



Board of
Behavioral
Sciences

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MEETING NOTICE

Policy and Advocacy Committee June 7, 2010

Department of Consumer Affairs
El Dorado Room
1625 North Market Blvd.
2nd Floor North, Room 220
Sacramento, CA 95834

10:00 a.m. – 2:00 p.m.

- I. Introductions
- II. Review and Approval of the April 9, 2010 Policy and Advocacy Committee Meeting Minutes
- III. Discussion of Survey Results Related to Professional Clinical Counselor Education Requirements
- IV. Discussion and Possible Action Regarding Regulatory Package Implementing SB 788 (Wyland) Chapter 619, Statutes of 2009 Establishing Licensed Professional Clinical Counselors, including, but not limited to the following:
 - A. Professional Clinical Counselor Supervisory Plan Requirement
 - B. Hours of Experience Applied to Separate Licensing Requirements Simultaneously
 - C. Definition of Community Mental Health Setting
 - D. Practicum Requirement During Grandparenting Period for Degrees Granted Prior to 1996
- V. Discussion and Possible Action on Marriage and Family Therapist Practicum Requirement; Trainees Counseling Clients; Exceptions
- VI. Overview and Discussion Related to Applied Behavioral Analysis and Senate Bill 1282 (Steinberg)
- VII. Budget Update
- VIII. Legislative Update



Arnold Schwarzenegger
Governor

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

IX. Rulemaking Update

X. Suggestions for Future Agenda Items

XI. Public Comment for Items Not on the Agenda

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

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

NOTICE: The meeting facilities are accessible to persons with disabilities. Please make requests for accommodations to the attention of Marsha Gove at the Board of Behavioral Sciences, 1625 N. Market Boulevard, Suite S-200, Sacramento, CA 95834, or by phone at 916-574-7861, no later than one week prior to the meeting. If you have any questions, please contact the Board at (916) 574-7830.

Policy and Advocacy Committee Meeting Minutes April 9, 2010

DRAFT

Hotel Adagio
550 Geary Street
San Francisco, CA 94103

Members Present

Gordonna DiGiorgio, Chair, Public Member
Renee Lonner, LCSW Member
Michael Webb, MFT Member

Members Absent

Samara Ashley, Public Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Assistant Executive Officer
James Maynard, Legal Counsel
Marsha Gove, Examination Analyst
Christy Berger, MHSA Manager
Sean O'Connor, Outreach Coordinator

Guest List

On file

Gordonna DiGiorgio called the meeting to order at 8:30 a.m. Marsha Gove called roll, and a quorum was established.

I. Introductions

Committee members, staff and audience introduced themselves.

II. Review and Approval of the March 22, 2010 Policy and Advocacy Committee Meeting Minutes

Kim Madsen, Executive Officer, noted the following correction: On page three, second paragraph, delete "and NASW," so the sentence begins, "Mr. Wong asked..." Ms. Madsen explained the change is appropriate because Mr. Wong represents or is NASW.

Renee Lonner moved to approve the March 22, 2010 Policy and Advocacy Committee Meeting minutes as amended. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

III. Discussion and Possible Action Regarding Pending Legislation Including:

A. Assembly Bill 612 (Beall)

Tracy Rhine, Assistant Executive Officer, reported that the committee has seen this bill previously, and last year had recommended that the Board take an oppose position on the legislation. Subsequently, amendments were made to the bill which resulted in the need for further review by the committee.

This bill prohibits a court in a contested proceeding pertaining to child custody or visitation rights from relying upon an unproven, unscientific theory, such as Parental Alienation Syndrome, by an expert witness or court-appointed professional, in making a decision pertaining to the matter. While the legislation does not specifically define what is considered to be “an unproven, unscientific theory,” it is believed the bill would inappropriately limit the court’s discretion.

The matter was then opened for discussion.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), noted the association’s opposition to the legislation.

Michael Webb moved to recommend to the Board to oppose AB 612. Renee Lonner seconded. The Committee voted unanimously (3-0) to pass the motion.

B. Assembly Bill 1310 (Hernandez)

Ms. Rhine reported that the committee and Board had seen this bill previously. In summary, the legislation requires the Board to collect certain information from licensees; a majority of that data is currently collected by the Board. After its earlier review, the Board had concerns with several facets of the legislation such as the types of data that would be required for collection; the failure to include all entities within the Department of Consumer Affairs as subject to the requirements of the bill; and the apparent limitations on how the data would be collected. Ms. Rhine noted that the previous version of the bill required that the information be gathered as a condition of licensure or renewal.

Ms. Rhine stated that the Board’s previous action had been to support the legislation if certain amendments were made.

The legislation has now been amended in a manner that addresses a majority of the Board’s earlier concerns. Ms. Rhine reported that the amended version continues to present technology problems because the currently used databases would need to be altered to capture new fields, a time-consuming process which could result in substantial cost to the Board. Ms. Rhine deferred to Board-staff Sean O’Connor for input regarding the feasibility of meeting the implementation date of January 1, 2011, implied in the legislation. Mr. O’Connor responded that it could be a challenge to meet that date. He explained that the Department of Consumer Affairs (DCA) maintains the databases for the various boards and bureaus within the department. He clarified that the burden of the challenge would therefore fall on DCA to take the steps necessary to meet the implementation date.

Mr. O'Connor noted that the DCA is moving toward a new, updated database system. He speculated that another related challenge could occur due to the department's reluctance to make major changes to the existing system due to the move to a more modernized system.

Gordonna DiGiorgio, Chair, asked if the legislation would guarantee that all data would be kept in one place. Mr. O'Connor and Mr. Maynard responded affirmatively, though both expressed the understanding that the transition to the new database is a slow process.

Ms. Rhine repeated that the issues of concern to the Committee and Board previously had been addressed by the author. She expressed the position that, aside from the noted technological issues, the Board did not need to have concerns with the content of the amended legislation.

Renee Lonner moved to recommend to the Board to support AB 1310. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

C. Assembly Bill 1737 (Eng)

Ms. Rhine reported that the Board is not subject to the provisions of the legislation as currently written. She explained that the Board is not currently required to collect the type of data that is outlined in the bill. No action was required by the Committee.

D. Assembly Bill 2028 (Hernandez)

Ms. Rhine noted that this legislation pertains to exemptions to child abuse reporting requirements. It would allow a psychotherapist to disclose information relevant to an incident of child abuse or neglect without complying with the written request provision in existing law.

Ms. Rhine explained that Board licensees are mandated reporters, meaning they are required by law to report known or reasonably suspected incidents of child abuse or neglect. Failure to make such a report is a misdemeanor. Ms. Rhine noted that the intent of the legislation is to clarify in existing statute that health care providers who report suspected abuse or neglect are allowed to provide information to those investigating the report; the bill provides an exemption from written request requirements specified in law.

Mary Riemersma, CAMFT, stated that also being added to the legislation is elder and dependent adult abuse. The bill also exempts from the requirement of having to provide notification after the fact.

Renee Lonner moved to recommend to the Board to support AB 2028. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

E. Assembly Bill 2086 (Coto)

Ms. Rhine stated that this bill would require institutions of higher education to put on their applications a link or other direction to where a student could find rates of passage on specific professional licensure examinations by students of that institution or program. She reported having conducted her analysis of the legislation as introduced; however, amendments were made to the bill a few days before the committee meeting. Ms. Rhine indicated that a summary review of the amendments suggested that the legislation retained its original objective. Of concern to her was the lack of clarity in certain areas, such as who would be required to provide the information, or even how the legislation would be implemented. Given that the amendments had been made so recently, staff had been unable to thoroughly review them to determine how the changes impacted the Board. She recommended that discussion of the legislation continue and the matter be revisited at the next Board meeting to determine if the amendments addressed the issues raised by staff in the original analysis.

Renee Lonner moved to defer AB 2086 to the next Board meeting for further discussion. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

F. Assembly Bill 2167 (Nava)

Ms. Rhine reported that currently candidates for licensure as a Licensed Clinical Social Worker (LCSW) in California must complete a two part examination developed by the Board. This legislation would eliminate the two state-administered examinations and instead require an LCSW candidate to complete a national, clinical level examination administered by the Association of Social Work Boards (ASWB), as well as a California jurisprudence examination.

Ms. Rhine provided a brief history of the Board's involvement with the ASWB examination. She reported that after several years of administering the ASWB clinical level examination, the Department of Consumer Affairs Office of Examination Resources in 1998 began having concerns with the test. Ms. Rhine noted that those concerns were outlined in her analysis of the legislation. Subsequently, the Board changed to administering the state-board-constructed examination currently in use.

In 2006, ASWB asked the Board to consider rejoining ASWB, at which time the Board began the process of evaluating the current national examination. A psychometric audit of the test was performed by Dr. Tracy Montez of Applied Measurement Services, LLC. When the Board was presented with the results of that study, the recommendation by Dr. Montez was for the Board to continue using the board-administered test and not change to the national examination.

In 2008 the Board formed the Examination Program Review Committee. The group was assigned, in part, to review the national and board examinations for all license types regulated by the Board, with an eye toward possible improvements to the examination process; the ASWB test was included in the review. Dr. Montez again spoke about her concerns with the national (ASWB) examination.

Ms. Rhine noted that in February 2010, the National Association of Social Workers (NASW), California chapter, introduced the current legislation. Board staff corresponded with the bill's author (Assembly member Nava) and outlined its concerns. The response received from ASWB indicated that some of the issues raised previously by Dr. Montez had been addressed. Dr. Montez is currently reviewing the changes that have been made to the ASWB exam and has continued her communication about the next steps she will take in that regard. The changes will include having Subject Matter Experts look at the new examination plan and perform an audit of the test.

Ms. Rhine indicated that presently there is not sufficient evidence of changes to the examination that would influence the Board's position on the ASWB examination. Currently, Dr. Montez is recommending that the Board continue using the state-administered examination for LCSWs. AB 2167 would go against that recommendation.

Committee Member Renee Lonner asked if the desire to administer the ASWB examination versus the state-constructed examination based on the issue of reciprocity. Ms. Rhine responded that portability was one of the issues, as California is the only state that does not currently use the ASWB examination. Another issue pertains to a national loan repayment program. The way the federal statute is written requires that a candidate take the national examination in order to be eligible for the repayment program. She noted that the state also has its own loan repayment program; however, it is the federal program that is associated with the ASWB examination.

Ms. Rhine touched on various issues related to the Board's use of the national examination. She stated that the Board's mandate is consumer protection. It is the Board's responsibility to set appropriate standards for individuals to meet in becoming licensed, and to administer a licensure examination that tests according to those standards.

