manner that is consistent with the
31 promotion and protection of the health and safety of the public.
32 The policies and procedures to implement the laws and regulations
33 shall be developed and approved by the consulting pharmacist, the
34 professional director, and the clinic administrator.

35 (b) The dispensing of drugs in a clinic that has received a license
36 under this article shall be performed only by a physician, a
37 pharmacist, or other person lawfully authorized to dispense drugs,
38 and only in compliance with all applicable laws and regulations.

39 SEC. 27. Section 4196 of the Business and Professions Code
40 is amended to read:

1 4196. (a) No person shall conduct a veterinary food-animal
2 drug retailer in the State of California unless he or she has obtained
3 a license from the board. A license shall be required for each
4 veterinary food-animal drug retailer owned or operated by a
5 specific person. A separate license shall be required for each of
6 the premises of any person operating a veterinary food-animal
7 drug retailer in more than one location. The license shall be
8 renewed annually and shall not be transferable.

9 (b) The board may issue a temporary license, upon conditions
10 and for periods of time as the board determines to be in the public
11 interest. A temporary license fee shall be fixed by the board at an
12 amount not to exceed the annual fee for renewal of a license to
13 conduct a veterinary food-animal drug retailer.

14 (c) No person other than a pharmacist, an intern pharmacist, a
15 designated representative, an authorized officer of the law, or a
16 person authorized to prescribe, shall be permitted in that area,
17 place, or premises described in the permit issued by the board
18 pursuant to Section 4041, wherein veterinary food-animal drugs
19 are stored, possessed, or repacked. A pharmacist or designated
20 representative shall be responsible for any individual who enters
21 the veterinary food-animal drug retailer for the purpose of
22 performing clerical, inventory control, housekeeping, delivery,
23 maintenance, or similar functions relating to the veterinary
24 food-animal drug retailer.

25 (d) Every veterinary food-animal drug retailer shall be
26 supervised or managed by a designated representative-in-charge.
27 The designated representative-in-charge shall be responsible for
28 the veterinary food-animal drug retailer's compliance with state
29 and federal laws governing veterinary food-animal drug retailers.
30 As part of its initial application for a license, and for each renewal,
31 each veterinary food-animal drug retailer shall, on a form designed
32 by the board, provide identifying information and the California
33 license number for a designated representative or pharmacist
34 proposed to serve as the designated representative-in-charge. The
35 proposed designated representative-in-charge shall be subject to
36 approval by the board. The board shall not issue or renew a
37 veterinary food-animal drug retailer license without identification
38 of an approved designated representative-in-charge for the
39 veterinary food-animal drug retailer.

1 (e) Every veterinary food-animal drug retailer shall notify the
2 board in writing, on a form designed by the board, within 30 days
3 of the date when a designated representative-in-charge who ceases
4 to act as the designated ~~representative~~ *representative-in-charge*,
5 *and shall on the same form propose another designated*
6 *representative* or pharmacist to take over as the designated
7 representative-in-charge. The proposed replacement designated
8 representative-in-charge shall be subject to approval by the board.
9 If disapproved, the veterinary food-animal drug retailer shall
10 propose another replacement within 15 days of the date of
11 disapproval, and shall continue to name proposed replacements
12 until a designated representative-in-charge is approved by the
13 board.

14 (f) For purposes of this section, designated
15 representative-in-charge means a person granted a designated
16 representative license pursuant to Section 4053, or a registered
17 pharmacist, who is the supervisor or manager of the facility.

18 SEC. 28. Section 4200.1 is added to the Business and
19 Professions Code, to read:

20 4200.1. (a) Notwithstanding Section 135, an applicant may
21 take the North American Pharmacist Licensure Examination four
22 times, and may take the California Practice Standards and
23 Jurisprudence Examination for Pharmacists four times.

24 (b) Notwithstanding Section 135, an applicant may take the
25 North American Pharmacist Licensure Examination and the
26 California Practice Standards and Jurisprudence Examination for
27 Pharmacists four additional times each if he or she successfully
28 completes, at a minimum, 16 additional semester units of education
29 in pharmacy as approved by the board.

30 (c) The applicant shall comply with the requirements of Section
31 4200 for each application for reexamination made pursuant to
32 subdivision (b).

33 (d) An applicant may use the same coursework to satisfy the
34 additional educational requirement for each examination under
35 subdivision (b), if the coursework was completed within 12 months
36 of the date of his or her application for reexamination.

37 (e) For purposes of this section, the board shall treat each failing
38 score on the pharmacist licensure examination administered by
39 the board prior to January 1, 2004, as a failing score on both the
40 North American Pharmacist Licensure Examination and the

1 California Practice Standards and Jurisprudence Examination for
2 Pharmacists.

3 SEC. 29. Section 4425 of the Business and Professions Code
4 is amended to read:

5 4425. (a) As a condition for the participation of a pharmacy
6 in the Medi-Cal program pursuant to Chapter 7 (commencing with
7 Section 14000) of Division 9 of the Welfare and Institutions Code,
8 the pharmacy, upon presentation of a valid prescription for the
9 patient and the patient's Medicare card, shall charge Medicare
10 beneficiaries a price that does not exceed the Medi-Cal
11 reimbursement rate for prescription medicines, and an amount, as
12 set by the State Department of Health *Care* Services to cover
13 electronic transmission charges. However, Medicare beneficiaries
14 shall not be allowed to use the Medi-Cal reimbursement rate for
15 over-the-counter medications or compounded prescriptions.

16 (b) The State Department of Health *Care* Services shall provide
17 a mechanism to calculate and transmit the price to the pharmacy,
18 but shall not apply the Medi-Cal drug utilization review process
19 for purposes of this section.

20 (c) The State Department of Health *Care* Services shall monitor
21 pharmacy participation with the requirements of subdivision (a).

22 (d) The State Department of Health *Care* Services shall conduct
23 an outreach program to inform Medicare beneficiaries of their
24 right to participate in the program described in subdivision (a),
25 including, but not limited to, the following:

26 (1) Including on its Internet Web site the Medi-Cal
27 reimbursement rate for, at minimum, 200 of the most commonly
28 prescribed medicines and updating this information monthly.

29 (2) Providing a sign to participating pharmacies that the
30 pharmacies shall prominently display at the point of service and
31 at the point of sale, reminding the Medicare beneficiaries to ask
32 that the charge for their prescription be the same amount as the
33 Medi-Cal reimbursement rate and providing the department's
34 telephone number, e-mail address, and Internet Web site address
35 to access information about the program.

36 (e) If prescription drugs are added to the scope of benefits
37 available under the federal Medicare program, the Senate Office
38 of Research shall report that fact to the appropriate committees of
39 the Legislature. It is the intent of the Legislature to evaluate the

1 need to continue the implementation of this article under those
2 circumstances.

3 (f) This section shall not apply to a prescription that is covered
4 by insurance.

5 SEC. 30. Section 4426 of the Business and Professions Code
6 is amended to read:

7 4426. The State Department of Health *Care* Services shall
8 conduct a study of the adequacy of Medi-Cal pharmacy
9 reimbursement rates including the cost of providing prescription
10 drugs and services.

11 SEC. 31. Section 4980.07 of the Business and Professions
12 Code is repealed.

13 ~~4980.07. The board shall administer the provisions of this~~
14 ~~chapter.~~

15 SEC. 32. Section 4980.40.5 of the Business and Professions
16 Code is amended to read:

17 4980.40.5. (a) A doctor’s or master’s degree in marriage,
18 family, and child counseling, marital and family therapy,
19 psychology, clinical psychology, counseling psychology, or
20 counseling with an emphasis in either marriage, family, and child
21 counseling, or marriage and family therapy, obtained from a school,
22 college, or university approved by the Bureau for Private
23 Postsecondary and Vocational Education as of June 30, 2007, shall
24 be considered by the board to meet the requirements necessary for
25 licensure as a marriage and family therapist and for registration
26 as a marriage and family therapist intern provided that the degree
27 is conferred on or before July 1, 2010.

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

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

36 (2) Middle States Association of Colleges and Secondary
37 Schools.

38 (3) New England Association of Schools and Colleges.

39 (4) North Central Association of Colleges and Secondary
40 Schools.

1 (5) Southern Association of Colleges and Schools.

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

11 SEC. 33. Section 4980.43 of the Business and Professions
12 Code is amended to read:

13 4980.43. (a) Prior to applying for licensure examinations, each
14 applicant shall complete experience that shall comply with the
15 following:

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

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

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

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

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

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

30 (6) No hours of experience gained more than six years prior to
31 the date the application for examination eligibility was filed, except
32 that up to 500 hours of clinical experience gained in the supervised
33 practicum required by subdivision (c) of Section 4980.37 and
34 subparagraph (B) of paragraph (1) of subdivision (d) of Section
35 4980.36 shall be exempt from this six-year requirement.

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

38 (A) Direct supervisor contact.

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

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

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

12 (C) Client centered advocacy.

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

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

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

23 (11) Not more than 375 hours of experience providing personal
24 psychotherapy, crisis counseling, or other counseling services via
25 telemedicine in accordance with Section 2290.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (g) Except when employed in a private practice setting, all
36 postdegree hours of experience shall be credited toward licensure
37 so long as the applicant applies for the intern registration within
38 90 days of the granting of the qualifying master's or doctor's
39 degree and is thereafter granted the intern registration by the board.

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

4 (i) Trainees, interns, and applicants shall only perform services
5 at the place where their employers regularly conduct business,
6 which may include performing services at other locations, so long
7 as the services are performed under the direction and control of
8 their employer and supervisor, and in compliance with the laws
9 and regulations pertaining to supervision. Trainees and interns
10 shall have no proprietary interest in their employers' businesses
11 and shall not lease or rent space, pay for furnishings, equipment
12 or supplies, or in any other way pay for the obligations of their
13 employers.

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

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

35 SEC. 34. Section 4980.80 of the Business and Professions
36 Code is amended to read:

37 4980.80. (a) This section applies to persons who apply for
38 licensure between January 1, 2010, and December 31, 2013,
39 inclusive.

1 (b) The board may issue a license to a person who, at the time
2 of application, ~~has held for at least two years~~ holds a valid license
3 issued by a board of marriage counselor examiners, marriage
4 therapist examiners, or corresponding authority of any state, if the
5 *all of the following requirements are satisfied:*
6 (1) *The person has held that license for at least two years*
7 *immediately preceding the date of application.*
8 (2) *The education and supervised experience requirements are*
9 *substantially the equivalent of this ~~chapter, the~~ chapter.*
10 (3) *The person complies with Section 4980.76, if ~~applicable,~~*
11 *and the applicable.*
12 (4) *The person successfully completes the board administered*
13 *licensing examinations as specified by subdivision (d) of Section*
14 *4980.40 and pays the fees specified. ~~Issuance of the license is~~*
15 *further conditioned upon the person's completion*
16 (5) *The person completes all of the following coursework or*
17 *training:*
18 ~~(1) (A) An~~
19 (A) (i) *An applicant who completed a two semester or three*
20 *quarter unit course in law and professional ethics for marriage and*
21 *family therapists that included areas of study as specified in Section*
22 *4980.41 as part of his or her qualifying degree shall complete an*
23 *18-hour course in California law and professional ethics that*
24 *includes, but is not limited to, the following subjects: advertising,*
25 *scope of practice, scope of competence, treatment of minors,*
26 *confidentiality, dangerous patients, psychotherapist-patient*
27 *privilege, recordkeeping, patient access to records, requirements*
28 *of the Health Insurance Portability and Accountability Act of 1996,*
29 *dual relationships, child abuse, elder and dependent adult abuse,*
30 *online therapy, insurance reimbursement, civil liability, disciplinary*
31 *actions and unprofessional conduct, ethics complaints and ethical*
32 *standards, termination of therapy, standards of care, relevant family*
33 *law, and therapist disclosures to patients.*
34 ~~(B)~~
35 (ii) *An applicant who has not completed a two semester or three*
36 *quarter unit course in law and professional ethics for marriage and*
37 *family therapists that included areas of study as specified in Section*
38 *4980.41 as part of his or her qualifying degree, shall complete a*
39 *two semester or three quarter unit course in California law and*

1 professional ethics that includes, at minimum, the areas of study
2 specified in Section 4980.41.

3 ~~(2)~~

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

7 ~~(3)~~

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

11 ~~(4)~~

12 (D) A minimum of 15 contact hours of training or coursework
13 in alcoholism and other chemical substance dependency as
14 specified by regulation.