Kim Madsen, Executive Officer, commented that at both the last committee meeting and board meeting, the board adopted the concept of the jurisprudence exam and a separate written test, whether national or state-constructed. Further discussion of that concept was anticipated at the next Examination Committee meeting. Ms. Madsen indicated that should the Board decide to begin administering the national examination, it would be in a position to accept that test. Ms. Lonner added that moving in the direction of the national examination also allows ASWB to make it more appropriate for clinical practice in California. Ms. Madsen commented that one of the steps the Board had taken to work with ASWB is to provide a list of practitioners who could be contacted for participation in the occupational analysis of the national test. She expressed her uncertainty as to the number of California licensees who had actually participated, but stated that ASWB had committed to providing the Board with that information when the occupational analysis was complete. Ms. Rhine added that the report was expected soon.

Committee Member Michael Webb asked if the curriculum requirements to qualify for the national examination are the same as for the state-administered exam. Ms. Rhine was uncertain about the differences in the exam requirements from state to state, and deferred to NASW for response as the sponsor of the bill.

Rebecca Gonzales, NASW, provided background on the association's decision to sponsor the legislation. She reported having been contacted by members about the difficulty in qualifying for the loan repayment program. While portability is also a reason, it is the ability to provide members access to the federal program that sparked NASW interest in the bill. Ms. Gonzales noted that over the past five years NASW has tried various approaches to this task, including seeking an exception for California candidates. Those efforts have been unsuccessful to date. She was unable to answer Mr. Webb's question regarding specific curriculum requirements, but indicated that the other states considered the exam to be valid, including states that could be considered comparable to California in terms of diversity. Ms. Gonzales noted her understanding that the Board, through Dr. Montez, is currently reviewing the revision to the examination to determine if California's concerns had been addressed. She announced that NASW plans to take an amendment to the bill. In short, the amended bill would say that if the Board determines that the national examination is valid and useful, then California would move to the national test. In essence, the amendment gives the Board the authority to not use the national examination if that test is determined not to meet the California's needs and standards. NASW is committed to continuing its work with the Board through this process. Ms. Gonzales repeated that of primary concern to NASW is the federal loan repayment program and the widespread concerns expressed by NASW members at their inability to avail themselves of the benefits of that program.

Herbert Weiner asked for clarification whether or not the legislation addressed the six year time frame required for the completion of hours of experience. It was confirmed that the legislation does not address the time frame pertaining to accrual of hours.

Mary Riemersma, CAMFT, noted that Marriage and Family Therapists face the same problem as LCSWs with respect to the federal loan repayment program.

Ms. Lonner commented, with respect to curriculum, that California's curriculum is not in statute. The standard is that the courses are approved by CSWE. She was unsure about the curriculum requirements in other states. Ms. Rhine added that the requirements are varied. A brief discussion ensued about some of those differences, such as states that have levels of social work licensure. Ms. Lonner added her recollection about issues of concern with the ASWB test that led to California's decision to begin developing its own examination for LCSWs.

Ms. Rhine stated that the legislation is currently premature for the Board's purposes because the previously identified issues had not been confirmed as addressed. After discussion, the decision was made to continue taking an oppose position until such time as the amendments can be more thoroughly reviewed. Ms. Gonzales asked if the amended language would impact the Board's position on this legislation. Ms. Rhine responded affirmatively. Currently, if the Board decided to again use the national examination, legislation would be required to authorize use of that test. If AB 2167 passes as amended, it would, at a minimum, allow the Board to use the ASWB exam without additional legislative action.

Ms. Rhine recommended that the committee go with the bill as presented, and continue with the oppose position for the present. The legislation will be discussed again at the May Board meeting, after the amendments have been made. At that time the Board can opt to change its position if the revisions to the bill are deemed to have addressed the Board's concerns.

Mr. Webb asked if there was any data available about the number of people who are impacted by the lack of access to the loan repayment program. The NASW representative estimated approximately 600. Ms. Lonner noted certain scenarios that could impact that number.

Sean O'Connor, Board Outreach Coordinator, asked about the application requirements for the loan repayment program, specifically, at what point does one apply for that program. The NASW representative did not have that information readily available. Mr. O'Connor explained he was trying to get an idea about who would qualify for the repayment program. He asked for clarification. The NASW representative confirmed that the graduate would have to take the national examination to qualify for the program.

Renee Lonner moved to oppose AB 2167 pending further discussion at the next Board meeting. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

G. Assembly Bill 2229 (Brownley)

Ms. DiGiorgio noted that this legislation had been amended shortly before the committee meeting. Ms. Rhine reported not having had the opportunity to conduct an analysis of the bill as amended. She stated that the legislation pertained to mandated child abuse reporting. Most significantly, the bill as introduced would require a health practitioner or medical social worker who is making a mandated report relating to abuse or neglect resulting from maternal substance abuse to disclose all known health needs of the child, including potential exposure to HIV infection. Ms. Rhine reported learning from the author's office that due to the substantial feedback received, the plan was to delete the provision pertaining to HIV infection. She confirmed that this change had been made, as well as others. She recommended to the Committee that the bill be deferred for future discussion at the next Board meeting.

Renee Lonner moved to defer AB 2339 to the next Board meeting for further discussion. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

H. Assembly Bill 2339 (Smyth)

Ms. Rhine reported that this bill pertains to child abuse reporting. She provided a brief history of the Child Abuse and Neglect Reporting Act (CANRA), noting that the provisions pertaining to emotional abuse or neglect had originally been included in law, then were removed, and then reinserted. She stated that the evolution of the law had resulted in different rules to be applied depending upon the type of abuse. The legislation would allow mandated reporters to report, or discuss as appropriate, emotional abuse of a child, without the threat of liability, discipline, or violating the law.

The bill was sponsored by CAMFT. Ms. Riemersma noted that she was unclear why the language regarding emotional abuse or neglect had been removed from the original law several years prior. She touched on CAMFT's perspective on the possible long-term consequences of emotional abuse, and therefore why it is important that a

mandated reporter of such abuse know that he or she is protected legally when making, or cooperating in the investigation of, a report of emotional abuse to a child.

Mr. Webb asked for clarification regarding why the emotional abuse language had been deleted originally. Ms. Riemersma responded that while it was intentional to remove the language, major revisions had been made to CANRA and she was unsure of the specifics pertaining to the emotional abuse. A brief discussion ensued.

Ben Caldwell, AAMFT, stated his intent to recommend to his organization that a position of Support be taken on this legislation.

Renee Lonner moved to recommend to the Board to support AB 2339. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

I. Assembly Bill 2380 (Lowenthal)

Ms. Rhine reported that current statute specifies that Board licensees are mandated reporters under the Child Abuse and Neglect Reporting Act. As such, licensees are required to make a report when, in a professional capacity, there is knowledge or reasonable suspicion that abuse has occurred. Ms. Rhine noted her understanding that many mandated reporters are unclear as to the definition of “reasonable suspicion,” resulting in abuse reports not being made in situations that warrant reporting. AB 2380 would clarify the meaning of “reasonable suspicion.”

The committee members commented about the importance of clarity when it comes to defining terms such as “reasonable suspicion.” A brief discussion ensued among meeting participants.

Michael Webb moved to recommend to the Board to support AB 2339. Renee Lonner seconded. The Committee voted unanimously (3-0) to pass the motion.

J. Assembly Bill 2435 (Lowenthal)

Ms. Rhine reported that this bill was sponsored by the California Commission on Aging (Commission). When the Board was recently working on legislation changing the MFT curriculum, the Commission had requested several changes to various curriculum requirements to insert references to assessment and reporting of elder and dependent adult abuse or neglect. A number of the changes requested by the Commission were made at that time. The Commission subsequently introduced the current bill, which Ms. Rhine reviewed in its amended form.

The legislation inserts instruction on the assessment and reporting of elder and dependent abuse and neglect in the statutes for MFTs, LCSWs, and LPCCs, having to do with long-term care and aging. Current statute requires applicants to complete 10 contact hours of aging and long-term care coursework for licensure. Not included in that requirement is assessment and reporting instruction, or dependent adults.

Ms. Rhine described how the legislation would be implemented, depending in part on when the applicant begins graduate study and the type of license being sought. To create consistency and clarity, staff suggested revision of the implementation dates.

Ben Caldwell, AAMFT, reported AAMFT having sought and received amendments to the bill. At the present time, AAMFT is supportive of the legislation, but shares the Board's expressed concerns regarding the confusing surrounding the implementation dates.

Ms. Riemersma and other meeting participants commented briefly about their interest and involvement in the evolution of AB 2435.

Renee Lonner moved to recommend to the Board to support AB 2339, if amended to remove staggered implementation dates. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

The meeting adjourned for a brief break at approximately 9:45 a.m., and reconvened at approximately 9:55 a.m.

K. Senate Bill 389 (Negrete McLeod)

Ms. Rhine reported that the Board had previously taken an oppose position to this legislation, which pertains to fingerprint submission. She indicated the bill was again before the committee because amendments had been made; however, none of those changes addressed the Board's concerns. She provided an overview of the Board's efforts to date regarding fingerprinting of all licensees. Ms. Rhine reported having contacted the author's office to express concerns with the bill, given the impact it would have on the Board's efforts to date. She was told the legislation was proceeding, and was assured the Board's concerns would be addressed during the process. The committee briefly discussed the wording of the recommendation to the full Board.

Renee Lonner moved to recommend to the Board to oppose SB 389, unless amended to exempt the Board from the provisions of the bill. Michael Webb seconded. The Committee voted unanimously (3-0) to pass the motion.

L. Senate Bill 543 (Leno)

It was noted that this bill had previously been discussed by the full Board, at which time an oppose position was taken. Ms. Rhine reported that the legislation has been amended. Ms. Rhine explained that existing law allows a minor over the age of 12 to consent to mental health services on an outpatient basis if the minor is mature enough to participate intelligently in treatment, and if the minor would present a danger to self or others if services were not received. In part, the current legislation would allow a minor to agree to services without the requirement that he or she present harm to self or others. Ms. Rhine noted that the Board had previously been concerned with the wording of the legislation, which served to disallow parental involvement in the minor's treatment unless the attending professional deemed such participation appropriate. The revised version of the bill returns to the premise that the parent or guardian would be involved in treatment unless the professional deems it inappropriate. She briefly described the intent of the bill, and the remaining provisions.

The committee members and meeting participants discussed their ongoing concerns with the legislation, including the broad manner in which the bill is worded. The committee expressed unease with the possible misuse of the intent of the legislation as currently written. Mr. Webb asked about possible amendments to the bill; no amendments were reported pending.

Michael Webb moved to defer SB 543 to the next Board meeting for further discussion. Renee Lonner seconded. The Committee voted unanimously (3-0) to pass the motion.