15 ~~(5) (A)~~

16 (E) (i) Instruction in spousal or partner abuse assessment,
17 detection, and intervention. This instruction may be taken either
18 in fulfillment of other requirements for licensure or in a separate
19 course.

20 ~~(B)~~

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

24 ~~(6)~~

25 (F) A minimum of a two semester or three quarter unit survey
26 course in psychological testing. This course may be taken either
27 in fulfillment of other requirements for licensure or in a separate
28 course.

29 ~~(7)~~

30 (G) A minimum of a two semester or three quarter unit survey
31 course in psychopharmacology. This course may be taken either
32 in fulfillment of other requirements for licensure or in a separate
33 course.

34 ~~(8)~~

35 (H) With respect to human sexuality, alcoholism and other
36 chemical substance dependency, spousal or partner abuse
37 assessment, detection, and intervention, psychological testing, and
38 psychopharmacology, the board may accept training or coursework
39 acquired out of state.

1 (c) This section shall remain in effect only until January 1, 2014,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2014, deletes or extends that date.

4 SEC. 35. Section 4982.2 of the Business and Professions Code
5 is repealed.

6 ~~4982.2.—(a) A licensed marriage and family therapist, marriage
7 and family therapist intern, licensed clinical social worker,
8 associate clinical social worker, or licensed educational
9 psychologist whose license or registration has been revoked or
10 suspended or who has been placed on probation may petition the
11 board for reinstatement or modification of the penalty, including
12 modification or termination of probation, after a period not less
13 than the following minimum periods has elapsed from the effective
14 date of the decision ordering the disciplinary action, or if the order
15 of the board, or any portion of it, is stayed by the board itself, or
16 by the superior court, from the date the disciplinary action is
17 actually implemented in its entirety:~~

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

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

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

28 ~~(b) The petition may be heard by the board itself, or the board
29 may assign the petition to an administrative law judge pursuant to
30 Section 11512 of the Government Code. The board shall give
31 notice to the Attorney General of the filing of the petition. The
32 petitioner and the Attorney General shall be given timely notice
33 by letter of the time and place of the hearing on the petition, and
34 an opportunity to present both oral and documentary evidence and
35 argument to the board. The petitioner shall at all times have the
36 burden of production and proof to establish by clear and convincing
37 evidence that he or she is entitled to the relief sought in the petition.
38 The board, when it is hearing the petition itself, or an administrative
39 law judge sitting for the board, may consider all activities of the
40 petitioner since the disciplinary action was taken, the offense for~~

1 which the petitioner was disciplined, the petitioner's activities
2 during the time his or her license was in good standing, and the
3 petitioner's rehabilitative efforts, general reputation for truth, and
4 professional ability.

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

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

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

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

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

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

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

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

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

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

17 SEC. 36. Section 4982.25 of the Business and Professions
18 Code is amended to read:

19 4982.25. The board may deny ~~any~~ *an* application, or may
20 suspend or revoke ~~any~~ *a* license or registration issued under this
21 chapter, for any of the following:

22 (a) Denial of licensure, revocation, suspension, restriction, or
23 any other disciplinary action imposed by another state or territory
24 or possession of the United States, or by any other governmental
25 agency, on a license, certificate, or registration to practice marriage
26 and family therapy, or any other healing art, shall constitute
27 unprofessional conduct. A certified copy of the disciplinary action
28 decision or judgment shall be conclusive evidence of that action.

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

35 SEC. 37. Section 4984.6 of the Business and Professions Code
36 is repealed.

37 ~~4984.6. (a) The Behavioral Sciences Fund shall be used for~~
38 ~~the purposes of carrying out and enforcing the provisions of this~~
39 ~~chapter.~~

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

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

11 SEC. 38. Section 4984.8 of the Business and Professions Code
12 is amended to read:

13 4984.8. (a) A licensee may apply to the board to request that
14 his or her license be placed on inactive status.

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

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

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

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

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

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

36 SEC. 39. Section 4989.54 of the Business and Professions
37 Code is amended to read:

38 4989.54. The board may deny a license or may suspend or
39 revoke the license of a licensee if he or she has been guilty of

1 unprofessional conduct. Unprofessional conduct includes, but is
2 not limited to, the following:

3 (a) Conviction of a crime substantially related to the
4 qualifications, functions, and duties of an educational psychologist.

5 (1) The record of conviction shall be conclusive evidence only
6 of the fact that the conviction occurred.

7 (2) The board may inquire into the circumstances surrounding
8 the commission of the crime in order to fix the degree of discipline
9 or to determine if the conviction is substantially related to the
10 qualifications, functions, or duties of a licensee under this chapter.

11 (3) A plea or verdict of guilty or a conviction following a plea
12 of nolo contendere made to a charge substantially related to the
13 qualifications, functions, or duties of a licensee under this chapter
14 shall be deemed to be a conviction within the meaning of this
15 section.

16 (4) The board may order a license suspended or revoked, or
17 may decline to issue a license when the time for appeal has elapsed,
18 or the judgment of conviction has been affirmed on appeal, or
19 when an order granting probation is made suspending the
20 imposition of sentence, irrespective of a subsequent order under
21 Section 1203.4 of the Penal Code allowing the person to withdraw
22 a plea of guilty and enter a plea of not guilty or setting aside the
23 verdict of guilty or dismissing the accusation, information, or
24 indictment.

25 (b) Securing a license by fraud, deceit, or misrepresentation on
26 an application for licensure submitted to the board, whether
27 engaged in by an applicant for a license or by a licensee in support
28 of an application for licensure.

29 (c) Administering to himself or herself a controlled substance
30 or using any of the dangerous drugs specified in Section 4022 or
31 an alcoholic beverage to the extent, or in a manner, as to be
32 dangerous or injurious to himself or herself or to any other person
33 or to the public or to the extent that the use impairs his or her ability
34 to safely perform the functions authorized by the license. The board
35 shall deny an application for a license or revoke the license of any
36 person, other than one who is licensed as a physician and surgeon,
37 who uses or offers to use drugs in the course of performing
38 educational psychology.

39 (d) Failure to comply with the consent provisions in Section
40 2290.5.

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

3 (f) Violating, attempting to violate, or conspiring to violate any
4 of the provisions of this chapter or any regulation adopted by the
5 board.

6 (g) Commission of any dishonest, corrupt, or fraudulent act
7 substantially related to the qualifications, functions, or duties of a
8 licensee.

9 (h) Denial of licensure, revocation, suspension, restriction, or
10 any other disciplinary action imposed by another state or territory
11 or possession of the United States or by any other governmental
12 agency, on a license, certificate, or registration to practice
13 educational psychology or any other healing art. A certified copy
14 of the disciplinary action, decision, or judgment shall be conclusive
15 evidence of that action.

16 (i) Revocation, suspension, or restriction by the board of a
17 license, certificate, or registration to practice as a clinical social
18 worker, *professional clinical counselor*, or marriage and family
19 therapist.

20 (j) Failure to keep records consistent with sound clinical
21 judgment, the standards of the profession, and the nature of the
22 services being rendered.

23 (k) Gross negligence or incompetence in the practice of
24 educational psychology.

25 (l) Misrepresentation as to the type or status of a license held
26 by the licensee or otherwise misrepresenting or permitting
27 misrepresentation of his or her education, professional
28 qualifications, or professional affiliations to any person or entity.

29 (m) Intentionally or recklessly causing physical or emotional
30 harm to any client.

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

38 (o) Prior to the commencement of treatment, failing to disclose
39 to the client or prospective client the fee to be charged for the

1 professional services or the basis upon which that fee will be
2 computed.

3 (p) Paying, accepting, or soliciting any consideration,
4 compensation, or remuneration, whether monetary or otherwise,
5 for the referral of professional clients.

6 (q) Failing to maintain confidentiality, except as otherwise
7 required or permitted by law, of all information that has been
8 received from a client in confidence during the course of treatment
9 and all information about the client that is obtained from tests or
10 other means.

11 (r) Performing, holding himself or herself out as being able to
12 perform, or offering to perform any professional services beyond
13 the scope of the license authorized by this chapter or beyond his
14 or her field or fields of competence as established by his or her
15 education, training, or experience.

16 (s) Reproducing or describing in public, or in any publication
17 subject to general public distribution, any psychological test or
18 other assessment device the value of which depends in whole or
19 in part on the naivete of the subject in ways that might invalidate
20 the test or device. An educational psychologist shall limit access
21 to the test or device to persons with professional interests who can
22 be expected to safeguard its use.

23 (t) Aiding or abetting an unlicensed person to engage in conduct
24 requiring a license under this chapter.

25 (u) When employed by another person or agency, encouraging,
26 either orally or in writing, the employer's or agency's clientele to
27 utilize his or her private practice for further counseling without
28 the approval of the employing agency or administration.

29 (v) Failing to comply with the child abuse reporting
30 requirements of Section 11166 of the Penal Code.

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

34 (x) Willful violation of Chapter 1 (commencing with Section
35 123100) of Part 1 of Division 106 of the Health and Safety Code.

36 (y) (1) Engaging in an act described in Section 261, 286, 288a,
37 or 289 of the Penal Code with a minor or an act described in
38 Section 288 or 288.5 of the Penal Code regardless of whether the
39 act occurred prior to or after the time the registration or license
40 was issued by the board. An act described in this subdivision

1 occurring prior to the effective date of this subdivision shall
2 constitute unprofessional conduct and shall subject the licensee to
3 refusal, suspension, or revocation of a license under this section.

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

12 (z) Engaging in any conduct that subverts or attempts to subvert
13 any licensing examination or the administration of the examination
14 as described in Section 123.

15 (aa) Impersonation of another by any licensee or applicant for
16 a license, or, in the case of a licensee, allowing any other person
17 to use his or her license.

18 (ab) Permitting a person under his or her supervision or control
19 to perform, or permitting that person to hold himself or herself out
20 as competent to perform, professional services beyond the level
21 of education, training, or experience of that person.

22 SEC. 40. Section 4990.02 of the Business and Professions
23 Code is amended to read:

24 4990.02. “Board,” as used in this chapter, Chapter 13
25 (commencing with Section 4980), Chapter 13.5 (commencing with
26 Section 4989.10), ~~and~~ Chapter 14 (commencing with Section
27 4991), *and Chapter 16 (commencing with Section 4999.10)* means
28 the Board of Behavioral Sciences.

29 SEC. 41. Section 4990.12 of the Business and Professions
30 Code is amended to read:

31 4990.12. The duty of administering and enforcing this chapter,
32 Chapter 13 (commencing with Section 4980), Chapter 13.5
33 (commencing with Section 4989.10), ~~and~~ Chapter 14 (commencing
34 with Section 4991), *and Chapter 16 (commencing with Section*
35 *4999.10)* is vested in the board and the executive officer subject
36 to, and under the direction of, the board. In the performance of
37 this duty, the board and the executive officer have all the powers
38 and are subject to all the responsibilities vested in, and imposed
39 upon, the head of a department by Chapter 2 (commencing with

1 Section 11150) of Part 1 of Division 3 of Title 2 of the Government
2 Code.

3 SEC. 42. Section 4990.18 of the Business and Professions
4 Code is amended to read:

5 4990.18. It is the intent of the Legislature that the board employ
6 its resources for each and all of the following functions:

7 (a) The licensure of marriage and family therapists, clinical
8 social workers, *professional clinical counselors*, and educational
9 psychologists.

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

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

18 (d) Consumer education.

19 SEC. 43. Section 4990.22 of the Business and Professions
20 Code is amended to read:

21 4990.22. (a) The Behavioral Sciences Fund shall be used for
22 the purposes of carrying out and enforcing the provisions of this
23 chapter *and the chapters listed in Section 4990.12. All moneys in*
24 *the fund shall be expended by the board for the purposes of the*
25 *programs under its jurisdiction.*

26 (b) The board shall keep records that reasonably ensure that
27 funds expended in the administration of each licensure or
28 registration category shall bear a reasonable relation to the revenue
29 derived from each category and report to the department no later
30 than May 31 of each year on those expenditures.

31 (c) Surpluses, if any, may be used by the board in a manner that
32 bears a reasonable relation to the revenue derived from each
33 licensure or registration category and may include, but not be
34 limited to, expenditures for education and research related to each
35 of the licensing or registration categories.