M. Senate Bill 1282 (Steinberg)

Ms. Rhine reported that the legislation would establish the California Behavioral Certification Organization (CBCO), a private, non-profit agency, to certify and register Applied Behavioral Analysis Practitioners. She noted that there currently exist other private, non-profit certifying organizations that work with specific groups, such as alcohol and drug counselors. One such organization is the Behavior Analyst Certification Board (BACB), which provides certification for behavioral analysts. The intent of SB 1282 is to allow consumers another avenue to applied behavioral analysis services. Ms. Rhine explained that the legislation provides title protection for those individuals who would become certified, but does not provide for practice protection or regulation. Of additional concern is the confusion to consumers that could be caused by allowing individuals to represent themselves as California certified when the certification is not provided by the State of California. The bill does not appear to restrict the practice of Board licensees who are otherwise qualified to provide applied behavioral analysis services. Committee members discussed concerns with the bill, including the potential for harm to the public in terms of consumers misunderstanding the type of treatment they can expect from the certified individual.

Ms. Riemersma noted that the sponsor of the legislation had previously attempted unsuccessfully to license behavioral analysts, and to limit behavioral analysis to the individuals who held that license. She commented that the current legislation appears to another attempt in that regard.

Mr. Caldwell asked Ms. Rhine if there was any sense about the practical consequences to the legislation. Ms. Rhine responded that her review of the confusingly worded bill uncovered no practical consequences. Mr. Caldwell commented that AAMFT had not yet taken a position on the legislation.

Discussion among meeting participants continued, with many expressing concern over the lack of regulation of the proposed profession.

Renee Lonner moved to defer SB 1282 to the next Board meeting for further discussion. Donna DiGiorgio seconded. The Committee voted to pass the motion (2-0). Committee Member Michael Webb abstained.

IV. Discussion and Possible Rulemaking Action Regarding Implementation of SB 788 (Wyland) Chapter 619, Statutes of 2009 Establishing Licensed Professional Clinical Counselors

Sean O'Connor, Associate Governmental Program Analyst with the Board, reported that previous legislation had established the profession of Licensed Professional Clinical Counselor (LPCC) in California, with the Board of Behavioral Sciences assigned regulation of the profession. In order to implement the LPCC program, regulations must be adopted to address various issues related to the program, such as application fees, and clarify any unclear provisions of the original statute. He indicated that the information before the committee was the proposed language for those regulations. Mr. O'Connor noted that a portion of the regulatory package also was intended to update regulations as appropriate, such as when reference is made to statute that is no longer in place.

Mr. O'Connor identified several sections of the regulations that require policy consideration, and directed the committee to those questions. The proposed package was then opened for discussion.

Mr. Caldwell reported not having had the opportunity to review the regulatory package prior to the meeting, but offered assurances that a thorough review would be completed. Ms. Rhine noted that the package will again be discussed at the May board meeting. If approved, the package will then move through the rulemaking process, including public comment. She encouraged any parties that might have issue with the package to inform the Board of those concerns as soon as possible, making it possible to address those concerns prior to the May board meeting.

Ms. Riemersma noted that the proposed regulations contain much the same language as in parallel MFT and LCSW regulations. Mr. O'Connor confirmed that the regulations were modeled after the other professions licensed by the Board.

Ms. Madsen complimented Ms. Rhine and Mr. O'Connor for their efforts in preparing and moving forward with the proposed regulations.

Mr. O'Connor briefly touched on the regulatory language in the package that does not concern the LPCC program. He indicated that the language pertained to regulations previously approved by the Board.

Donna DiGiorgio moved to recommend to the full Board the approval of the rulemaking package. Renee Lonner seconded. The Committee voted unanimously (3-0) to pass the motion.

V. Discussion and Possible Legislative Action Regarding Amendments to AB 2191 (Emmerson) Related to Retired License Status

Ms. Rhine provided an overview and history of AB 2191. The Board received a request from the Assembly Republican Caucus staff for clarification about the continuing education requirement to restore a license. This resulted in one of the three changes being presented to the committee. Ms. Rhine outlined all of the proposed changes, and the rationale behind each revision. She also provided clarification regarding the continuing education requirement.

Michael Webb moved to approve the amendments to AB 2191 and forward to the full Board. Renee Lonner seconded. The Committee voted unanimously (3-0) to pass the motion.

VI. Discussion and Possible Legislative Action Regarding Amendments to AB 1489 (Committee on Business, Professions and Economic Development)

Ms. Rhine noted that SB 1489 is the Board's Omnibus Bill for the current year. The proposed amendments pertain to issues that have risen since the bill was introduced. Ms. Rhine then reviewed the suggested changes, and the rationale for each change, and provided clarification as requested.

Marriage and Family Therapy Practicum Requirement

Discussion occurred among meeting participants about the proposed amendments concerning the MFT practicum requirement.

Ms. Rhine reported that the passage of SB 33 (Correa) Chapter 26, Statutes of 2009, which became effective January 1, 2010, resulted in significant changes to the California Business and Professions Code (BPC) pertaining to MFT educational requirements. One change in the new law requires MFT students/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. 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.

Ms. Rhine indicated that, with the passage of SB 33, there is a conflict between BPC section 4980.36(d)(1)(B)(iii), which requires that a student be enrolled in a practicum course while counseling clients, and section 4980.42(a), which states, in significant part, that a student may gain hours of experience outside the required practicum. The conflict currently 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. Existing requirements for those educational programs not choosing to move to the new requirements before August 1, 2012 allow for trainees to counsel clients and gain experience outside of practicum. She noted that the problem could be resolved 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).

Ms. Rhine stated that another concern is related operation of this provision. Possible implementation problems have been noted with requiring a trainee to be enrolled in practicum while counseling clients. Several schools have inquired 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 student/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. It was 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.

Ms. Rhine reported that the Board's intent in requiring practicum for students 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. She provided an example of one school's efforts to comply with this requirement.

Discussion continued regarding the options for amendment to the MFT practicum requirement.

Ms. Riemersma reported having spoken with many schools about this issue, which is handled differently from school to school. She encouraged the Board not to require students to be enrolled in practicum to counsel clients, but rather continue leaving it the school to decide what to allow.

Mr. Caldwell spoke about the oversight functions of a practicum class.

Mr. Maynard suggested that an appropriate recommendation would be to direct staff to develop language that would allow students to engage in practicum during the course of the normal school year, and requiring a practicum class during the summer if the student intended to continue counseling during that time.

Renee Lonner moved to direct staff to develop language that would allow students to engage in practicum during the course of the normal school year and requiring a practicum class during the summer if the student intended to continue counseling during that time. Donna DiGiorgio seconded. The Committee voted unanimously (3-0) to pass the motion.

VII. Budget Update

Kim Madsen, Executive Officer, provided an overview of the Board's budget, noting areas of highlight. She also spoke about the ongoing budget issues in California, and the steps the Board is taking to work with those issues.

VIII. Rulemaking Update

Ms. Rhine presented the list of pending regulatory proposals, for the committee's review.

IX. Suggestions for Future Agenda Items

No agenda items were proposed.

X. Public Comment for Items Not on the Agenda

An unidentified audience member read a prepared statement about the requirement that hours of experience be gained within a six-year time frame, and his experience in gaining those hours. In summary, he asked that the Board review the six-year requirement, and expressed his willingness to work with the Board in this area.

The group briefly reviewed the upcoming committee and board meeting dates.

The Committee adjourned at approximately 12:00 p.m.

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To: Policy & Advocacy Committee

Date: June 1, 2010

From: Rosanne Helms
Legislative/Regulatory Analyst

Telephone: (916) 574-7897

**Subject: Summary of Responses – Licensed Professional Clinical Counselor Courses
Required for Licensure Survey**

Summary of Respondents

BBS asked schools throughout California to complete a survey listing courses offered that would satisfy Licensed Professional Clinical Counselor (LPCC) licensure requirements of the Board in thirteen “Core Content Areas” and eight “Additional Coursework Requirements.” Attached is the survey and a sample response. We requested this information from 104 schools (86 Marital & Family Therapy (MFT) programs and 18 Licensed Clinical Social Worker (LCSW) programs). There were 43 responses to our request.

Below is a summary of the types of degrees offered by responding programs:

- **Masters in Psychology** (Clinical Psychology, Counseling Psychology, or MFT emphasis) – 18 programs (42%)
- **Masters in Counseling** (Psychology or MFT emphasis) 10 programs (23%)
- **Masters in Marital and Family Therapy** – 9 programs (21%)
- **Master of Social Work** – 4 programs (9%)
- **Masters in Social Welfare** – 1 program (2%)
- **Clinical Psychology Ph.D.** – 1 program (2%)

Staff is working on posting the responses to the BBS website so that students may access the information when planning their course schedule. The survey template will also be posted online so that additional schools may respond.

Lack of Courses Offered

Of the 43 responses, there was one “Core Content Area” in which about half of the programs offered no course content. There were 23 programs which stated they offered no course content in Item #3, “Career development theories and techniques, including career development decision-making models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development”. No other “Core Content Area” had a significant number of programs offering no courses.

In the “Additional Coursework Requirements” category, five programs stated they have no courses offered in Item #8, “A minimum of 15 contact hours of instruction in crisis or trauma counseling, including multidisciplinary responses to crises, emergencies, or disasters, and brief, intermediate, and long-term approaches.” This is a new course requirement, and all other “Additional Coursework Requirements” are already required of current BBS licensees.

LPCC Programs

To date, staff has only surveyed MFT and LCSW school programs. We are currently working on a similar survey for the LPCC school programs, and expect this survey to be sent out in early June.

Board of Behavioral Sciences
LPCC Courses Required for Licensure
from

The Wright Institute
MA Counseling Psychology

CORE CONTENT AREAS

For each section below please list the course title(s) and number(s) for courses that cover some or all of the subject matter identified in the core content area. You can use courses more than once across the different core content areas. In order for an applicant to receive full credit in the core content area, he or she must have taken the equivalent of three semester units or 4.5 quarter units of coursework.

<p>1. Counseling and psychotherapeutic theories and techniques, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to assist in selection of appropriate counseling interventions, models of counseling consistent with current professional research and practice, development of a personal model of counseling, and multidisciplinary responses to crises, emergencies, and disasters.</p>	<ul style="list-style-type: none"> • Theories in Counseling (TC) – 3 units • Counseling Methods I (CM I)– 3 units • Counseling Methods II (CM II)– 3 units • Cross-Cultural Counseling (CCC) – 3 units • Couple & Family Counseling (CFC) – 3 units • Group Counseling (GC) – 3 units • Alcohol & Chemical Dependency Counseling (ACDC) – 1.5 units • Aging & Long-Term Care (ALTC) – 1.5 units • Spousal & Partner Abuse (SPA) – 1.5 units
<p>2. Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.</p>	<ul style="list-style-type: none"> • Psychopathology & Treatment (PT) – 3 units • Human & Family Development (HFD) – 3 units • Cross-Cultural Counseling (CCC) – 3 units • Aging & Long Term Care (ALTC) – 1.5 units
<p>3. Career development theories and techniques, including career development decision-making models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.</p>	<ul style="list-style-type: none"> • Introduction to Psychological Testing (IPT) – 3 units
<p>4. Group counseling theories and techniques, including principles of group dynamics, group process components, developmental stage theories, therapeutic factors of group work, group leadership styles and approaches, pertinent</p>	<ul style="list-style-type: none"> • Group Counseling (GC) – 3 units

research and literature, group counseling methods, and evaluation of effectiveness.	
5. Assessment, appraisal, and testing of individuals, including basic concepts of standardized and non-standardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.	<ul style="list-style-type: none"> • Introduction to Psychological Testing (IPT) – 3 units
6. Multicultural counseling theories and techniques, including counselors' roles in developing cultural self-awareness, identity development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.	<ul style="list-style-type: none"> • Cross-Cultural Counseling (CCC) – 3 units • Counseling Methods I (CM I) – 3 units • Counseling Methods II (CM II) – 3 units • Couple & Family Counseling (CFC) – 3 units
7. Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.	<ul style="list-style-type: none"> • Introduction to Psychological Testing (IPT) – 3 units • Psychopathology & Treatment (PT) – 3 units • Counseling Methods I (CM I) – 3 units • Alcohol & Chemical Dependency Counseling (ACDC) – 1.5 units • Human Sexuality (HS) – 1.5 units • Aging & Long Term Care (ALTC) – 1.5 units • Spousal & Partner Abuse (SPA) – 1.5 units • Couple & Family Counseling (CFC) – 3 units
8. Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.	<ul style="list-style-type: none"> • Research & Evaluation (RE) – 3 units • Introduction to Psychological Testing (IPT) – 3 units
9. Professional orientation, ethics, and law in counseling, including professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or	<ul style="list-style-type: none"> • Law & Professional Ethics (LPE) – 3 units • Child Abuse Assessment & Reporting (CAAR) – 0.5 units • Counseling Methods I (CM I) – 3 units • Counseling Methods II (CM II) – 3 units

<p>without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impeded access, equity, and success for clients.</p>	
<p>10. Psychopharmacology, including the biological bases of behavior, basic classifications, indications, and contraindications of commonly prescribed psychopharmacological medications so that appropriate referrals can be made for medication evaluations and so that the side effects of those medications can be identified.</p>	<ul style="list-style-type: none"> • Clinical Psychopharmacology (CP) – 3 units
<p>11. Addictions counseling, including substance abuse, co-occurring disorders, and addiction, major approaches to identification, evaluation, treatment, and prevention of substance abuse and addiction, legal and medical aspects of substance abuse, populations at risk, the role of support persons, support systems, and community resources.</p>	<ul style="list-style-type: none"> • Alcohol & Chemical Dependency Counseling (ACDC) – 1.5 units
<p>12. Crisis or trauma counseling, including crisis theory; multidisciplinary responses to crises, emergencies, or disasters; cognitive, affective, behavioral, and neurological effects associated with trauma; brief, intermediate and long-term approaches; and assessment strategies for clients in crisis and principles of intervention for individuals with mental or emotional disorders during times of crisis, emergency, or disaster.</p>	<ul style="list-style-type: none"> • Counseling Methods I (CM I) – 3 units • Alcohol & Chemical Dependency Counseling (ACDC) – 1.5 units • Couple & Family Counseling (CFC) – 3 units
<p>13. Advanced counseling and psychotherapeutic theories and techniques, including the application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.</p>	<ul style="list-style-type: none"> • Counseling Methods II (CM II) – 3 units • Aging & Long Term Care (ALTC) – 1.5 units • Couple & Family Counseling (CFC) – 3 units • Human Sexuality (HS) – 1.5 units • Alcohol & Chemical Dependency Counseling (ACDC) – 1.5 units • Spousal & Partner Abuse (SPA) – 1.5 units
<p>ADDITIONAL COURSEWORK REQUIREMENTS</p>	

For each section below please list the course title(s) and number(s) for courses that cover the subject matter identified. Please refer to the sample if you have questions.	
1. A minimum of 15 contact hours of instruction in alcoholism and other chemical substance abuse dependency	<ul style="list-style-type: none"> Alcohol & Chemical Dependency Counseling (ACDC) – 1.5 units
2. A minimum of 10 contact hours of instruction or coursework in human sexuality	<ul style="list-style-type: none"> Human Sexuality (HS) – 1.5 units
3. A two semester or three quarter unit survey course in psychopharmacology	<ul style="list-style-type: none"> Clinical Psychopharmacology (CP) – 3 units
4. A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics	<ul style="list-style-type: none"> Spousal & Partner Abuse (SPA) – 1.5 units
5. A minimum of seven contact hours of training or coursework in child abuse assessment and reporting	<ul style="list-style-type: none"> Child Abuse Assessment & Reporting (CAAR) – 0.5 units
6. A minimum of 18 contact hours of instruction in California law and professional ethics for professional clinical counselors	<ul style="list-style-type: none"> Law & Professional Ethics (LPE) – 3 units
7. A minimum of 10 contact hours of instruction in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging	<ul style="list-style-type: none"> Aging & Long-Term Care (ALTC) – 1.5 units
8. A minimum of 15 contact hours of instruction in crisis or trauma counseling, including multidisciplinary responses to crises, emergencies, or disasters, and brief, intermediate, and long-term approaches	<ul style="list-style-type: none"> No courses offered.

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To: Policy and Advocacy Committee Members

Date: May 25, 2010

From: Sean O'Connor
Associate Governmental Program Analyst

Telephone: (916) 574-7863

Subject: Professional Clinical Counselor Supervisory Plan Requirement

Background

At the May 2010 Board meeting, Board members directed staff to initiate a rulemaking package to implement the new Licensed Professional Clinical Counselor (LPCC) license type. Among other proposals, the draft rulemaking language presented to the Board included a requirement that professional clinical counselor interns (PCCI) and their supervisors complete a Supervisory Plan. Currently, only Associate Clinical Social Workers (ASW) and their supervisors are required to complete Supervisory Plans. Please refer to Attachment A for the proposed revisions to the Board's existing Supervisory Plan.

Business and Professions Code (BPC) section 4996.23(d) explicitly mandates supervisors of ASWs complete a Supervisory Plan. While the requirement for a Supervisory Plan for PCCIs is not explicitly referenced in the BPC, BPC section 4999.48(d) grants the Board authority to adopt regulations regarding the "General responsibilities of supervisors" for PCCIs. Supervisors of Marriage and Family Therapist (MFT) Interns and Trainees are not required to complete a Supervisory Plan under current laws and regulations.

The primary purpose of the Supervisory Plan is to facilitate a discussion between the supervisee and the supervisor regarding the goals and objectives of supervision.

Discussion of the Value of a Supervisory Plan

In investigating the potential benefit of a Supervisory Plan for PCCIs, Board staff reviewed several publications and academic articles relating to supervision in mental health professions:

1. American Association for Marriage and Family Therapy. (2007). Approved Supervisor Designation Standards and Responsibilities Handbook. Retrieved May 17, 2010 from http://www.aamft.org/membership/Supervision/Approved%20Supervisor_handbook.pdf
2. American Board of Examiners in Clinical Social Work. (2004). Clinical Supervision: A Practice Specialty of Clinical Social Work: A Position Statement of the American Board of Examiners in Clinical Social Work. Retrieved May 25, 2010 from <http://www.abecsw.org/images/ABESUPERV2205ed406.pdf>
3. California Association of Marriage and Family Therapists. (2008). Certified Supervisor Program. Retrieved May 25, 2010 from

http://www.camft.org/am/Template.cfm?Section=Certified_Supervisor_Program&Template=/CM/ContentDisplay.cfm&ContentID=1432

4. Falender, C., Erickson Cornish, J., Goodyear, R., Hatcher, R., Kaslow, N., Leventhal, G., Grus, G. (2004). Defining Competencies in Psychology Supervision: A Consensus Statement. *Journal of Clinical Psychology, 60(7)*, 771-785.
5. Hunter, P., Cox, J., Layne, J., & Worman, K. (forthcoming 2010). The Use of Videoconferencing with Supervision: A Best Practices Guide. California Board of Behavioral Sciences.

Among other topics each of these publications made some reference to the potential benefit of developing a “training plan” or supervisory goals at the onset of the supervisory relationship as a framework for monitoring professional development. For example, Hunter et al. (2004) stated, “An assessment of the learning needs of supervisees at the start of supervision contributes to an empirical approach in which needs inform goals and progress toward these goals are closely monitored.” The American Association of Marriage and Family Therapy (2007) reinforce this empirical approach: “The progress of MFTs/trainees should be periodically reviewed according to pre-determined supervisory goals and evaluations should be shared and discussed with trainees.”

Aside from the structural benefits of developing supervisory goals and objectives at the beginning of the supervisory relationship, a discussion of a “training plan” or supervisory goals establishes a collaborative relationship early on between the supervisor and the supervisee. The American Board of Examiners in Clinical Social Work (2004) wrote, “Supervision includes agreeing on a plan that states desired outcomes and goals, and evaluating whether they are met. While collaborative in nature, the plan will be influenced by the practice-setting’s requirements and by the supervisee’s levels of knowledge and skill.”

Summarizing the benefits of setting forth a “training plan” or supervisory goals, two key themes synthesized from the literature include the importance of structuring the supervisory relationship to empirically measure a supervisee’s progress towards identified goals and the opportunity to engage in collaboration relating to one’s professional development with a more seasoned mental health professional.

Next Steps

Staff recommends conducting an open discussion among Committee members and stakeholders regarding the potential benefits and problems with requiring PCCI supervisors and supervisees complete a Supervisory Plan. Staff further recommends that upon completion of the discussion the Committee make a recommendation to the Board to either retain or eliminate the language in the rulemaking package requiring PCCIs and their supervisors complete the Supervisory Plan.

Attachments

A – Proposed Modifications to Supervisory Plan



Board of Behavioral Sciences

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SUPERVISORY PLAN

Title 16, California Code of Regulations (CCR) Sections 1870.1 and 1822 requires all associate clinical social workers and professional clinical counselor interns and ~~licensed clinical social workers or licensed mental health professionals~~ acceptable to the Board as defined in Business and Professions Code Section 4996.23(a), 4999.12(h) and CCR Section 1874, who assume responsibility for providing supervision to those working toward a license as a Clinical Social Worker or Professional Clinical Counselor to complete and sign the following supervisory plan. The original signed plan shall be submitted by the ~~Associate Clinical Social Worker~~ registrant to the board upon application for license examination eligibility.

REGISTRANT ASSOCIATE: (Please type or print clearly in ink.)

Legal name:	Last	First	Middle	ASW Registration Number
Address:	Number and Street			
City	State		Zip Code	
Business Telephone ()	Residence Telephone ()			

LICENSED SUPERVISOR: (Please type or print clearly in ink.)