36 SEC. 44. Section 4990.30 of the Business and Professions
37 Code is amended to read:

38 4990.30. (a) A licensed marriage and family therapist, marriage
39 and family therapist intern, licensed clinical social worker,
40 associate clinical social worker, *licensed professional clinical*

1 *counselor, professional clinical counselor intern*, or licensed
2 educational psychologist whose license or registration has been
3 revoked, suspended, or placed on probation, may petition the board
4 for reinstatement or modification of the penalty, including
5 modification or termination of probation. The petition shall be on
6 a form provided by the board and shall state any facts and
7 information as may be required by the board including, but not
8 limited to, proof of compliance with the terms and conditions of
9 the underlying disciplinary order. The petition shall be verified by
10 the petitioner who shall file an original and sufficient copies of
11 the petition, together with any supporting documents, for the
12 members of the board, the administrative law judge, and the
13 Attorney General.

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

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

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

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

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

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

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

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

4 (g) The board, when it is hearing the petition itself, or an
5 administrative law judge sitting for the board, may consider all
6 activities of the petitioner since the disciplinary action was taken,
7 the offense for which the petitioner was disciplined, the petitioner's
8 activities during the time his or her license or registration was in
9 good standing, and the petitioner's rehabilitative efforts, general
10 reputation for truth, and professional ability.

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

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

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

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

37 (l) No petition shall be considered while the petitioner is under
38 sentence for any criminal offense, including any period during
39 which the petitioner is on court-imposed probation or parole or
40 the petitioner is required to register pursuant to Section 290 of the

1 Penal Code. No petition shall be considered while there is an
2 accusation or petition to revoke probation pending against the
3 petitioner.

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

10 SEC. 45. Section 4990.38 of the Business and Professions
11 Code is amended to read:

12 4990.38. The board may deny an application or may suspend
13 or revoke a license or registration issued under the chapters it
14 administers and enforces for any disciplinary action imposed by
15 another state or territory or possession of the United States, or by
16 a governmental agency on a license, certificate or registration to
17 practice marriage and family therapy, clinical social work,
18 educational psychology, *professional clinical counseling*, or any
19 other healing art. The disciplinary action, which may include denial
20 of licensure or revocation or suspension of the license or imposition
21 of restrictions on it, constitutes unprofessional conduct. A certified
22 copy of the disciplinary action decision or judgment shall be
23 conclusive evidence of that action.

24 SEC. 46. Section 4992.36 of the Business and Professions
25 Code is amended to read:

26 4992.36. The board may deny ~~any~~ *an* application, or may
27 suspend or revoke ~~any~~ *a* license or registration issued under this
28 chapter, for any of the following:

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

37 (b) Revocation, suspension, or restriction by the board of a
38 license, certificate, or registration to practice marriage and family
39 therapy, *professional clinical counseling*, or educational
40 psychology against a licensee or registrant shall also constitute

1 grounds for disciplinary action for unprofessional conduct under
2 this chapter.

3 SEC. 47. Article 3 (commencing with Section 4994) of Chapter
4 14 of Division 2 of the Business and Professions Code is repealed.

5 SEC. 48. Section 4996.17 of the Business and Professions
6 Code is amended to read:

7 4996.17. (a) Experience gained outside of California shall be
8 accepted toward the licensure requirements if it is substantially
9 the equivalent of the requirements of this chapter.

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

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

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

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

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

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

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

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

38 (4) The applicant is not currently under investigation in any
39 other state, and has not been charged with an offense for any act
40 substantially related to the practice of social work by any public

1 agency, entered into any consent agreement or been subject to an
2 administrative decision that contains conditions placed by an
3 agency upon an applicant's professional conduct or practice,
4 including any voluntary surrender of license, or been the subject
5 of an adverse judgment resulting from the practice of social work
6 that the board determines constitutes evidence of a pattern of
7 incompetence or negligence.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 SEC. 49. Section 4996.23 of the Business and Professions
17 Code is amended to read:

18 4996.23. The experience required by subdivision (c) of Section
19 4996.2 shall meet the following criteria:

20 (a) All persons registered with the board on and after January
21 1, 2002, shall have at least 3,200 hours of post-master's degree
22 supervised experience providing clinical social work services as
23 permitted by Section 4996.9. At least 1,700 hours shall be gained
24 under the supervision of a licensed clinical social worker. The
25 remaining required supervised experience may be gained under
26 the supervision of a licensed mental health professional acceptable
27 to the board as defined by a regulation adopted by the board. This
28 experience shall consist of the following:

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

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

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

38 (4) A minimum of two years of supervised experience is required
39 to be obtained over a period of not less than 104 weeks and shall

1 have been gained within the six years immediately preceding the
2 date on which the application for licensure was filed.

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

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

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

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

20 (3) An associate shall receive an average of at least one hour of
21 direct supervisor contact for every week in which more than 10
22 hours of face-to-face psychotherapy is performed in each setting
23 in which experience is gained. No more than five hours of
24 supervision, whether individual or group, shall be credited during
25 any single week.

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

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

35 (6)

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

40 (7)

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

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

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

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

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

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

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

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

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

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

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

39 (l) An associate shall not do the following:

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

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

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

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

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

16 SEC. 50. Section 4999.46 of the Business and Professions
17 Code is amended to read:

18 4999.46. (a) To qualify for licensure, applicants shall complete
19 clinical mental health experience under the general supervision of
20 an approved supervisor as defined in Section 4999.12.

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

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

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

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

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

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

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

39 (A) Direct supervisor contact.

40 (B) Client centered advocacy.

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

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

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

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

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

25 (f) *Experience obtained under the supervision of a spouse or
26 relative by blood or marriage shall not be credited toward the
27 required hours of supervised experience. Experience obtained
28 under the supervision of a supervisor with whom the applicant has
29 had or currently has a personal, professional, or business
30 relationship that undermines the authority or effectiveness of the
31 supervision shall not be credited toward the required hours of
32 supervised experience.*

33 (f)

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

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

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

4 (2) *An intern shall receive at least one additional hour of direct*
5 *supervisor contact for every week in which more than 10 hours of*
6 *face-to-face psychotherapy is performed in each setting in which*
7 *experience is gained.*

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

13 (4) ~~An~~ *Notwithstanding paragraph (3), an intern working in a*
14 *governmental entity, a school, a college, or a university, or an*
15 *institution that is both nonprofit and charitable, may obtain up to*
16 ~~30 hours~~ *of the required weekly direct supervisor contact via*
17 *two-way, real-time videoconferencing. The supervisor shall be*
18 *responsible for ensuring that client confidentiality is upheld.*

19 SEC. 51. Section 4999.57 is added to the Business and
20 Professions Code, to read:

21 4999.57. (a) This section applies to a person who applies for
22 examination eligibility or registration between January 1, 2011,
23 and December 31, 2013, inclusive, who does not hold a license
24 described in subdivision (a) of Section 4999.58.

25 (b) Experience gained outside of California shall be accepted
26 toward the licensure requirements if it is substantially equivalent
27 to that required by this chapter, if the applicant complies with
28 Section 4999.40, if applicable, and if the applicant has gained a
29 minimum of 250 hours of supervised experience in direct
30 counseling within California while registered as an intern with the
31 board.

32 (c) Education gained while residing outside of California shall
33 be accepted toward the licensure requirements if it is substantially
34 equivalent to the education requirements of this chapter, if the
35 applicant has completed the training or coursework required under
36 subdivision (e) of Section 4999.32, and if the applicant completes,
37 in addition to the course described in subparagraph (I) of paragraph
38 (1) of subdivision (c) of Section 4999.32, an 18-hour course in
39 California law and professional ethics that includes, but is not
40 limited to, instruction in advertising, scope of practice, scope of

1 competence, treatment of minors, confidentiality, dangerous clients,
2 psychotherapist-client privilege, recordkeeping, client access to
3 records, the Health Insurance Portability and Accountability Act,
4 dual relationships, child abuse, elder and dependent adult abuse,
5 online therapy, insurance reimbursement, civil liability, disciplinary
6 actions and unprofessional conduct, ethics complaints and ethical
7 standards, termination of therapy, standards of care, relevant family
8 law, and therapist disclosures to clients.

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

16 (1) The applicant's degree contains the required number of
17 practicum units under paragraph (3) of subdivision (c) of Section
18 4999.32.

19 (2) The applicant remediates his or her specific deficiency by
20 completing the course content and units required by Section
21 4999.32.

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

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

26 SEC. 52. Section 4999.58 of the Business and Professions
27 Code is amended to read:

28 4999.58. (a) This section applies to ~~persons who apply a~~
29 *person who applies* for examination eligibility between January
30 1, 2011, and December 31, 2013, ~~inclusive~~. *inclusive, who meets*
31 *both of the following requirements:*

32 (1) *At the time of application, holds a valid license as a*
33 *professional clinical counselor; or other counseling license that*
34 *allows the applicant to independently provide clinical mental*
35 *health services, in another jurisdiction of the United States.*

36 (2) *Has held the license described in paragraph (1) for at least*
37 *two years immediately preceding the date of application.*

38 (b) The board may issue a license to a person ~~who, at the time~~
39 ~~of application, has held for at least two years, a valid license as a~~
40 ~~professional clinical counselor, or other counseling license that~~

1 allows the applicant to independently provide clinical mental health
2 services, in another jurisdiction of the United States, if the
3 described in subdivision (a) if all of the following requirements
4 are satisfied:

5 (1) The education and supervised experience requirements of
6 the other jurisdiction are substantially the equivalent of this
7 chapter, as described in subdivision (e) and in Section 4999.46.

8 (2) The person complies with subdivision (b) of Section 4999.40,
9 if applicable, the applicable.

10 (3) The person successfully completes the examinations required
11 by the board pursuant to paragraph (3) of subdivision (a) of Section
12 4999.50, and the 4999.50.

13 (4) The person pays the required fees.

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

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

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

8 (1) The applicant's degree contains the required number of
9 practicum units under paragraph (3) of subdivision (c) of Section
10 4999.32.

11 (2) The applicant remediates his or her specific deficiency by
12 completing the course content and units required by Section
13 4999.32.

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

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

18 SEC. 53. Section 4999.59 is added to the Business and
19 Professions Code, to read:

20 4999.59. (a) This section applies to a person who applies for
21 examination eligibility or registration between January 1, 2011,
22 and December 31, 2013, inclusive, who meets both of the following
23 requirements:

24 (1) At the time of application, holds a valid license described
25 in paragraph (1) of subdivision (a) of Section 4999.58.

26 (2) Has held the license described in paragraph (1) for less than
27 two years immediately preceding the date of application.

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

38 (c) Education gained while residing outside of California shall
39 be accepted toward the licensure requirements if it is substantially
40 equivalent to the education requirements of this chapter, if the

1 applicant has completed the training or coursework required under
2 subdivision (e) of Section 4999.32, and if the applicant completes,
3 in addition to the course described in subparagraph (I) of paragraph
4 (1) of subdivision (c) of Section 4999.32, an 18-hour course in
5 California law and professional ethics that includes, but is not
6 limited to, instruction in advertising, scope of practice, scope of
7 competence, treatment of minors, confidentiality, dangerous clients,
8 psychotherapist-client privilege, recordkeeping, client access to
9 records, the Health Insurance Portability and Accountability Act,
10 dual relationships, child abuse, elder and dependent adult abuse,
11 online therapy, insurance reimbursement, civil liability, disciplinary
12 actions and unprofessional conduct, ethics complaints and ethical
13 standards, termination of therapy, standards of care, relevant family
14 law, and therapist disclosures to clients.

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

22 (1) The applicant's degree contains the required number of
23 practicum units under paragraph (3) of subdivision (c) of Section
24 4999.32.

25 (2) The applicant remediates his or her specific deficiency by
26 completing the course content and units required by Section
27 4999.32.

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

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

32 SEC. 54. Section 4999.90 of the Business and Professions
33 Code is amended to read:

34 4999.90. The board may refuse to issue any registration or
35 license, or may suspend or revoke the registration or license of
36 any intern or licensed professional clinical counselor, if the
37 applicant, licensee, or registrant has been guilty of unprofessional
38 conduct. Unprofessional conduct includes, but is not limited to,
39 the following:

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

22 (b) Securing a license or registration by fraud, deceit, or
23 misrepresentation on any application for licensure or registration
24 submitted to the board, whether engaged in by an applicant for a
25 license or registration, or by a licensee in support of any application
26 for licensure or registration.