Name:	Last	First	Middle	License No:	Expiration Date:																				
Employer Name:	Telephone Number: ()																								
Address:	Number and Street																								
City	State		Zip Code																						
Employment Setting:	<table border="0"> <tr> <td>a. Private Practice</td> <td><input type="checkbox"/></td> <td>d. Licensed Health Facility</td> <td><input type="checkbox"/></td> </tr> <tr> <td>a. Governmental Entity</td> <td><input type="checkbox"/></td> <td>e. Social Rehabilitation Facility/Community Treatment Facility</td> <td><input type="checkbox"/></td> </tr> <tr> <td>b. Nonprofit and Charitable Corporation</td> <td><input type="checkbox"/></td> <td>f. Pediatric Day Health and Respite Care Facility</td> <td><input type="checkbox"/></td> </tr> <tr> <td>c. School, College, or University</td> <td><input type="checkbox"/></td> <td>g. Licensed Alcoholism or Drug Abuse Recovery or Treatment Facility</td> <td><input type="checkbox"/></td> </tr> <tr> <td></td> <td></td> <td>h. <u>Community Mental Health Facility</u></td> <td><input type="checkbox"/></td> </tr> </table>					a. Private Practice	<input type="checkbox"/>	d. Licensed Health Facility	<input type="checkbox"/>	a. Governmental Entity	<input type="checkbox"/>	e. Social Rehabilitation Facility/Community Treatment Facility	<input type="checkbox"/>	b. Nonprofit and Charitable Corporation	<input type="checkbox"/>	f. Pediatric Day Health and Respite Care Facility	<input type="checkbox"/>	c. School, College, or University	<input type="checkbox"/>	g. Licensed Alcoholism or Drug Abuse Recovery or Treatment Facility	<input type="checkbox"/>			h. <u>Community Mental Health Facility</u>	<input type="checkbox"/>
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		h. <u>Community Mental Health Facility</u>	<input type="checkbox"/>																						
Briefly describe the goals and objectives:																									

I certify that I understand the responsibilities regarding clinical supervision, including the supervisor's responsibility to perform ongoing assessments of the supervisee, and I declare under penalty of perjury under the laws of the State of California that the information submitted on this form is true and correct.

Supervisor's Signature	Date signed
Associate Registrant's Signature	Date signed

The **original** of this form must be submitted to the board upon application for license examination eligibility.

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To: Policy and Advocacy Committee Members **Date:** May 25, 2010

From: Sean O'Connor
Associate Governmental Program Analyst **Telephone:** (916) 574-7863

Subject: **Hours of Experience Applied to Separate Licensing Requirements
Simultaneously**

Background

Under current law, the implementation of the Licensed Professional Clinical Counselor (LPCC) mental health license creates an opportunity for individuals to potentially qualify for two mental health licenses simultaneously – the LPCC and Marriage and Family Therapist (MFT) licenses. Nothing in law *prohibits* an individual from completing licensure requirements for the respective license types simultaneously. To create such a prohibition would require a law change.

Very few of the Board's current license population hold dual licenses. A combination of unique license requirements between Board-regulated professions and/or the personal career choices of mental health professionals conspire to prevent individuals from simultaneously pursuing to mental health licenses. For example, under current law, nothing *prohibits* an individual from simultaneously earning an MFT license while pursuing a clinical social worker license (LCSW). However, the specific degree requirements for each license – an MFT-related degree meeting specific statutory requirements versus a masters in social work – make the simultaneous pursuit of both the MFT and LCSW license unfeasible. The Board has a small number of licensees who hold both an MFT and a license as an educational psychologist, which is most likely a byproduct of some overlap in education and appropriate work experience settings.

Next Steps

Staff recommends conducting an open discussion among Committee members and stakeholders regarding "double-counting" hours towards both MFT and LPCC requirements. If the Committee decides to prohibit "double-counting" of hours, direct staff to draft language for full Board consideration.

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To: Policy and Advocacy Committee Members **Date:** June 1, 2010

From: Tracy Rhine **Telephone:** (916) 574-7830
Assistant Executive Officer

Subject: **Definition of Community Mental Health Setting in Regulations Related to Licensed Professional Clinical Counselors**

Background

At its May 2010 meeting, the Board discussed and approved the proposed rulemaking package implementing provisions of Senate Bill 788 (Wyland), Chapter 619, Statutes of 2009 related to the licensure and regulation of professional clinical counselors. As drafted, Title 16 of the California Code of Regulations, Section 1820 of this rulemaking package sets forth experience requirements for professional clinical counselor licensure pursuant to Business and Professions Code (BPC) Section 4999.46. Specifically, BPC Section 4999.46(b)(5) states that, of the 3,000 postdegree hours of supervised clinical mental health experience required to qualify for licensure, not less than 150 hours must be in a hospital or community mental health setting. However, "community mental health setting" is not defined in statute and therefore must be defined in regulation.

As drafted, Title 16 of the California Code of Regulations, Section 1820, in part, reads as follows:

(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.

The Board has referred the above proposed regulatory language back to the Policy and Advocacy Committee for further discussion.

Recommendation

Discuss the draft language defining a community mental health setting and direct staff to make any necessary changes to that language for full board consideration at its July 2010 Board meeting.

Attachment

16 CCR Section 1820 (as proposed)

ATTACHMENT

Title 16 of the California Code of Regulations; Proposed Text; LPCC Rulemaking

§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.

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To: Policy and Advocacy Committee Members **Date:** June 1, 2010

From: Tracy Rhine **Telephone:** (916) 574-7830
Assistant Executive Officer

Subject: **Practicum requirement during grandparenting period for degrees granted prior to 1996.**

Background

Senate Bill 788 (Wyland), Chapter 619, Statutes of 2009 established Licensed Professional Clinical Counselors (LPCCs) under the jurisdiction on the Board.

At its May 2010 meeting, the Board discussed and approved the proposed rulemaking package implementing provisions of SB 788. A notice of this rulemaking was published with the Office of Administrative Law on May 28, 2010.

Issue

Attached is a letter received by the Board from the California Coalition for Counselor Licensure (CCCL) related to the practicum requirement for individuals applying for LPCC licensure during the "grandparenting" period (January 1, 2011 through June 30, 2011). Business and Professions Code (BPC) Section 4999.54(a)(1)(A) requires that, in order for a degree to qualify for licensure, it must include not less than six semester units or nine quarter units of supervised practicum or field study experience. CCCL is requesting that the Board allow individuals that do not have the required practicum as part of his or her degree, to apply equivalent experience toward meeting the practicum requirement. CCCL offers a number of options for such equivalencies, including practicum completed in subsequent graduate work.

Discussion

BPC Section 4999.32 sets forth qualifications for registration and examination eligibility, including qualifying degree requirements. Specifically, paragraph (3) of subdivision (c) states that a degree must contain the following:

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

This language gives the Board discretion to accept an equivalent of six semester or nine quarter units of supervised practicum or field study. However, BPC Section 4999.54(a)(1)(A), the section of licensing law that sets forth requirements for those individuals applying during the grandparenting period, states:

*A qualifying degree **must** include the supervised practicum or field study experience as required in paragraph (3) of subdivision (c) of Section 4999.32. [emphasis added]*

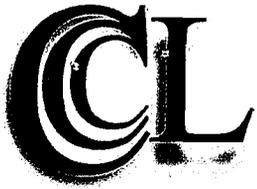
Though BPC Section 4999.32 allows the Board to accept an equivalent to practicum, according to BPC section 4999.54 (above), the degree must include that required practicum or the equivalent. Therefore, while the Board has some discretion as to the exact structure of the practicum or field study experience, it does not appear to have the authority to accept that experience outside of the degree program. Additionally, the intent of the statute is clear in that practicum is to be a part of the degree program in order to meet the requirements for licensure.

Recommendation

Discuss the options for amending the practicum requirements for LPCC applicants during the grandparenting period. If it is determined that the Board should revise the requirements, direct staff to bring a legislative or regulatory proposal for Board consideration at its July 2010 meeting.

Attachment

CCCL letter



California Coalition for Counselor Licensure

P.O. Box 6493, Ventura, CA 93006-6493
Email: info@caccl.org Website: www.caccl.org

April 30, 2010

Renee Lonner, Chair
Board of Behavioral Sciences
1625 North Market Blvd. Suite S 200
Sacramento, CA 95834

RE: Implementation of SB 788 (Licensed Professional Clinical Counselors)

Dear Ms. Lonner,

We have discovered an unanticipated problem in the education requirements for grandparenting, which we hope can be remedied in the rule-making process. Grandparenting allows counselors with degrees granted before 1996 to bring their degrees up to current standards by adding up to three core content courses and up to 18 units. There is no flexibility, however, regarding the six-unit practicum requirement for the qualifying degree.

We are now hearing from experienced counselors that their "older" degrees contained only a three-unit practicum and they want to know how they can add three more units, but there is no provision to make up this deficiency. The fact that a qualifying degree must contain six units of practicum is rather arbitrary and unfair for those with earlier degrees, when three units was the standard of the time. It is logical that a 30 or 36-unit degree might contain only three units of practicum, while a 48 or 60-unit degree will contain six units. Current counseling degrees require three units of practicum (first clinical experience with clients) and three to six additional units of, what the counseling profession calls, internship or field study.

Counselors with earlier degrees are well qualified practitioners, who have many years of experience, some have been licensed in other states for many years, others have gone on to earn doctorate degrees, some are professors. They will be able to meet all the other requirements of licensure, so there must be a way for them to verify education and training that would be equivalent to the three units of practicum that they are missing, due to the standards in place when they received their counseling degrees.

The requirement for practicum in SB 788, which is the standard that will be applied after grandparenting and will continue in the 2012 standards, is as follows:

"4999.32.(c)(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience, **or the equivalent**, in a clinical setting that provides a range of professional clinical counseling experience, including the following:"

Is there a way that the Board, in its interpretation of the law, could allow "equivalencies," on case-by-case basis? Following are possible options that could serve as equivalencies to three units of practicum in the qualifying degree:

1. Practica completed in subsequent graduate work
2. 3,000 hours of post degree supervised practice and ten years of counseling experience
3. Counselor Educators, who have taught the Practicum course in a graduate program, could be credited for practicum units in their "older" degree.
4. 250 hours of supervised practice, while registered as an intern in California

The reciprocity language also requires six units of practicum in the degree, which will be a problem for experienced, licensed counselors seeking reciprocity in California. If a person has been practicing for years as a LPC in another state, will CA have to deny licensure because he or she only had three units of practicum in an earlier degree?

This is a short-term problem, since these earlier degrees will disappear as counselors retire. We appreciate the Board's consideration of this important issue.

Sincerely,

A handwritten signature in cursive script that reads "Dean Porter".

Dean Porter
President

**§4999.32. QUALIFICATIONS FOR REGISTRATION AND EXAMINATION
ELIGIBILITY; GRADUATE COURSEWORK BEGINNING BEFORE AUGUST 1, 2012
AND COMPLETED BEFORE DECEMBER 31, 2018**

(a) This section shall apply to applicants for examination eligibility or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Sections 4999.33.