27 (c) Administering to himself or herself any controlled substance
28 or using any of the dangerous drugs specified in Section 4022, or
29 any alcoholic beverage to the extent, or in a manner, as to be
30 dangerous or injurious to the person applying for a registration or
31 license or holding a registration or license under this chapter, or
32 to any other person, or to the public, or, to the extent that the use
33 impairs the ability of the person applying for or holding a
34 registration or license to conduct with safety to the public the
35 practice authorized by the registration or license, or the conviction
36 of more than one misdemeanor or any felony involving the use,
37 consumption, or self-administration of any of the substances
38 referred to in this subdivision, or any combination thereof. The
39 board shall deny an application for a registration or license or
40 revoke the license or registration of any person, other than one

1 who is licensed as a physician and surgeon, who uses or offers to
2 use drugs in the course of performing licensed professional clinical
3 counseling services.

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

6 (e) Violating, attempting to violate, or conspiring to violate any
7 of the provisions of this chapter or any regulation adopted by the
8 board.

9 (f) Misrepresentation as to the type or status of a license or
10 registration held by the person, or otherwise misrepresenting or
11 permitting misrepresentation of his or her education, professional
12 qualifications, or professional affiliations to any person or entity.

13 (g) Impersonation of another by any licensee, registrant, or
14 applicant for a license or registration, or, in the case of a licensee
15 or registrant, allowing any other person to use his or her license
16 or registration.

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

20 (i) Intentionally or recklessly causing physical or emotional
21 harm to any client.

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

25 (k) Engaging in sexual relations with a client, or a former client
26 within two years following termination of therapy, soliciting sexual
27 relations with a client, or committing an act of sexual abuse, or
28 sexual misconduct with a client, or committing an act punishable
29 as a sexually related crime, if that act or solicitation is substantially
30 related to the qualifications, functions, or duties of a licensed
31 professional clinical counselor.

32 (l) Performing, or holding oneself out as being able to perform,
33 or offering to perform, or permitting any clinical counselor trainee
34 or intern under supervision to perform, any professional services
35 beyond the scope of the license authorized by this chapter.

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

1 (n) Prior to the commencement of treatment, failing to disclose
2 to the client or prospective client the fee to be charged for the
3 professional services, or the basis upon which that fee will be
4 computed.

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

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

16 (q) Reproduction or description in public, or in any publication
17 subject to general public distribution, of any psychological test or
18 other assessment device, the value of which depends in whole or
19 in part on the naivete of the subject, in ways that might invalidate
20 the test or device.

21 (r) Any conduct in the supervision of ~~any~~ *a registered intern,*
22 *associate clinical social worker,* or clinical counselor trainee by
23 any licensee that violates this chapter or any rules or regulations
24 adopted by the board.

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

30 (t) Permitting a clinical counselor trainee or intern under one's
31 supervision or control to perform, or permitting the clinical
32 counselor trainee or intern to hold himself or herself out as
33 competent to perform, professional services beyond the clinical
34 counselor trainee's or intern's level of education, training, or
35 experience.

36 (u) The violation of any statute or regulation of the standards
37 of the profession, and the nature of the services being rendered,
38 governing the gaining and supervision of experience required by
39 this chapter.

1 (v) Failure to keep records consistent with sound clinical
2 judgment, the standards of the profession, and the nature of the
3 services being rendered.

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

6 (x) Failing to comply with the elder and dependent adult abuse
7 reporting requirements of Section 15630 of the Welfare and
8 Institutions Code.

9 (y) Repeated acts of negligence.

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

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

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

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

O

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To: Board Members

Date: April 29, 2010

From: Tracy Rhine
Assistant Executive Officer

Telephone: (916) 574-7830

Subject: Legislation Affecting the Board

The following legislation was not presented for review at the April 10, 2009 Policy and Advocacy Committee meeting. Amendments made to AB 2699 (Bass) and SB 1172 (Negrete McLeod) subsequent to the Committee meeting has brought the subject matter of the bills within the jurisdiction of the Board.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2699 **VERSION:** AMENDED APRIL 26, 2010

AUTHOR: BASS **SPONSOR:** AUTHOR

RECOMMENDED POSITION: OPOSE UNLESS AMENDED

SUBJECT: HEALING ARTS: LICENSURE EXEMPTION

Existing Law:

- 1) Exempts a healing arts practitioner licensed in another state or territory of the United States from the licensure and regulation by a board within the Department of Consumer Affairs (DCA) if the following conditions are met: (Business and Professions Code §900(a))
 - a) The practitioner offers or provides care for which he or she is licensed;
 - b) The care is provided only during a state of emergency which overwhelms the response capabilities of California health care practitioners; and,
 - c) Care is provided only upon the request of the Director of the Emergency Medical Services Authority (Director).
- 2) Allows the Director to be the medical control and to designate deployment of the licensees after they provide a valid copy of a professional license and a photograph identification issued by their state of licensure. (BPC §900(b) & (c))
- 3) Requires, upon request, the practitioner to provide verification of licensure to the appropriate California licensing authority. (BPC §900(d))
- 4) States that practitioners providing health care pursuant to this section shall have immunity from liability for any injury sustained by any person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained. This immunity does not apply in the event of a willful act or omission. (Government Code §8659, BPC §900(e))

This Bill:

- 1) Allows a local government agency to allow for the provision of health care services in its jurisdiction, and states the agency may utilize health care practitioners from another state, district, or territory of the United States if they meet the following conditions: (BPC §901 (b) & (c))
 - a. They are licensed or certified in good standing; and,
 - b. They provide, prior to care, a valid copy of their license or certificate and photo identification issued by the issuing state.

- 2) The health care services provided pursuant to the provisions of this bill must meet the following conditions: (B&P §901 (c))
 - a. It is on a short-term, voluntary basis not to exceed 10 days per sponsored event;
 - b. It is in association with a non-profit or community based sponsoring entity; and,
 - c. It is without charge to the recipient or to a third party on behalf of the recipient.
- 3) A “health care practitioner” is defined as any healing arts professional who is licensed and regulated by DCA. (B&P §901 (a)(2))
- 4) A “designated local agency” means an office, department, agency or other entity of local government designated to act on behalf of a local government entity. (B&P § 901 (a)(1))
- 5) A “local government entity” means a city, county, or city and county having a public health officer. (B&P §901 (a)(3))
- 6) A “sponsoring entity” may include, but is not limited to, a nonprofit organization or community-based organization. (B&P §901 (a)(4))
- 7) Requires the sponsoring entity providing or arranging the health care services to do the following:
 - a. Register with the applicable designated local government agency and provide contact information, and also obtain authorization from said agency; (B&P §901 (d))
 - b. Maintain a copy of each health care practitioner’s current license or certificate and require each practitioner to attest in writing that the license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction; and, (B&P §901 (f)(2))
 - c. Maintain the above mentioned records for at least five years. (B&P §901 (f)(2))
- 8) Requires the designated local agency to verify the current state licensure or certification of each health care practitioner and notify the sponsoring entity if a license or certification cannot be verified. (B&P §901 (i))
- 9) Prohibits a contract of professional liability insurance issued, amended or renewed on or after January 1, 2011 from excluding coverage of these practitioners or the sponsoring entity. (B&P §901 (h))
- 10) States the legislative intent that health care services provided pursuant to the provisions of this bill are primarily to uninsured or underinsured persons. (B&P §901 (j))

Comments:

1) Author’s Intent.

The author notes that thousands of low-income children, families, and individuals in California are uninsured or underinsured and do not receive basic health, vision, and dental care and screenings. In August 2009, the Remote Area Medical (RAM) Volunteer Corps conducted an eight-day health event in Los Angeles County. Volunteer medical, dental, and other health care practitioners provided \$2.9 million in free services to over 14,000 people

during this event. RAM experienced a shortage of volunteer medical, dental and vision providers because of restrictions in State laws which prohibit volunteer out-of-state medical personnel from providing short-term services. As a result, thousands of residents needing service were turned away. The intent of this bill is to resolve this issue by allowing out-of-state practitioners to volunteer for this type of event.

2) Lack of Verification by Licensing Agency.

This bill states the local agency allowing the health care services in its jurisdiction is responsible for verifying that each practitioner holds a current license in their state. It also allows practitioners to practice solely on their word that they have a valid license that has not been suspended or revoked pending disciplinary hearings. This bypasses the California State Agencies that issue the licenses, allowing them no knowledge of or regulation authority over these practitioners when they are the ones holding jurisdiction of those licensees practicing within the state. This presents a problem, because any consumer complaints regarding the actions of these practitioners will be directed to the licensing agencies. Staff recommends a provision be added to require the California licensing agency verify the status of the licensees.

3) Standard of Care.

Other states may have different requirements for licensure which may be in conflict with those of the Board. Current licensing law sets forth licensure requirements for those individuals licensed in another state that wish to practice in California. This bill would circumvent these requirements.

4) Timeline.

This bill states the local agency allowing the health care services in its jurisdiction is responsible for verifying that each practitioner holds a current license in their state, however no timeline is established for this verification. In addition to the suggestion that the licensing agency verify the status of licensees, staff suggests a specific timeline for verification be provided.

5) Overbroad Purpose.

The intent of this bill is to provide medical, dental, and vision services to the uninsured or underinsured. Licensees of the Board of Behavioral Sciences do not provide these basic services. Staff suggests that the scope of this bill be narrowed to only include medical, dental, and vision providers.

6) Support and Opposition (As of April 20, 2010).

Support: County of Los Angeles

Opposition: California Dental Association

7) History

2010

- Apr. 15 Re-referred to Com. on B.,P. & C.P.
- Apr. 14 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
- Apr. 8 From committee: Be re-referred to Com. on B.,P. & C.P. Re-referred. (Ayes 11. Noes 0.) (April 8).
- Apr. 5 From committee chair, with author's amendments: Amend, and re-refer to Com. on JUD. Read second time and amended. Re-referred to Com.

on JUD. Re-referred to Com. on RULES by unanimous consent.
Mar. 31 In committee: Hearing postponed by committee.
Mar. 18 Referred to Com. on JUD.
Feb. 22 Read first time.
Feb. 21 From printer. May be heard in committee March 23.
Feb. 19 Introduced. To print

AMENDED IN ASSEMBLY APRIL 26, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2699

Introduced by Assembly Member Bass

February 19, 2010

An act to amend Section 900 of, and to add Section 901 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2699, as amended, Bass. Healing arts: licensure exemption.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs. Existing law provides an exemption from these requirements for a health care practitioner licensed in another state who offers or provides health care for which he or she is licensed during a state of emergency, as defined, and upon request of the Director of the Emergency Medical Services Authority, as specified.

This bill would also provide an exemption from the licensure and regulation requirements for a health care practitioner, as defined, licensed or certified in another state who offers or provides health care services for which he or she is licensed or certified (1) on a short-term voluntary basis, (2) in association with a sponsoring entity that registers with, and provides specified information to, the designated local agency, as defined, selected by a local government entity, as defined, and (3) without charge to the recipient or a 3rd party on behalf of the recipient, as specified. The bill would also prohibit a contract of professional

liability insurance issued, amended, or renewed on or after January 1, 2011, from excluding coverage of these practitioners or a sponsoring entity for providing care under these provisions. The bill would state the intent of the Legislature that these health care services be provided primarily to uninsured and underinsured persons, as specified.

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

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

1 SECTION 1. Section 900 of the Business and Professions Code
2 is amended to read:

3 900. (a) Nothing in this division applies to a health care
4 practitioner licensed in another state or territory of the United
5 States who offers or provides health care for which he or she is
6 licensed, if the health care is provided only during a state of
7 emergency as defined in subdivision (b) of Section 8558 of the
8 Government Code, which emergency overwhelms the response
9 capabilities of California health care practitioners and only upon
10 the request of the Director of the Emergency Medical Services
11 Authority.

12 (b) The director shall be the medical control and shall designate
13 the licensure and specialty health care practitioners required for
14 the specific emergency and shall designate the areas to which they
15 may be deployed.

16 (c) Health care practitioners shall provide, upon request, a valid
17 copy of a professional license and a photograph identification
18 issued by the state in which the practitioner holds licensure before
19 being deployed by the director.

20 (d) Health care practitioners deployed pursuant to this chapter
21 shall provide the appropriate California licensing authority with
22 verification of licensure upon request.

23 (e) Health care practitioners providing health care pursuant to
24 this chapter shall have immunity from liability for services rendered
25 as specified in Section 8659 of the Government Code.

26 (f) For the purposes of this section, “health care practitioner”
27 means any person who engages in acts which are the subject of
28 licensure or regulation under this division or under any initiative
29 act referred to in this division.

1 (g) For purposes of this section, “director” means the Director
2 of the Emergency Medical Services Authority who shall have the
3 powers specified in Division 2.5 (commencing with Section 1797)
4 of the Health and Safety Code.

5 SEC. 2. Section 901 is added to the Business and Professions
6 Code, to read:

7 901. (a) For purposes of this section, the following definitions
8 apply:

9 (1) “Board” means a healing arts board under this division or
10 under any initiative act referred to in this division.

11 ~~(1)~~
12 (2) “Designated local agency” means an office, department,
13 agency, or other entity of a local government entity designated to
14 act on behalf of a local government entity in accordance with this
15 section.

16 ~~(2)~~
17 (3) “Health care practitioner” means any person who engages
18 in acts that are subject to licensure or regulation under this division
19 or under any initiative act referred to in this division.

20 ~~(3)~~
21 (4) “Local government entity” means a city, county, or city and
22 county having a public health officer.

23 ~~(4)~~
24 (5) “Sponsoring entity” may include, but is not limited to, a
25 nonprofit organization or a community-based organization.

26 (b) A local government entity may, at its discretion, elect to
27 allow for the provision of health care services within its jurisdiction
28 in accordance with this section.

29 (c) Nothing in this division applies to a health care practitioner
30 licensed or certified in good standing in another state, district, or
31 territory of the United States who offers or provides health care
32 services for which he or she is licensed or certified if both of the
33 following requirements are met:

34 (1) Prior to providing that care, he or she submits to the
35 designated local agency a valid copy of his or her professional
36 license or certificate and a photographic identification issued by
37 the state in which he or she holds licensure or certification. A
38 sponsoring entity may submit copies of those documents to the
39 designated local agency on behalf of a health care practitioner.

1 (2) The care is provided under all of the following
2 circumstances:

3 (A) On a short-term voluntarily basis, not to exceed a ~~90-day~~
4 *10-day period per sponsored event*.

5 (B) In association with a sponsoring entity that complies with
6 subdivision (d).

7 (C) Without charge to the recipient or to a third party on behalf
8 of the recipient.

9 (d) A sponsoring entity seeking to provide, or arrange for the
10 provision of, health care services under this section shall do both
11 of the following:

12 (1) Register with the applicable designated local agency by
13 completing a registration form that shall include all of the following
14 elements:

15 (A) The name of the sponsoring entity.

16 (B) The name of the principal individual or individuals who are
17 the officers or organizational officials responsible for the operation
18 of the sponsoring entity.

19 (C) The address, including street, city, ZIP Code, and county,
20 of the sponsoring entity's principal office and each individual listed
21 pursuant to subparagraph (B).

22 (D) The telephone number for the principal office of the
23 sponsoring entity and each individual listed pursuant to
24 subparagraph (B).

25 (E) Any additional information required by the designated local
26 agency.

27 (2) Obtain authorization from the designated local agency to
28 provide health care services.

29 (e) The sponsoring entity shall notify the designated local agency
30 in writing of any change to the information required under
31 subdivision (d) within 30 days of the change.

32 (f) (1) Within 15 days of the provision of health care services
33 pursuant to this section, the sponsoring entity shall file a report
34 with the designated local agency. This report shall contain the date,
35 place, type, and general description of the care provided, along
36 with a listing of the health care practitioners who participated in
37 providing that care.

38 (2) The sponsoring entity shall maintain a list of health care
39 practitioners associated with the provision of health care services
40 under this section. The sponsoring entity shall maintain a copy of

1 each health care practitioner’s current license or certificate and
2 shall require each health care practitioner to attest in writing that
3 his or her license or certificate is not suspended or revoked pursuant
4 to disciplinary proceedings in any jurisdiction. The sponsoring
5 entity shall maintain these records for a period of at least five years
6 following the provision of health care services under this section
7 and shall, upon request, furnish those records to the designated
8 local agency.

9 (g) The designated local agency may revoke the registration of
10 a sponsoring entity that fails to comply with subdivision (d), (e),
11 or (f).

12 (h) A contract of professional liability insurance issued,
13 amended, or renewed in this state on or after January 1, 2011, shall
14 not exclude coverage of a health care practitioner or a sponsoring
15 entity that provides, or arranges for the provision of, health care
16 services under this section, provided that the practitioner or entity
17 complies with this section.

18 (i) The designated local agency shall verify the current state
19 licensure or certification of each health care practitioner and shall
20 notify the sponsoring entity if the current licensure or certification
21 of a health care practitioner cannot be verified.

22 (j) It is the intent of the Legislature that health care services
23 provided pursuant to this section be provided primarily to uninsured
24 or underinsured persons. “Uninsured or underinsured person”
25 means a person who does not have health care coverage, including
26 private coverage or coverage through a program funded in whole
27 or in part by a governmental entity, or a person who has health
28 care coverage, but the coverage does not extend to the health care
29 services offered by the health care practitioner under this section.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1172 **VERSION:** AMENDED APRIL 27, 2010

AUTHOR: NEGRETE MCLEOD **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: PROBATION; SUBSTANCE USE; BOARD AND PRACTITIONER REQUIREMENTS

Existing Law:

- 1) Requires individuals or entities contracting with the Department of Consumer Affairs (DCA) for the provision of services relating to the treatment and rehabilitation of licensees impaired by alcohol or dangerous drugs to retain all records and documents pertaining to those services for a maximum of three years from the date of the last treatment or services rendered, after which time the records may be destroyed. (Business and Professions Code §156.1(a))
- 2) States that records relating to licensee substance abuse treatment and rehabilitation provided by a contract vendor shall be kept confidential and are not subject to discovery or subpoena. (BPC 156.1(b))
- 3) Establishes within DCA the Substance Abuse Coordination Committee (SAAC) to develop uniform standards that will be used by healing arts boards in dealing with licensees with substance abuse problems (BPC 315(a))
- 4) Requires SAAC to develop uniform standards in specified areas for healing arts boards, whether or not they use a diversion program, by January 1, 2010. (BPC 315(c))
- 5) Establishes the Office of Administrative Hearings to adjudicate hearings and proceedings against licensees of boards within DCA pursuant to the Administrative Procedure Act. (Government Code §11370)

This Bill:

- 1) Requires an independent audit be conducted at least once every three years of any individual or entity contracting with DCA to provide substance abuse treatment and rehabilitation services pursuant to the provisions of this bill. (BPC 156.1(c)(1))
- 2) Requires that an audit report be submitted to the Legislature and DCA that assess the performance of a contract vendor providing substance abuse treatment and rehabilitation, including a review of the vendor's adherence to standards established by DCA or the contracting board. (BPC 156.1(c)(2))
- 3) Requires the Board to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation. (BPC 315.2(a))

- 4) Authorizes the Board to promulgate regulations allowing the Board to order a licensee on probation to cease practice if the licensee has a major violation of probation or, if the licensee has been ordered to undergo a clinical diagnostic evaluation by the Board. (BPC §315.4(a))
- 5) States that a cease practice ordered by the Board is not subject to a formal hearing as set forth in the provisions of the Administrative Procedures Act (APA). (BPC §§315.2(b) and 315.4(b))
- 6) States that a cease practice order shall not constitute a disciplinary action by the Board. (BPC §§315.2(c) and 315.4(c))

Comments:

- 1) **Author's Intent.** SB 1441 (Ridley-Thomas), Chapter 548, Statutes of 2008 required DCA to adopt uniform guidelines on sixteen specific standards that would apply to substance abusing health care licensees, regardless of whether a board has a diversion program. Although most of the adopted guidelines do not need additional statutes for implementation, there are a couple of changes that must be statutorily adopted to fully implement these standards. This bill seeks to provide the statutory authority to allow boards to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program, if a major violation is committed and while undergoing clinical diagnostic evaluation.
- 2) **Diversion Programs.** The diversion programs that currently exist were modeled after the state's first diversion program for physicians and surgeons created at the Medical Board of California (MBC) in 1981, to rehabilitate doctors with mental illness and substance abuse problems without endangering public health and safety. Under this concept, physicians who abuse drugs and/or alcohol or who are mentally or physically ill may be "diverted" from the disciplinary track into a program that monitors their compliance with terms and conditions of a contract that is aimed at ensuring their recovery. This program was voluntary and applied only to those who have voluntarily requested diversion treatment and supervision. On June 30, 2008, the MBC's program sunsetted, after a series of audits by the Bureau of State Audits (BSA) and a report by an Enforcement Monitor which found inconsistent monitoring of physicians, and poor oversight by the MBC.

Currently seven entities within DCA continue to provide a diversion program for licensees; the Board of Registered Nursing, the Physical Therapy Board, the Dental Board of California, the Board of Pharmacy, the Veterinary Medical Board, the Osteopathic Medical Board of California and the Physician Assistant Committee. The Board of Behavioral Sciences does not provide a diversion program for licensees. If a licensee violates the unprofessional conduct statutes of Board licensing law relating to substance use, a licensee may be ordered to submit to biological testing for substance use and participate in substance abuse treatment, as terms of probation with the Board.

- 3) **Uniform Standards.** On March 3, 2009, the SACC conducted its first public hearing and the discussion included an overview of diversion programs, the importance of addressing substance abuse issues for health care professionals and the impact of allowing health care professionals who are impaired to continue to practice. During this meeting, the SACC members agreed to draft uniform guidelines for each of the standards. During subsequent meetings, roundtable discussions were held on the draft uniform standards, including public comments. In December 2009, the DCA adopted the uniform guidelines for each of the

standards required by SB 1441. These guidelines were revised in April 2010.

- 4) **Need for Regulations.** In order for the Board to implement the provisions of this bill, and a majority of the Uniform Standards, the Board must prepare a rulemaking package for review by the Office of Administrative Law. By law, any rule of general application applied by the Board must be set forth in regulation.

5) **Support and Opposition.** None on file.

6) **History**

2010

- Apr. 27 From committee with author's amendments. Read second time.
Amended. Re-referred to Com. on APPR.
- Apr. 20 Set for hearing May 3.
- Apr. 20 From committee: Do pass, but first be re-referred to Com. on APPR.
(Ayes 7. Noes 1. Page 3293.) Re-referred to Com. on APPR.
- Apr. 12 From committee with author's amendments. Read second time.
Amended. Re-referred to Com. on B., P. & E.D.
- Apr. 7 Set for hearing April 19.
- Mar. 4 To Com. on B., P. & E.D.
- Feb. 19 From print. May be acted upon on or after March 21.
- Feb. 18 Introduced. Read first time. To Com. on RLS. for assignment. To
print.

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE APRIL 12, 2010

SENATE BILL

No. 1172

Introduced by Senator Negrete McLeod

February 18, 2010

An act to amend Section 156.1 of, and to add Sections 315.2, 315.4, and 315.6 to, the Business and Professions Code, relating to regulatory boards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1172, as amended, Negrete McLeod. Regulatory boards: diversion programs.

(1) Existing law provides for the regulation of specified professions and vocations by various boards, as defined, within the Department of Consumer Affairs. Under existing law, individuals or entities contracting with the department or any board within the department for the provision of services relating to the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs are required to retain all records and documents pertaining to those services for 3 years or until they are audited, whichever occurs first. Under existing law, those records and documents are required to be kept confidential and are not subject to discovery or subpoena.

This bill would specify that those records and documents shall be kept for 3 years and are not subject to discovery or subpoena unless otherwise expressly provided by law ~~and would prohibit the licentiate from waiving confidentiality~~. The bill would require the department or board contracting for those services to have an audit conducted at least once every 3 years by a specified independent reviewer or review team, would require that reviewer or review team to prepare an audit report

and to submit it to the Legislature, the department, and the board by June 30 every 3 years, with the first report due in 2013, and would require the department, the contract vendor, and the board to respond to the report, as specified.

(2) Existing law provides for the licensure and regulation of various healing arts by boards within the Department of Consumer Affairs. Under existing law, these boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against their licensees.

Existing law establishes diversion and recovery programs to identify and rehabilitate dentists, osteopathic physicians and surgeons, physical therapists, physical therapy assistants, registered nurses, physician assistants, pharmacists and intern pharmacists, veterinarians, and registered veterinary technicians whose competency may be impaired due to, among other things, alcohol and drug abuse.