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

(c) The degree described in subdivision (b) shall contain not less than 48 graduate semester or 72 graduate quarter units of instruction, which shall, except as provided in subdivision (d), include all of the following:

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

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

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

(C) Career development theories and techniques, including career development decision making models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.

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

(E) Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.

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

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

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

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

(2) In addition to the course requirements described in paragraph (1), a minimum of 12 semester units or 18 quarter units of advanced coursework to develop knowledge of specific treatment issues, special populations, application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

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

(A) Applied psychotherapeutic techniques.

(B) Assessment.

(C) Diagnosis.

(D) Prognosis.

(E) Treatment.

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

(G) Health and wellness promotion.

(H) Other recognized counseling interventions.

(I) A minimum of 150 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(d) (1) An applicant whose degree is deficient in no more than two of the required areas of study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) may satisfy those deficiencies by successfully completing post-master's or postdoctoral degree coursework at an accredited or approved institution, as defined in Section 4999.12.

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

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

(e) In addition to the degree described in this section, or as part of that degree, an applicant shall complete the following coursework or training prior to registration as an intern:

(1) A minimum of 15 contact hours of instruction in alcoholism and other chemical substance abuse dependency, as specified by regulation.

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

(3) A two semester unit or three quarter unit survey course in psychopharmacology.

(4) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics.

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

(6) A minimum of 18 contact hours of instruction in California law and professional ethics for professional clinical counselors. When coursework in a master's or doctoral degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester unit or 72 quarter unit requirement in subdivision (c).

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

(8) A minimum of 15 contact hours of instruction in crisis or trauma counseling, including multidisciplinary responses to crises, emergencies, or disasters, and brief, intermediate, and long-term approaches.

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

§4999.54. LICENSURE; APPLICATION BETWEEN JANUARY 1, 2011 AND JUNE 30, 2011; ALTERNATIVE QUALIFICATION

(a) Notwithstanding Section 4999.50, the board may issue a license to any person who submits an application for a license between January 1, 2011, and June 30, 2011, provided that all documentation is submitted within 12 months of the board's evaluation of the application, and provided he or she meets one of the following sets of criteria:

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

(A) Has a master's or doctoral degree from a school, college, or university as specified in Section 4999.32, that is counseling or psychotherapy in content. If the person's degree does not include all the graduate coursework in all nine core content areas as required by paragraph (1) of subdivision (c) of Section 4999.32, a person shall provide documentation that he or she has completed the required coursework prior to licensure pursuant to this chapter. A qualifying degree must include the supervised practicum or field study experience as required in paragraph (3) of subdivision (c) of Section 4999.32.

(i) A counselor educator whose degree contains at least seven of the nine required core content areas shall be given credit for coursework not contained in the degree if the counselor educator provides documentation that he or she has taught the equivalent of the required core content areas in a graduate program in counseling or a related area.

(ii) Degrees issued prior to 1996 shall include a minimum of 30 semester units or 45 quarter units and at least six of the nine required core content areas specified in paragraph (1) of subdivision (c) of Section 4999.32. The total number of units shall be no less than 48 semester units or 72 quarter units.

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

(B) Has completed all of the coursework or training specified in subdivision (e) of Section 4999.32.

(C) Has at least two years, full-time or the equivalent, of postdegree counseling experience, that includes at least 1,700 hours of experience in a clinical setting supervised by a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, a licensed physician and surgeon specializing in psychiatry, or a master's level counselor or therapist who is certified by a national certifying or registering organization, including, but not limited to, the National Board for Certified Counselors or the Commission on Rehabilitation Counselor Certification.

(D) Has a passing score on the following examinations:

(i) The National Counselor Examination for Licensure and Certification or the Certified Rehabilitation Counselor Examination.

(ii) The National Clinical Mental Health Counselor Examination.

(iii) A California jurisprudence and ethics examination, when developed by the board.

(2) Is currently licensed as a marriage and family therapist in the State of California, meets the coursework requirements described in subparagraph (A) of paragraph (1), and passes the examination described in subdivision (b).

(3) Is currently licensed as a clinical social worker in the State of California, meets the coursework requirements described in subparagraph (A) of paragraph (1), and passes the examination described in subdivision (b).

(b) (1) The board and the Office of Professional Examination Services shall jointly develop an examination on the differences, if any differences exist, between the following:

(A) The practice of professional clinical counseling and the practice of marriage and family therapy.

(B) The practice of professional clinical counseling and the practice of clinical social work.

(2) If the board, in consultation with the Office of Professional Examination Services, determines that an examination is necessary pursuant to this subdivision, an applicant described in paragraphs (2) and (3) of subdivision (a) shall pass the examination as a condition of licensure.

(c) Nothing in this section shall be construed to expand or constrict the scope of practice of professional clinical counseling, as defined in Section 4999.20.

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To: Policy and Advocacy Committee members **Date:** June 1, 2010

From: Tracy Rhine **Telephone:** (916) 574-7847
Assistant Executive Officer

Subject: Marriage and Family Therapist Trainee; 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.

Previous Board Action

At its April 9, 2010 meeting the Policy and Advocacy Committee voted to request that staff prepare draft language allowing trainees to counsel clients during breaks in the scholastic calendar year such as winter intersession or spring break, and bring the issue back to the full Board for discussion.

At its May 2010 meeting, the Board considered the draft language, as well as other options offered by staff to address the issues outlined above, including allowing trainees to counsel clients outside of practicum and, alternatively, not allowing any exemptions from the practicum requirement (including breaks in the scholastic calendar). After a full discussion by the Board and the public, the Board voted to allow trainees to counsel clients outside of practicum if that period outside of practicum is 45 days or less.

The Board directed staff to draft amended statutory language and bring the proposal back to Committee for further discussion.

Proposed Amendments

The attached draft amendments exempt trainees from the practicum requirement during periods 45 days or less. This proposal amends 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. Amendments to BPC 4980.42(a) and to BPC §4980.36(d)(1)(B)(iii) allow for an exception during a period of time of 45 days or less.

Recommendation

Review and discuss the attached proposal and make a recommendation to the Board for further action.

Attachment

Proposed Draft Language for Practicum Amendments

Proposed Amendments Related to MFT Practicum (June 7, 2010).

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 period of time not enrolled in a practicum course is forty-five days or less.

(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.

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To: Policy & Advocacy Committee

Date: June 1, 2010

From: Rosanne Helms
Legislative/Regulatory Analyst

Telephone: (916) 574-7897

Subject: Overview of Behavior Analysis

Definition of Behavior Analysis

Below are definitions of behavioral analysis provided by two major behavioral analysis organizations:

- a. "Applied Behavior Analysis is both an applied science that develops methods of changing behavior and a profession that provides services to meet diverse behavioral needs. Briefly, professionals in applied behavior analysis engage in the specific and comprehensive use of principles of learning, including operant and respondent learning, in order to address behavioral needs of widely varying individuals in diverse settings. Examples of these applications include building the skills and achievements of children in school settings; enhancing the development, abilities, and choices of children and adults with different kinds of disabilities; and augmenting the performance and satisfaction of employees in organizations and businesses." (Source: Behavioral Analyst Certification Board web site)
- b. "The application of behavior analysis is very broad, ranging from assisting individuals in overcoming drug addiction to improving workplace organizations. Behavior Analysis has been applied to programs related to diet, exercise, juvenile delinquency, toilet training, education, organizational structures, and more." (Source: Association for Behavior Analysis International web site)

Standards

There are currently no specific standards for certifying or licensing behavior analysts in the United States. Some states have certification or registration standards, but not all do.

The Behavioral Analyst Certification Board (BACB) is a national certification board and has three credentials available, depending on degree level and experience: the Board Certified Behavior Analyst (BCBA) requires a Masters Degree, the Board Certified Assistant Behavior Analyst (BCaBA) requires a

Bachelors Degree, and the Board Certified Behavior Analyst – Doctoral requires a Doctorate (BCBA-D). However, there is no law that someone must have one of these certifications before practicing behavior analysis; they simply may not use these titles.

Some states have begun to require a state license or certification in order to practice behavioral analysis. Attached is State of Oklahoma Senate Bill No. 135, which became law on November 1, 2009. It requires that a state license be obtained, along with a certification from the national Behavior Analyst Certification Board, before practicing applied behavior analysis within the State of Oklahoma.

The BACB has created the Model Act for Licensing Behavior Analysts (attached). States interested in implementing licensing or certification can use this as a guide.

Major Organizations

- a. **Behavior Analyst Certification Board (BACB)** – a national nonprofit corporation established in 1998 to meet the professional credentialing needs identified by behavior analysts, governments, and consumers of behavior analysis services. The board has three credentials available: the Board Certified Behavior Analyst (BCBA), the Board Certified Assistant Behavior Analyst (BCaBA), and the Board Certified Behavior Analyst – Doctoral (BCBA-D)
- b. **Association for Behavioral Analysis International (ABAI)** – The ABAI was established in 1974, and has been the primary professional organization for members interested in the philosophy, science, application, and teaching of behavior analysis.
- c. **Association of Professional Behavioral Analysts (APBA)** – this is a new organization with a mission of serving the needs of professional behavioral analysts who are credentialed with the BACB.

Issues

Behavioral analysis is not regulated by the State of California. Anyone can claim to be an expert in behavior analysis (although the BACB holds the right to certain titles), and they may have little to no training. For example, some deem themselves “experts” after attending a few workshops, reading books, or gaining some experience teaching autistic children. However, this is no replacement for formal training. Therefore, the consumer is left to determine whether the person they hire for services is qualified.

Additionally, because no specific competencies are defined, a practitioner with a formal credential in behavior analysis does not guarantee that that practitioner has experience in a specific area, such as working with autistic children.

Regional Centers

The State Department of Developmental Services (DDS) oversees several Regional Centers. These centers are non-profits which contract with the DDS to provide services to those with disabilities. To qualify for services, a person must have a disability that begins before their 18th birthday and which is expected to continue indefinitely and present a substantial disability.

As part of their services provided, these Regional Centers employ behavior analysts. According to Title 17 of the California Code of Regulations, Section 54342(a)(11) “a regional center shall classify a vendor as a Behavior Analyst if an individual is recognized by the national Behavior Analyst Certification Board (BACB) as a Board Certified Behavior Analyst.”

SB 1282

SB 1282 (Steinberg) would establish the California Behavioral Certification Organization (CBCO), a nonprofit organization that provides for the certification and registration of applied behavioral analysis practitioners if they submit a written application, pay fees as required by the CBCO, meet specified educational and professional requirements, and submit fingerprints.

The goal of SB 1282 is to provide a way of giving more information to families and providing increased consumer protection.

By creating a private nonprofit entity that provides a certification which allows the individual to represent themselves as a “California Certified Behavior Service Professional”, this bill may cause confusion as to what that certification really means. The words ‘California Certified’ has the connotation that the State is the entity certifying the practitioner. In general, consumers have certain expectations of liability and protections afforded by the government when an individual is assumed to be regulated by the state. One such expectation is an established course of action by the regulating entity for unprofessional conduct by a certificate holder. This bill establishes disciplinary provisions for the CBCO for its certificate holders, but the State would not have any control or responsibility for such discipline.