The bill would require a healing arts board to order a licensee to cease practice if the licensee tests positive for any prohibited substance under the terms of the licensee's probation or diversion program. The bill would also authorize a board to adopt regulations authorizing it to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation, as specified. Except as provided, the bill would prohibit a healing arts board from disclosing to the public that a licensee is participating in a board diversion program.

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

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

1 SECTION 1. Section 156.1 of the Business and Professions
2 Code is amended to read:
3 156.1. (a) Notwithstanding any other provision of law,
4 individuals or entities contracting with the department or any board
5 within the department for the provision of services relating to the
6 treatment and rehabilitation of licentiates impaired by alcohol or
7 dangerous drugs shall retain all records and documents pertaining
8 to those services until such time as these records and documents
9 have been reviewed for audit pursuant to subdivision (c). These
10 records and documents shall be retained for three years from the
11 date of the last treatment or service rendered to that licentiate, after

1 which time the records and documents may be purged and
2 destroyed by the contract vendor. This provision shall supersede
3 any other provision of law relating to the purging or destruction
4 of records pertaining to those treatment and rehabilitation
5 programs.

6 (b) Unless otherwise expressly provided by statute or regulation,
7 all records and documents pertaining to services for the treatment
8 and rehabilitation of licentiates impaired by alcohol or dangerous
9 drugs provided by any contract vendor to the department or to any
10 board within the department shall be kept confidential and are not
11 subject to discovery or subpoena. ~~A licentiate may not waive~~
12 ~~confidentiality pursuant to this subdivision.~~

13 (c) (1) An external independent audit of an individual or entity
14 contracting with the department pursuant to subdivision (a) shall
15 be conducted at least once every three years by a qualified,
16 independent reviewer or review team from outside the department
17 with no real or apparent conflict of interest with the contractor
18 providing the services. The independent reviewer or review team
19 shall be competent in the professional practice of internal auditing
20 and assessment processes.

21 (2) The independent reviewer or review team shall prepare an
22 audit report that assesses the contractor's performance in adhering
23 to any standards established by the department or the board and
24 shall submit that report to the Legislature, the department, and the
25 board by June 30 every three years, with the first report due in
26 2013. The audit report shall make findings and identify any
27 material inadequacies, deficiencies, irregularities, or any other
28 noncompliance with the terms of the contract.

29 (3) The department, contract vendor, and the board shall respond
30 to the assessment and findings in the audit report prior to
31 submission to the Legislature.

32 (d) With respect to all other contracts for services with the
33 department or any board within the department other than those
34 set forth in subdivision (a), the director or chief deputy director
35 may request an examination and audit by the department's internal
36 auditor of all performance under the contract. For this purpose, all
37 documents and records of the contract vendor in connection with
38 such performance shall be retained by such vendor for a period of
39 three years after final payment under the contract. Nothing in this
40 section shall affect the authority of the State Auditor to conduct

1 any examination or audit under the terms of Section 8546.7 of the
2 Government Code.

3 SEC. 2. Section 315.2 is added to the Business and Professions
4 Code, to read:

5 315.2. (a) A board, as described in Section 315, shall order a
6 licensee of the board to cease practice if the licensee tests positive
7 for any substance that is prohibited under the terms of the licensee’s
8 probation or diversion program.

9 (b) An order to cease practice under this section shall not be
10 governed by the provisions of Chapter 5 (commencing with Section
11 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

12 (c) A cease practice order under this section shall not constitute
13 disciplinary action.

14 ~~(d) A licensee may petition to return to practice pursuant to the
15 uniform and specific standards adopted and authorized under
16 Section 315.~~

17 SEC. 3. Section 315.4 is added to the Business and Professions
18 Code, to read:

19 315.4. (a) A board, as described in Section 315, may adopt
20 regulations authorizing the board to order a licensee on probation
21 or in a diversion program to cease practice for major violations
22 and when the board orders a licensee to undergo a clinical
23 diagnostic evaluation pursuant to the uniform and specific standards
24 adopted and authorized under Section 315.

25 (b) An order to cease practice under this section shall not be
26 governed by the provisions of Chapter 5 (commencing with Section
27 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

28 (c) A cease practice order under this section shall not constitute
29 disciplinary action.

30 ~~(d) The regulations shall also include provisions for a licensee
31 to petition to return to practice pursuant to the uniform and specific
32 standards adopted and authorized under Section 315.~~

33 SEC. 4. Section 315.6 is added to the Business and Professions
34 Code, to read:

35 315.6. Unless otherwise authorized by statute or regulation, a
36 board, as described in Section 315, shall not disclose to the public
37 that a licensee is participating in a board diversion program unless
38 participation was ordered as a term of probation. However, a board
39 shall disclose to the public any restrictions that are placed on a
40 licensee’s practice as a result of the licensee’s participation in a

- 1 board diversion program provided that the disclosure does not
- 2 contain information linking the restriction to the licensee's
- 3 participation in the board's diversion program.

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www.bbs.ca.gov

To: Board Members

Date: April 29, 2010

From: Tracy Rhine
Assistant Executive Officer

Telephone: (916) 574-7847

Subject: Licensed Professional Clinical Counselor Gap Analysis Project

Senate Bill 788 (Wyland), Chapter 619, Statutes of 2009 created the Licensed Professional Clinical Counselor Act which requires the Board of Behavioral Sciences (Board) to license and regulate Licensed Professional Clinical Counselors (LPCCs). Beginning January 1, 2011 through June 30, 2011, individuals may apply to the Board for licensure as an LPCC and may be issued a license by meeting specified requirements (Business and Professions Code Section 4999.54). The licenses issued under this section have been referred to as "grandparented licenses." Licensure under this grandparenting section requires fewer supervised experience hours, fewer specific educational courses to meet application eligibility and other considerations, including, licensure eligibility for current marriage and family therapists (MFTs) and Licensed Clinical Social Workers (LCSWs) (that meet the education and experience requirements), without taking an examination.

Business and Professions Code Section 4999.54(b) states that the Board and the Office of Professional Examination Services shall develop an examination on the differences, if any differences exist, between the following:

1. The practice of professional clinical counseling and the practice of marriage and family therapy.
2. The practice of professional clinical counseling and the practice of clinical social work.

To this end, the Board has contracted with Applied Measurement Services, LLC (AMS) to perform the analysis necessary to determine if an additional exam is necessary for those MFTs and LCSWs applying for an LPCC license during the grandparenting period.

Attached is a letter from Dr. Tracy Montez of AMS on the progress of this project.

Applied Measurement Services, LLC

April 29, 2010

California Department of Consumer Affairs
Board of Behavioral Sciences
Attn: Kim Madsen, Executive Officer
1625 N. Market Blvd., Ste. S-200
Sacramento, CA 95834

Dear Ms. Madsen:

The purpose of this letter is to notify the Board of Behavioral Sciences (BBS) that Applied Measurement Services, LLC (AMS) has completed the first phase of the contract to assist with examination-related evaluations for the Licensed Professional Counselor / Licensed Professional Clinical Counselor.

Attached is a public progress report presenting the results of the professions analysis and associated recommendation. These results and the associated recommendation will be discussed at the May 7, 2010 BBS board meeting in Irvine.

Based on the professions analysis, AMS recommends that the BBS *not* adopt a separate examination requirement for Licensed Clinical Social Workers and Marriage and Family Therapists seeking to be grandparented as Licensed Professional Clinical Counselors. This recommendation is based on applicants meeting the education and training requirements and that the counselors adhere to their respective scopes of practice and competence as outlined in the BBS Statutes and Regulations.

Sincerely,



Tracy A. Montez, Ph.D.
President

An Analysis of the
Licensed Clinical Social Worker,
Marriage and Family Therapist and
Licensed Professional Counselor
Professions

Performed for the
California Department of Consumer Affairs
Board of Behavioral Sciences

Performed by Applied Measurement Services, LLC

April 29, 2010

PUBLIC PROGRESS REPORT

Chapter 1: Introduction

Licensing boards and bureaus within the Department of Consumer Affairs are required to ensure that examination programs used in the California licensure process are in compliance with psychometric guidelines and legal standards. The public must be reasonably confident that an individual passing a licensing examination has the requisite knowledge and skills to competently and safely practice in the respective profession.

In January 2010, the Department of Consumer Affairs Board of Behavioral Sciences (hereafter referred to as "Board") contracted with Applied Measurement Services, LLC (AMS) to assist with examination-related evaluations for the Licensed Professional Counselor (LPC). The first phase, a professions analysis, concluded April 29, 2010.

Specifically, AMS provided the following services: (a) determined whether significant differences exist between the LPC and Licensed Clinical Social Worker (LCSW) professions by comparing the national LPC occupational analysis to the California LCSW occupational analysis; (b) determined whether significant differences exist between the LPC and Marriage and Family Therapist (MFT) professions by comparing the national LPC occupational analysis to the California MFT occupational analysis; (c) prepared for and conducted interviews to obtain input related to the differences between the LPC and LCSW professions and the LPC and MFT professions; (d) prepared a confidential report providing the results of the analyses, feedback received from the interviews, and recommendations; and, (e) met with Board management to present the results and recommendations associated with grandparenting LCSWs and MFTs into the LPC profession.

The results of the professions analysis and associated recommendations will be presented at the May 7, 2010 Board meeting. This progress report provides those results.

During the first phase, AMS worked primarily with Kim Madsen, Executive Officer and Tracy Rhine, Assistant Executive Officer from the Board. AMS received and reviewed reports and reference materials provided by Shawn O'Brien, Vice President, Center for Credentialing and Education, National Board for Certified Counselors (NBCC). AMS also downloaded materials from relevant websites (see the Reference section of the *final* report for a complete listing).

Finally, these services were conducted according to professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing (Standards)*¹ and *Business and Professions Code section 139* (see the *Examination Validation Policy*)².

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.

² California Department of Consumer Affairs. (2004). *Examination Validation Policy*. Sacramento, CA: California Department of Consumer Affairs.

Chapter 2: Information-Gathering

After discussions with Board management to confirm expectations associated with the scope of services and identify contacts from the NBCC, AMS began the process of gathering information about the LCSW, MFT and LPC professions for comparison purposes.

For the first phase of the contracted project, AMS reviewed several pertinent documents and reports including, for example, the following:

- Statutes and Regulations relating to the Practice of Professional Clinical Counseling, Marriage and Family Therapy, Educational Psychology, Clinical Social Work (Statutes);
- LCSW examination plan (see Appendix A for an abbreviated version);
- MFT examination plan (see Appendix B for an abbreviated version);
- National Counselor Examination (NCE) content outline (see Appendix C for a public version);
- National Clinical Mental Health Counseling Examination (NCMHCE) content outline;
- NBCC documents and reports;
- Coursework syllabi from California Masters of Social Work programs;
- A Competency-Based Curriculum in Community Mental Health for Graduate Social Work Students report from the California Social Work Education Center (CalSWEC);
- California Council of Community Mental Health Agencies: Recommendations to the California Board of Behavioral Sciences Regarding Marriage and Family Therapy Curriculum; and,
- DACUM Competency Profile for MFT produced by the California Community College Economic and Workforce Development Program Health Initiative.

Next, interviews and meetings were conducted to discuss the history associated with the passage of Senate Bill 788 (Wyland, Chapter 619, Statutes 2009) and the similarities and differences among the three professions. Participants in the interviews and meetings included individuals involved in the regulatory process associated with SB788 and subject matter expert LCSWs, MFTs, and LPCs (i.e., licensed in states other than California such as Florida, Texas, and Virginia).

The goal of the information-gathering process was twofold. First was to determine whether significant differences exist between the LPC and LCSW professions, and whether significant differences exist between the LPC and MFT professions. And second, to determine if an examination was needed to assess those differences prior to being grandparented into the LPC profession. It is important to note that the term “significant” was not intended to imply statistical significance, but merely a qualitative or descriptive term.

Below is a summary of the three professions as defined in the Board’s Statutes.

Chapter 3: Licensed Clinical Social Worker

According to Business and Professions Code of California, Chapter 14. Social Workers, Article 4. Licensure, Section 4996.9.,

... the practice of clinical social work is defined as a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive social adjustments.

Further,

the application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, or groups; proving information and referral services; providing or arranging for the provision of social services; explaining or interpreting the psychosocial aspects in the situations of individuals, families, or groups; helping communities to organize, to provide, or to improve social or health services; or doing research related to social work.

As of April 1, 2010, there were 18,004 valid LCSW licensees. To qualify for a license to practice as a LCSW in California, the Board has three primary competency hurdles: education requirements, experience requirements, and examinations.