At its meeting on May 6, 2010, the Board of Behavioral Sciences voted to take an “oppose” position on this bill.

The author’s office is aware of the shortfalls of this bill, and held a meeting on May 11, 2010 to explore alternative solutions. An additional hearing is planned for mid-June. Currently, the author is working on amending this bill to get a very basic version through the Assembly and over to the Senate for further discussion. Once it gets to the Senate, more extensive amendments are planned.

Possible Solutions

There are several possible courses of action the Board may pursue:

- a. The Board may decide to pursue placing behavior analysis within the scope of our licensees, so that only our license holders may practice applied behavior analysis.
- b. The Board may decide to create a new license falling under the Board of Behavioral Sciences, allowing those who have the behavioral analyst specialization but who are not MFTs, LPCCs, LEPs or LCSWs to practice as a behavioral analyst.
- c. Behavior analysis is a broad field, reaching from diet and exercise programs to improving workplaces, to helping those with disabilities. The Board may decide that this is too broad a

field to regulate and choose to pursue no regulation, or may pursue regulation only for specific behavior analysis specializations.

Attachments

- a. State of Oklahoma's Behavior Analyst Licensure Law
- b. BACB's Model Act for Licensing Behavior Analysts (attached)
- c. Frequently asked questions for the Behavior Analysis, Inc. autism program.
- d. SB 1282

ENROLLED SENATE
BILL NO. 135

By: Justice of the Senate

and

Steele, Sullivan and
Collins of the House

An Act relating to autism; defining terms; providing for the licensing of certain persons; stating qualifications; providing for renewal; stating duties of licensee; prohibiting certain act; providing penalties; stating duties of the Developmental Disabilities Services Division of the Department of Human Services; exempting certain persons; providing for the promulgation of rules; directing funds to be used for certain purpose; authorizing the State Department of Health to contract with third parties for certain services; directing funds for certain evaluation training; providing for a behavior analysis treatment pilot project; stating requirements; requiring commencement of project by certain date; limiting duration of project; providing for certain report to the Legislature and Governor; directing the University Hospitals Authority to establish certain program; stating certain condition for location; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1928 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

1. a. "Applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior through skill, acquisition, and the reduction of problematic behavior. An applied behavior analysis program shall:
 - (1) be based on empirical research including the direct observation and measurement of behavior as well as a functional behavior assessment, and
 - (2) utilize antecedent stimuli, positive reinforcement, and other consequences to produce behavior change.
- b. Applied behavior analysis does not include cognitive therapies or psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities;

2. "Board" means the nationally accredited Behavior Analyst Certification Board;

3. "Human services professional" means an individual licensed or certified by the state as one of the following:

- a. a licensed physical therapist or physical therapist assistant pursuant to Sections 887.1 through 887.18 of Title 59 of the Oklahoma Statutes,
- b. an occupational therapist, occupational therapy assistant, or occupational therapy aide pursuant to Sections 888.1 through 888.15 of Title 59 of the Oklahoma Statutes,
- c. a licensed clinical social worker, licensed masters social worker, or social work associate pursuant to Sections 1250 through 1273 of Title 59 of the Oklahoma Statutes,

- d. a psychologist or health service psychologist pursuant to Sections 1351 through 1376 of Title 59 of the Oklahoma Statutes,
- e. a licensed speech pathologist, licensed audiologist, speech-language pathologist or audiologist pursuant to Sections 1601 through 1622 of Title 59 of the Oklahoma Statutes,
- f. a licensed professional counselor or licensed professional counselor candidate pursuant to Sections 1901 through 1920 of Title 59 of the Oklahoma Statutes,
- g. a licensed marital and family therapist or licensed marital and family therapist candidate pursuant to Sections 1925.1 through 1925.18 of Title 59 of the Oklahoma Statutes, or
- h. a licensed behavioral practitioner or licensed behavioral practitioner candidate pursuant to Sections 1930 through 1949.1 of Title 59 of the Oklahoma Statutes;

4. "Certified assistant behavior analyst" means an individual who is certified by the nationally accredited Behavior Analyst Certification Board as a Board-Certified Assistant Behavior Analyst and certified by the Developmental Disabilities Services Division of the Department of Human Services;

5. "Licensed behavior analyst" means an individual who is certified by the nationally accredited Behavior Analyst Certification Board as a Board-Certified Behavior Analyst and licensed by the Developmental Disabilities Services Division of the Department; and

6. "Supervisee" means a person who acts under the extended authority of a licensed behavior analyst to provide applied behavior analysis services or a person who is in training to provide such services.

B. Each person wishing to practice as a licensed behavior analyst or a certified assistant behavior analyst shall apply to the Developmental Disabilities Services Division of the Department of Human Services using a form and in a manner prescribed by the Division and shall furnish evidence satisfactory to the Division that such person:

1. Is of good moral character;

2. Is at least twenty-one (21) years of age;

3. Has passed the Board examination and is certified by the Board as a Board-Certified Behavior Analyst or a Board-Certified Assistant Behavior Analyst, as applicable;

4. Has not had a professional license or certification refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for reasons that relate to unprofessional conduct unless the Division finds, to its satisfaction, that the conduct has been corrected or that mitigating circumstances exist that prevent its resolution; and

5. Has at least the minimum graduate or undergraduate degree, appropriate for the level of certification, from an accredited institution of higher learning in a qualifying field of study, as determined by the Board.

C. A person holding a state license or state certification shall apply for renewal of the state license or state certification on or before April 30 of each odd-numbered year. The application shall be accompanied by a renewal fee to be set by the Division in accordance with paragraph 3 of subsection F of this section.

D. A person licensed or certified by the Developmental Disabilities Services Division of the Department under this section shall:

1. Maintain active status and fulfill all requirements for renewal of national certification or recertification with the Board; and

2. Conduct professional activities in accordance with accepted standards such as the Guidelines for Responsible Conduct and Professional Disciplinary Standards of the Board.

E. 1. No person shall claim the title of licensed behavior analyst or certified assistant behavior analyst unless that person meets the applicable requirements in this section. No person shall practice applied behavior analysis without obtaining a license or certification in accordance with this section. Supervisees may only provide applied behavior analysis under the supervision of a licensed behavior analyst. This section shall not restrict the practice of applied behavior analysis by human services professionals, provided such individuals are working within the scope of their professions and the practice of applied behavior analysis is commensurate with their level of training and experience.

2. A violation of this subsection shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00), the suspension or revocation of a license or certification issued pursuant to this section, or both such fine and loss of licensure or certification.

F. The Division shall:

1. Investigate all complaints relating to:

- a. the practice or supervision of applied behavior analysis by any person licensed by the Developmental Disabilities Services Division of the Department as a behavior analyst or certified by the Division as an assistant behavior analyst, or
- b. any person alleged to be practicing or providing supervision without a state license or state certification;

2. Refer any substantiated complaints to the Board; and

3. Charge reasonable fees for a license or for certification, not to exceed One Hundred Dollars (\$100.00).

G. 1. A person having a qualifying degree, as provided for in paragraph 5 of subsection B of this section, and participating in the applied behavior analysis treatment pilot project established in Section 3 of this act shall be exempt from the requirements of this section while such person is actively participating in the project.

2. Persons employed by a school district in this state who provide services solely to the school district under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et seq., shall be exempt from the requirements of this section.

H. The Department shall promulgate rules to implement the provisions of this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-280.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Funds shall be used by the State Department of Education for specialized training for direct service providers in the Sooner Start program to acquire skills necessary to treat children with autism spectrum disorders.

B. The State Department of Health is authorized to contract with independent third-party providers for services offered by the Sooner Start program.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-280.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Funds shall be used by the University Hospitals Authority for primary care provider evaluation training for providers in the Sooner SUCCESS program to acquire skills necessary to evaluate children with autism spectrum disorders.

B. 1. The Developmental Disabilities Services Division of the Department of Human Services shall establish an applied behavior analysis treatment pilot project. The Division shall secure federal matching dollars to implement and maintain the project.

2. The project shall:

- a. provide three Board-Certified Behavior Analysts to measure functional outcomes of children with autism, who are approved by the Division to participate in the project, and study the effects of applied behavior analysis in a consultative model that includes a parental training component, and
- b. require the participating analysts to provide the necessary supervision to assist supervisees in this state to learn and provide applied behavior analysis and achieve certification by the nationally accredited Behavior Analyst Certification Board.

3. The project shall commence no later than January 1, 2011, and end no later than three (3) years from the date of commencement.

4. The Division shall submit a report to the Legislature and the Governor no later than January 1, 2014, concerning:

- a. the effectiveness of the project,
- b. the results found when using applied behavior analysis in a consultative model that includes a parental training component to measure functional outcomes of children with autism,
- c. the most effective approach and systems to provide applied behavior analysis, and
- d. any other findings and recommendations resulting from the project.

5. The Department shall promulgate rules to implement the provisions of this subsection.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-280.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

The University Hospitals Authority shall establish a program modeled after Early Foundations, an outreach program that provides

early intensive behavioral intervention for children with autism. The program shall be established in a county selected by the University Hospitals Authority where an Early Foundations program does not exist.

SECTION 5. This act shall become effective November 1, 2009.

Passed the Senate the 21st day of April, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of April, 2009.

Presiding Officer of the House
of Representatives

Behavior Analyst Certification Board, Inc. ®

Introduction to the BACB® Model Act for Licensing Behavior Analysts

February 2009

The Behavior Analyst Certification Board's (BACB) model behavior analyst licensing act is based on BACB professional certifications. BACB credentials were designed for this purpose, and have several characteristics that support their use as the basis for licensure, such as:

- The BACB certification programs were originally developed and operated by the State of Florida, and then transferred to the BACB under a special agreement.
- The BCBA® and BCaBA® credentials are accredited by the National Commission for Certifying Agencies, the accreditation arm of the National Organization for Competency Assurance, which indicates that BACB accredited credentials have been reviewed by a panel of impartial experts that has determined they met the stringent standards of NCCA.
- The BACB requires that certificants maintain their credentials by obtaining continuing education units, in a variety of formats, and providing documentation to the BACB.
- The BACB enforces its Professional Disciplinary Standards with all certificants, and provides the BACB Guidelines for Responsible Conduct for Behavior Analysts to help guide their professional behavior. The BACB relies heavily on state investigations and findings in enforcing its Professional Disciplinary Standards.
- Implementing a BACB-based license can be virtually cost-neutral for the state*. Initial credentialing, maintenance of the credential (through continuing education), and disciplinary matters are handled by the BACB and paid for via annual BACB certificant fees.
- Should the state choose to allocate the resources necessary to form its own licensing board to augment the BACB disciplinary process, the BACB will work with the board to help ensure a coordinated process.
- Because state requirements for licensure are the same as BACB requirements for certification, out-of-state BACB certificants can be attracted to the state and be easily licensed or granted reciprocity.