Education requirements include possessing a qualifying Master's degree as well as completion of additional coursework in key subject matter areas (e.g., child abuse assessment and reporting, substance abuse and dependency, and aging and long term care).

In addition to degree and coursework requirements, an applicant is also required to accrue 104 weeks of supervision and 3,200 hours of supervised work experience. The experience must be gained under the supervision of a licensed mental health professional.

Once an applicant meets all requirements and the Board approves the application for examination eligibility, the applicant receives an eligibility notice to take the LCSW Standard Written Examination. Upon passing the Standard Written Examination, the applicant must pass a LCSW Clinical Vignette Examination. Once an applicant passes both examinations, he or she must apply for an Initial License Issuance within one year of passing both examinations in order to receive a license number.

Business and Professions Code, Sections 4996.2. and 4996.23. of the Board's Statutes define LCSW qualifications in greater detail.

Chapter 4: Marriage and Family Therapist

According to Business and Professions Code of California, Chapter 13. Marriage and Family Therapists, Article 1. Regulation, Section 4980.02,

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

Further,

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

As of April 1, 2010, there were 30,497 valid MFT licensees. To qualify for a license to practice as a MFT in California, the Board has three primary competency hurdles: education requirements, experience requirements, and examinations.

Education requirements include possessing a qualifying Master's or Doctor's degree, as well as completion of additional coursework in key subject matter areas (e.g., child abuse assessment and reporting, alcohol and chemical dependency, and aging and long term care).

In addition to degree and coursework requirements, an applicant is also required to accrue 104 weeks of supervision and 3,000 hours of supervised work experience. The experience must be gained under the supervision of a licensed mental health professional.

Once an applicant meets all requirements and the Board approves the application for examination eligibility, the applicant receives an eligibility notice to take the MFT Standard Written Examination. Upon passing the Standard Written Examination, the applicant must pass a MFT Clinical Vignette Examination. Once an applicant passes both examinations, he or she must apply for an Initial License Issuance within one year of passing both examinations in order to receive a license number.

Business and Professions Code, Sections 4980.40 of the Board's Statutes define MFT qualifications in greater detail.

Chapter 5: Licensed Professional Clinical Counselor

According to Business and Professions Code of California, Chapter 16. Licensed Professional Clinical Counselors, Article 1. Administration, Section 4999.20.,

... Professional clinical counseling” means the application of counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. “Professional clinical counseling” includes conducting assessments for the purpose of establishing counseling goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, change behavior, and make well-informed rational decisions.

Further,

Professional clinical counseling” is focused exclusively on the application of counseling interventions and psychotherapeutic techniques for the purposes of improving mental health, and is not intended to capture other, nonclinical forms of counseling for the purposes of licensure. For the purposes of this paragraph, “nonclinical” means nonmental health.

To qualify for registration and examination eligibility as a LPCC in California beginning after August 1, 2012 or completed after December 31, 2018, the Board has three primary competency hurdles: education requirements, experience requirements, and examinations.

Education requirements include possessing a qualifying Master’s or Doctoral degree, as well as completion of additional coursework in key subject matter areas (e.g., child abuse assessment and reporting, alcohol and chemical dependency, and aging and long term care).

In addition to degree and coursework requirements, an applicant is also required to accrue 104 weeks of supervision and 3,000 hours of supervised work experience. The experience must be gained under the supervision of a licensed mental health professional.

Once an applicant meets all requirements and the Board approves the application for examination eligibility, the applicant will be eligible to take the examination designated by the Board pursuant to Section 4999.52.

Business and Professions Code, Article 3: Licensure of the Board’s Statutes define LPCC qualifications in greater detail.

Chapter 6: Confidential Recommendations³

Based on the review and evaluation of relevant documents and reports, including information obtained from interviews and meetings, the professions analysis does show that each profession has its own distinct scope of practice, theoretical foundations, and philosophy. In addition, differences in education, training, and examination requirements associated with licensure were noted.

For example, the NCE content outline (i.e., examination) assesses the following competencies that are *not fully* measured in the LCSW examination plan (i.e., examination):

- Diagnostic and assessment services (Content Area III).
- Professional practice activities (Content Area IV).

Similarly, the NCE content outline (i.e., examination) assesses the following competencies that are *not fully* measured in the MFT examination plan (i.e., examination):

- Diagnostic and assessment services (Content Area III).
- Professional practice activities (Content Area IV).
- Professional development, supervision, and consultation activities (Content Area V).

It is important to note, however, that the NCE examination is considered a certification examination; whereas the Board examinations are for licensure purposes only. Typically, certification examinations are broader in content and assess a full spectrum of competencies associated with a profession. In this case, passage of the NCE means that an individual counselor has met national standards established by the counseling profession.

Licensing examinations, on the other hand, typically assess a more narrow range of competencies associated with public safety and competent practice. The intent of the licensing examination is to assess those critical competencies associated with entry-level performance as a practitioner and ensure that the depth of measurement of those competencies is reliable and valid. Therefore, state licensing examinations usually do not assess competencies associated with professional development and supervision. In the Board examinations, the concept underlying many of these competencies is measured under ethics or law content areas. For example, Task 164 "Implement therapeutic techniques to provide services within scope of practice" from the LCSW examination plan implies that practitioners recognize limits on scope and competence. Similarly, Task 85 "Manage clinical issues outside the therapist's scope of competence to meet client needs" demonstrates the recognition of professional boundaries.

³ In response to NBCC confidentiality parameters, additional examination content material will be discussed during closed session.

Based on the types of examination, it was expected that the scope of measurement across the professions would differ. Also, interviews with LPCs confirm that states have differing scopes of practice. Although the NCE assesses a broad range of competencies, many states consider certain competencies to be specialties thus requiring additional training and certification.

It appears that many of the “gaps” in assessment or requirement for licensure can be mitigated by additional coursework, training, and certification. Thus, allowing LCSWs and MFTs to practice within scope of *competence* complying with the requirements outlined in SB788. In fact, the Statutes specifically discuss scope and competence.

LCSW 4992.3. Unprofessional conduct includes, but is not limited to, the following: (m) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

MFT 4982. Unprofessional conduct includes, but is not limited to, the following: (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.

LPCC 4999.90. Unprofessional conduct includes, but is not limited to, the following: (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.

Finally, LCSWs and MFTs seeking to be grandparented into the Licensed Professional Clinical Counselor (LPCC) profession must demonstrate completion of coursework beyond the minimum requirements for their respective license. These individuals seeking to become LPCCs have a six-month period to apply for licensure (January 1, 2011 to June 30, 2011), with one year from application date to meet the educational requirements and qualify under the grandparenting provision of SB788.

Therefore, based on the professions analysis conducted for this first phase of this contracted project, AMS recommends that the Board *not* adopt an examination requirement for the LCSWs and MFTs seeking to be grandparented as LPCCs as long as the education and training requirements are met and counselors adhere to their scopes of practice and competence as outlined in the Board Statutes.

Chapter 7: Next Steps

The second phase of the contract, assisting the Board with examination-related evaluations for LPC/LPCC, continues through June 30, 2011.

The next phase includes a more in-depth review of the NBCC NCE and the NCMHCE, including the underlying occupational analyses and examination development activities used to support the validity of the examinations.

Specifically, AMS will provide the following services: (a) review the NCE and NCMHCE examinations to determine whether they meet the prevailing standards for the validation and use of licensing and certification tests in California, and their suitability for use as a licensure requirement for LPCCs in California; (b) review the occupational analyses that were used for developing the national examinations to determine whether they adequately describe the licensing group (California LPCCs) and adequately determine the tasks, knowledge, skills and abilities that LPCCs need to perform the functions within their scope of practice in California; (c) prepare a confidential report that details the results of the review and provides recommendations; (d) meet with Board management and OPES to present results and recommendations; and, (e) present recommendations to Board members.

By completing the contracted work, AMS will meet the following objectives and goals:

- Determine whether there are meaningful differences between the LPC and LCSW professions and if so, what those differences are.
- Determine whether there are meaningful differences between the LPC and MFT professions and if so, what those differences are.
- Determine whether an examination will be necessary for MFTs or LCSWs who apply for a LPCC license during the grandparenting period
- Determine whether the national examinations meet the prevailing standards for the validation and use of licensing tests in California and their suitability for use in California.
- Determine whether the national occupational analyses adequately determine the tasks knowledge, skills and abilities that LPCCs need to perform the functions within their scope of practice in California.
- Determine whether the Board can use the national examinations or will need to work with OPES to develop a California LPCC examination.

References⁴

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.

California Council of Community Mental Health Agencies. (2007). *Recommendation to the California Board of Behavioral Sciences regarding the marriage and family therapy curriculum*. Sacramento, CA: Author.

California Department of Consumer Affairs. (January, 2010). *Statutes and regulations relating to the practice of: Marriage and family therapy, educational psychology, clinical social work*. Sacramento, CA: Author.

California Department of Consumer Affairs. (2004). *Examination validation policy*. Sacramento, CA: Author.

California Department of Consumer Affairs Office of Professional Examination Services. (In press). *Validation report: Licensed Clinical Social Worker*. Sacramento, CA: Author.

California Department of Consumer Affairs Office of Examination Resources. (August, 2007). *Validation report: Marriage and family therapist*. Sacramento, CA: Author.

California Social Work Education Center. (2006). *A competency-based curriculum in community mental health for graduate social work students*. Berkeley, CA: Author.

Equal Employment Opportunity Commission, Civil Service Commission, Department of Labor, and Department of Justice. (1978). *Federal Uniform Guidelines for Employee Selection Procedures*. Washington, DC: Author.

⁴ This is a partial list of reference material. The complete list of references will be provided in the final report.

Appendix A: Licensed Clinical Social Worker Examination Outline⁵

Content Area	Number of Tasks in Content Area	Number of Tasks in Content Subarea	Area Weight (%)	Subarea Weight (%)
I. Biopsychosocial Assessment	55		23	
A. Assessing for Risk		9		5
B. Assessment of Client Readiness and Appropriateness of Treatment		3		1
C. In-depth Assessment				
1. Comprehensive Exploration of Symptoms				
a. psychological factors		11		4
b. cultural/personal factors		5		2
2. Comprehensive Evaluation of Problem				
a. social-environmental history		7		3
b. medical and developmental history		7		3
c. history of substance abuse/abuse		3		1
3. Comprehensive Evaluation of Inter- and Intrapersonal Resources		10		4
II. Diagnostic Formulation	13		6	
III. Treatment Plan Development	26		11	
A. Identify/Prioritize Objectives, Goals and Methods of Treatment		12		5
B. Integrate/Coordinate Concurrent Treatment Modalities and Adjunctive Resources		6		3
C. Monitoring, Evaluation and Revision		8		3
IV. Resource Coordination	22		9	
A. Service Identification and Coordination		10		4
B. Client Advocacy and Support		12		5
V. Therapeutic Interventions	106		40	
A. Crisis Intervention		7		3
B. Short-term Therapy		9		4
C. Therapy for Children and Adolescents		22		8
D. Therapy for Adults (Individual and Group)		24		9
E. Therapy for Couples		17		5
F. Therapy for Families		16		6
G. Managing the Therapeutic Process		11		5
VI. Legal Mandates and Obligations	11		5	
A. Protective Issues/Mandated Reporting		5		2
B. Professional Conduct		6		3
VII. Ethical Standards	14		6	
Total	247	-	100	-

⁵ This is the current LCSW examination plan. The updated examination plan will be presented in the LCSW validation report which is in press.

Appendix B: Marriage and Family Therapist Examination Outline

Content area	Number of Tasks in Content Area	Number of Tasks in Content Subarea	Number of Tasks in Content Sub-section	Area Weight (%)	Subarea Weight (%)	Sub-section Weight (%)
I. Clinical Evaluation	22			22		
A. Initial Assessment		6			7	
B. Additional Assessment		7			7	
C. Referrals		3			3	
D. Diagnosis		6			5	
II. Crisis Management	15			14		
A. Assessment		3			3	
B. Evaluation		5			5	
C. Management		7			6	
III. Treatment Planning	18			14		
A. Goals		3			3	
B. Clinical Factors		7			6	
C. Theoretical Orientation		8			5	
IV. Treatment	21			17		
A. Therapeutic Relationships		5			5	
B. Interventions		16			12	
1. Theory			8			5
2. Clinical Factors			4			4
3. Termination			4			3
V. Ethics	16			16		
A. Informed Consent		5			5	
B. Therapeutic Boundaries		4			5	
C. Management of Ethical Issues		7			6	
VI. Law	17			17		
A. Confidentiality and Privilege		7			7	
B. Exception		3			2	
C. Professional Conduct		7			8	
TOTAL	109			100		

Appendix C: National Counselor Examination (public version)

I. Fundamental Counseling Issues

This section encompasses counseling tasks related to the professional counselor's theoretical and applied knowledge to address the client's multifaceted issues.

II. Counseling Process

This section addresses tasks necessary for structuring, directing and facilitating counseling sessions as well as treatment interventions.

III. Diagnostic and Assessment Services

This section addresses the professional counselor's application of responsible and effective diagnostic and assessment procedures.

IV. Professional Practice

This section encompasses professional counseling activities typically undertaken as adjuncts to direct client service. Tasks in this section also include behaviors associated with the application of skills characteristic of the in-session counseling process.

V. Professional Development, Supervision, and Consultation

This section covers tasks related to the development and maintenance of counselor identity, competence, and professional collaboration.

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To: Board Members

Date: April 29, 2010

From: Tracy Rhine
Assistant Executive Officer

Telephone: (916) 574-7847

**Subject: Regulatory Package Relating to Continuing Education Requirements for
Licensed Educational Psychologists**

The proposed regulatory changes relating to continuing education requirements for Licensed Educational Psychologists (LEPs) have been incorporated into the proposed rulemaking package discussed in Item VIII (n) of the Board meeting materials.

The full LEP rulemaking package has been included here for reference only.

**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:

~~(4)~~ (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 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 (as Proposed January 2010).

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~~ 4990.14, 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:

~~(4)~~ (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.

(i) 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(i).

(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.

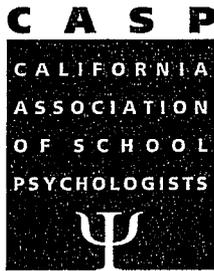
Note: Authority Cited: Sections 4980.60 and 4980.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

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.



December 8, 2009

Tracy Rhine
Regulations Coordinator
Department of Consumer Affairs
1625 North Market Blvd., Suite S200
Sacramento, CA 95834

Dear Ms. Rhine:

I am writing on behalf of the California Association of School Psychologists (CASP) regarding the proposed changes to Title 16 Regulations regarding the Continuing Education Requirements of Licensed Educational Psychologist.

California Association of School Psychologists (CASP) is a statewide association that represents over 3,000 school psychologists working in California public, private, and charter schools. School psychologists are mental health professionals who have specialized training in both psychology and education. They use their training and skills to team with educators, parents, and other mental health professionals to ensure that every child overcomes barriers and learns in a safe, healthy and supportive environment.

CASP has a long history of support for their members who are Licensed Educational Psychologists (LEP). It is in that capacity that CASP desires to respond to the draft regulations concerning continuing education (CE) for LEPs. CASP strongly supports the continuing education for those holding the LEP license. **However, the CE requirements, as proposed, are not relevant to all LEPs and CASP believes that the following concerns need to be clarified and addressed prior to adoption of the regulations.**

Course Work for Continuing Education

The course work identified in the draft regulations is, for the most part, outside of the scope of the practice for LEPs. While CASP believes that an overview of these topics could be useful in preparing the LEP to make appropriate referrals, in depth knowledge and training are not necessary based on the scope of practice contained in law and the regulations of the Board of Behavioral Science (BBS) concerning LEPs.

CASP believes that most of the continuing education course work required in the proposed regulations is more appropriate for those holding the Marriage and Family Therapist license. The courses in, Human Sexuality, Chemical and Alcohol Dependence, Aging and Long Term Care, HIV Assessment and Treatment are much more aligned with the services provided by a Marriage and Family Therapist.

CASP urges you to amend Section 1807 of the proposed regulations to remove the requirement that continuing education courses for the LEP be completed in the following areas: Human Sexuality, Chemical and Alcohol Dependence, Aging and Long Term Care, HIV Assessment and Treatment.

CASP strongly supports the continuing education for those holding the LEP license; however we believe that the courses need to be relevant to the services we provide. The one course listed in the proposed regulations which would be appropriate for practicing LEPs is in the area of Child Abuse Assessment and Reporting. In addition to

the course in Child Abuse Assessment and Reporting, CASP would like to work with staff at the BBS in determining a list of recommended areas of training that fall within the scope of practice of the LEP. A brief list of the suggestions follows:

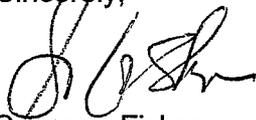
- Business, ethics and HIPPA regulations
- Applied Behavior Analysis
- Reading, writing and math interventions
- Career counseling sessions
- Autism and related disorders
- Interventions for individuals with developmental disabilities
- Counseling techniques for children with education related social and emotional problems.
- Child abuse reporting as a mandated reporter
- Human development

Timeframe for Completion of CE courses

CASP would also appreciate clarification on what timeframe these new continuation education courses must be completed. Would an LEP have a 24 or 36 month cycle to complete the proposed CE courses? Would the LEP be required to take 36 units of CE during each renewal period of their LEP?

Thank you for your consideration of these important changes in the proposed Title 16 regulations for Continuing Education Requirements for Licensed Educational Psychologist. We look forward to continuing to work with the Board of Behavioral Science and the Department of Consumer Affairs to appropriately resolve these outstanding issues. Feel free to contact me at (916) 444-1595 or the CASP Legislative Advocate, Jeff Frost at (916) 447-8420 if you have additional questions.

Sincerely,



Suzanne Fisher
CASP Executive Director

Summary of Written Comments
Proposed Title 5 Regulations NPA/NPS: Behavior Intervention Regulations

Twelve letters were submitted to the CDE providing feedback on the proposed changes to the Title 5 regulations regarding Nonpublic Agencies/Schools: Behavior Intervention Plans. In general, the feedback is very supportive of the direction of the proposed Title 5 regulations and the efforts to improve behavioral intervention services provided by NPA/NPS. Most of the organizations offer some slight modification to the proposed regulations.

Following is a brief summary of these comments:

Disability Rights California

Disability Rights California request that the regulations be extended beyond non-public schools and agencies. They believe that these regulations should apply to all persons who work with students in special education. This recommendation would include public schools.

Spectrum Center Schools and Program

Spectrum Center request that the regulations be extended beyond non-public schools and agencies. Spectrum Center believes that the standard which non-public schools (NPS), non-public agencies (NPA) and public schools are measured should be comparable.

In addition, Spectrum Center provides three alternatives to the 12 unit requirement. Below are their recommendations:

- a. Include units in existing university coursework for the credentials and licenses listed in section 3065, Subdivision (d)(8) without adding additional units needed to graduate. This section could be amended to read:

“(8) by January 1, 2014, certification as a Board Certified Behavior Analyst or have 12 semester units in ~~applied~~ behavior analysis from an institution of higher education within credentialing or licensing programs listed in section 3065, Subdivision (d) without adding additional units required to obtain said credential or license.”

- b. Infuse the principals of behavior analysis within current courses leading to the credentials and licenses listed in section 3065, Subdivision (d)(8).

“(8) by January 1, 2014, all institutions of higher education shall include the principals of behavior analysis in coursework leading to credentialing or licensing programs listed in section 3065, Subdivision (d).”

- c. Allow approved continuing education (ACE) providers of type 2 BCBA continuing education units (CEU) to deliver instruction in place of, or in addition to, a university of higher education.

“(8) by January 1, 2014, certification as a Board Certified Behavior Analyst or have 12 semester units in ~~applied~~ behavior analysis from an institution of higher education or equivalent training by an approved continuing education (ACE) provider of type 2 BCBA continuing education units (CEU).”

California Association for Behavioral Analysis (CalABA)

CalABA recommends that by January 1, 2014, that providers have certification by the Behavior Analyst Certification Board, Inc as a Board Certified Behavior Analyst. They suggest removing the option of 12 semester units from the equation.

Regarding the staffing ratio, CalABA recommends that for complex & comprehensive cases, that the ratio be 1:10 for personnel overseeing comprehensive behavioral intervention programs to a maximum ratio of 1:30.

Applied Behavior Consultants

Applied Behavior Consultants recommends adding a new section 3065 (d) (9) to allow additional persons that can plan or design Behavior Intervention:

065 (d) (9)

a Bachelor's degree issued by a regionally accredited post secondary institution in education, psychology, behavior analysis or in a related field, and one year's hands on experience in Applied Behavior Analysis and 9 academic units in Applied Behavior Analysis, and be certified as a BCABA (Board Certified Associate/Assistant Behavior Analyst).

California Alliance of Child and Family Services

California Alliance recommends expanding the proposed training units to include CEUs from approved organizations.

Title 5 CCR, sec. 3065 (c)(8): by January 2014, certification as a Board Certified Behavior Analyst or have 12 semester units in applied behavior analysis from an institution of higher education or 12 continuing education units (CEU's) from approved professional training or licensing organizations such as the Board of Behavioral Sciences (BBS).

Valley Achievement Center

Valley Achievement Center recommends removing the 12 semester units and instead requiring that a person holds a certification as a Board Certified Analyst by January 1, 2014.

Valley Achievement Center also recommends that the personnel who deliver the service to students should have certification as a Board Certified Assistant Behavior Analyst (BCaBA) or require university course work in each of the competency area listed in the regulations.

California Association of Private Special Education Services (CAPSES)

CAPSES believe that the proposed requirements for California related services personnel who provide the design and planning of Behavior Intervention is inconsistent with California state approved and state recognized certification and licensing requirements for those professionals currently holding the listed credentials/licenses [3065 (d)]. This would include a licensed psychologist & Marriage and Family Therapist. CAPSES

recommends NOT adopting Section 3065 (d) (8) because it would burden these credentialed and licensed professional with additional requirements for “certification as a Board Certified Behavior Analyst” or to “have 12 semester units in applied behavior analysis” by 2014.

CAPSES would recommend that §3065(d)(7) be AMENDED, and that the proposed §3065(d)(8) be DELETED as follows:

§3065(d)(7) a master's degree issued by a regionally accredited post-secondary institution in education, psychology, counseling, behavior analysis, behavior science, human development, social work, rehabilitation, or in a related field; ~~By January 1, 2014, individuals holding a master's degree shall have twelve (12) semester units in applied behavior analysis from an institution of higher education.~~

~~§3065(d)(8) by January 1, 2014, certification as a Board-Certified Behavior Analyst or have 12 semester units in applied behavior analysis from an institution of higher education.~~

CAPSES does not support, as currently written, the section of the regulations that require personnel who deliver the service to students to complete competency-based foundational training. CAPSES understands the need for training and skill building for individuals who implement behavior support and intervention plans, but they believe the term “competency based foundational training” is “unclear, lacks definition and needs to have details such a frequency, duration, actual content and a commonly understood evaluation of the training.”

Three letters supporting the proposed Title 5 Regulations as currently drafted were submitted by members of the CDE workgroup. The letters were from:

Association of School Administrators (ACSA)

Special Education Local Plan Area Administrators (State SELPA)

Bob Farran, Chair of the CDE Nonpublic Schools/Agencies Workgroup
Representative, SELPA Administrators Organization

During his public testimony at the public hearing, Bob Farran specifically referenced the role of school psychologist, “It is our understanding that these regulations apply to certification as a Nonpublic Agency and are not requirements for public school employees. We do believe that a credentialed school psychologist however would typically meet or exceed these regulations given the background and training required for the credential, thus public school teachers with special education credential have behavioral backgrounds that meet or exceed these requirements.”



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.

phone: 805-300-5106

fax: 877-233-1677

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.



Board of
Behavioral
Sciences



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Arnold Schwarzenegger, *Governor*
State of California
State and Consumer Services Agency
Department of Consumer Affairs

SIGN-IN SHEET

Board of Behavioral Sciences REGULATION HEARING December 17, 2009

Signing is voluntary and all persons may attend the meeting regardless of whether a person signs; however, if you wish to be added to the Board's mailing list, please include your mailing address.

NAME / E-MAIL ADDRESS	ORGANIZATION / ADDRESS
Name: Suzanne Fisher E-Mail: sfisher@casonline.org	CASP- CA Assoc of School Psychologists
Name: Jim Russell E-Mail: jsrconsult@gmail.com	CASP- CA Association of School Psychologists
Name: E-Mail:	

**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.

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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.