However, even with the use of BACB-based licensure the process of developing behavior analyst licensure in a state is complicated, political, and often divisive. The BACB recommends that alternative measures of achieving the desired outcome be considered before the process of creating licensure is undertaken. For example, it may be possible to insert "Board Certified Behavior Analyst®" (BCBA) and "Board Certified Assistant Behavior Analyst®" (BCaBA) into an existing law or rule as individuals who may practice, and be reimbursed for, providing applied behavior analysis services. The BACB stands ready to work with states to develop and implement the most appropriate public policy strategy.

*In this context "state" includes Province, Country or other jurisdiction responsible for credentialing.

Behavior Analyst Certification Board, Inc. ®

Model Act for Licensing Behavior Analysts

February 2009

A. Declaration of Policy

The practice of applied behavior analysis in [name of state or province] is hereby declared to affect the public health, safety, and welfare, and to be subject to regulation to protect the public from the practice of applied behavior analysis by unqualified persons and from unprofessional conduct by persons licensed to practice applied behavior analysis.

B. Definitions

1. “Board” means the [name of state or province] Behavior Analyst Licensing Board.
2. “Applied behavior analysis” means the design, implementation, and evaluation of systematic instructional and environmental modifications by a behavior analyst to produce socially significant improvements in human behavior. It includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. Applied behavior analysis interventions are based on scientific research and the direct observation and measurement of behavior and environment. They utilize contextual factors, establishing operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.
3. The practice of applied behavior analysis is defined as the application of the principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis (including principles of operant and respondent learning) to assess and improve socially important human behaviors. It includes, but is not limited to, applications of those principles, methods, and procedures to (a) the design, implementation, evaluation, and modification of treatment programs to change behavior of individuals; (b) the design, implementation, evaluation, and modification of treatment programs to change behavior of groups; and (c) consultation to individuals and organizations. The practice of behavior analysis expressly excludes psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.
4. “Licensed Behavior Analyst” means an individual who is certified by the Behavior Analyst Certification Board as a Board Certified Behavior Analyst and meets the criteria below.
5. “Licensed Assistant Behavior Analyst” means an individual who is certified by the Behavior Analyst Certification Board as a Board Certified Assistant Behavior Analyst and meets the criteria below. Licensed Assistant Behavior Analysts must work under the supervision of Licensed Behavior Analysts.

C. Requirements for Licensure

1. Each person desiring to obtain a license as a Licensed Behavior Analyst shall make application to the Behavior Analyst Licensing Board upon such form and in such manner as the Board shall prescribe and shall furnish evidence to the Board that such person:

(a) is of good moral character;

(b) has passed the examination and is certified as a Board Certified Behavior Analyst;

(c) maintains active status and fulfills all requirements for renewal and recertification with the Behavior Analyst Certification Board as a Board Certified Behavior Analyst (BCBA); and

(d) conducts his or her professional activities in accordance with accepted standards, such as the Guidelines for Responsible Conduct for Behavior Analysts© and Professional Disciplinary Standards of the Behavior Analyst Certification Board.

2. Each person desiring to obtain a license as an Licensed Assistant Behavior Analyst shall make application to the Behavior Analyst Licensing Board upon such form and in such manner as the Board shall prescribe and shall furnish evidence to the Board that such person:

(a) is of good moral character;

(b) has passed the examination and is certified as a Board Certified Assistant Behavior Analyst (BCaBA);

(c) maintains active status and fulfills all requirements for renewal and recertification with the Behavior Analyst Certification Board as a Board Certified Assistant Behavior Analyst;

(d) conducts his or her professional activities in accordance with accepted standards, such as the Guidelines for Responsible Conduct© and Professional Disciplinary Standards of the Behavior Analyst Certification Board; and

(e) is supervised by a Licensed Behavior Analyst in a manner consistent with the Behavior Analyst Certification Board requirements for supervision of Board Certified Assistant Behavior Analysts.

3. No persons shall hold themselves out to be Licensed Behavior Analysts or Licensed Assistant Behavior Analysts unless they meet the applicable requirements. Violation of this section shall be punishable by a fine of not more than [X] and/or by the suspension or loss of any license held by the violator.

4. No persons shall practice applied behavior analysis unless they are Licensed Behavior Analysts or Licensed Assistant Behavior Analysts working under the supervision of Licensed Behavior Analysts. Violation of this section shall be punishable by a fine of not more than [X] and/or by the suspension or loss of any license held by the violator.

D. Behavior Analyst Licensing Board

1. The [name of state or province] Behavior Analyst Licensing Board is hereby created.

(a) The Behavior Analyst Licensing Board shall consist of two Licensed Behavior Analysts, one Licensed Assistant Behavior Analyst, and one consumer representative holding neither license, all appointed by the duly constituted appointing authority in [name of state or province]. Board members shall be appointed who are free from conflicts of interest in performing the duties of the Board.

(b) The Behavior Analyst Licensing Board is authorized to license as Licensed Behavior Analysts and Licensed Assistant Behavior Analysts persons who meet the requirements for licensure specified in Section C, and to charge reasonable fees for licenses, not to exceed the costs of operating the Board.

(c). The Behavior Analyst Licensing Board shall investigate all complaints relating to the practice of applied behavior analysis by any Licensed Behavior Analyst or Licensed Assistant Behavior Analyst, and shall share its findings with the Behavior Analyst Certification Board®.

**APBA Endorses BACB Model Licensing Act,
Adopts Position Statement on Licensure**

Jon Bailey, APBA President
Gina Green, APBA Executive Director

As many readers know, issues around credentialing practitioners of applied behavior analysis are being discussed and debated in several quarters. Those issues are complex, can be confusing, and are relatively new to many people in our field. That seems particularly true of the topic of licensing applied behavior analysts, judging by the questions we receive from constituents and our experience in the public policy arena. We are therefore pleased to announce that after careful deliberation, the APBA Board of Directors has endorsed the model licensing act developed recently by the Behavior Analyst Certification Board (BACB). Additionally, the APBA Board has adopted a position statement on licensure. Both of those documents are unveiled in this issue of the Reporter. We encourage you to read them, think about them, and share them with other interested parties.

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Autism Program F.A.Q.

Below we've provide you with a list of questions and answers about our state-of-the-art Autism Program. We've also included questions suggested by Catherine Maurice, a parent of an autistic child and an advocate for effective services.

What kinds of services and interventions do you provide?

We provide services to improve the child's' speech, language, communication, social, self-care, and academic skills; and to reduce problem behavior. Our interventions are based on applied behavior analysis (ABA), which has been scientifically-proven and is the treatment of choice in treating individuals with autism. These services are also known as Early Intensive Behavioral Intervention (EIBI).

Where do you provide services?

We have therapy centers in Ft. Lauderdale and Miami, Florida. We also can provide services at the child's home or school – anywhere in the world.

What is your philosophy on working with children with autism/PDD?

We believe every child can learn, no matter how severely impaired, when appropriate teaching methods are used. We also strongly believe that children should want to learn, so we emphasize positive reinforcement procedures. Both of these have been supported by a great deal of clinical research.

What type of language and communication procedures do you use?

We use procedures that have been scientifically-proven to be effective in teaching speech, language and communication skills to children with autism. Presently, we use a combination of Discrete Trials and Verbal Behavior therapy procedures. This is the most effective treatment known for improving speech,

language, communication and behavior.

What is your success rate?

Our most recent program evaluation indicates that the average child in our program masters more than 110 new skills each month! This is an incredibly high number of mastered skills and we are confident it would rank among the best in the world, if such data were available from others.

How many hours per week do your services require and how much of this is one-to-one time?

We offer different programs designed to fit each child's individual needs. Our 30-hour per week Early Intensive Behavioral Intervention program is for young children, 6 and under, who do not speak or who have very limited verbal repertoires. We also offer 20-hour and 10-hour per week versions of this program for children who do not require this level of intensity. All of this therapy is one-to-one. We also offer, at some locations, therapy in small groups of two students with one instructor and a school readiness program that mimics a typical (pre)school classroom schedule, staffing, and activities.

Why do you suggest so many hours of therapy?

Clinical research shows that many children with autism completely "recover" (function normally) with intensive behavioral therapy of 30-40 hours per week.

Research, and our experience, shows clearly that this amount of therapy is necessary if the child is to make adequate progress.

Will you provide fewer than 10 hours per week?

Only for very young children for whom 2 consecutive hours of therapy would be clinically contraindicated. Even then, the duration of therapy would be systematically increased to at least two hours per day. Research and our own experience indicate that children do not make adequate progress when receiving less than 10 hours of therapy per week. We do not feel justified in providing therapy that has little chance of success.

Will you supervise my program if I hire my own therapist?

Yes, provided the person goes through our own therapist training program developed especially for this purpose. The skills learned in this training are absolutely essential for anyone who will be teaching children with autism.

Without these critical teaching skills, the child does not progress or does not progress quickly, defeating the whole purpose of therapy. Our data also indicate that the overall rate of learning is considerably slower when using therapists that are not employed by Behavior Analysis, Inc.

Can you guarantee that my child will learn to talk or become indistinguishable from his or her peers?

No. Despite some agencies making these unethical and unsubstantiated claims, it is simply not currently possible to make such assurances. Although the large majority of children in our program have learned to talk, we will not mislead families by providing impossible guarantees.

What training and experience does the program supervisor have?

The program supervisor is the most critical factor in determining whether or not a program succeeds or fails. Our program supervisors are Board Certified Behavior Analysts with advanced training specifically in teaching children with autism and related disorders. Unlike many other agencies, the program supervisor is a true expert in applied behavior analysis. Individuals without this expertise simply do not have the formal education and training necessary to develop and maintain highly effective programs. This is supported by the Behavior Analysis Certification Board, the credentialing agency for Behavior Analysts.

What training and experience do your therapists have?

Our Therapists undergo extensive training in applying behavior analysis

procedures to children with autism. This training is competency-based, meaning that they must actually demonstrate that they can properly carry out each teaching skill. They do not work with alone with children until they have shown they can apply all the teaching skills in real teaching situations, under supervision. All of our therapists undergo this competency-based training, even those who come to us with years of teaching experience.

What kinds of ongoing training does your staff receive?

Our program supervisors receive formal monitoring, feedback and training at least monthly. They also attend local, state, and national workshops and conferences related to applied behavior analysis, autism, and effective teaching. Our Therapists receive informal and formal monitoring, feedback, and training on a weekly basis.

Do you provide parent training?

Yes. Parent training is a vital aspect of our program and we encourage all parents to take advantage of these opportunities.

What type of involvement is expected from parents?

We encourage parents to take an active role in their son's or daughter's treatment. They may observe treatment sessions, ask questions and discuss progress daily with the Therapist, attend meetings and trainings. Of course, these are optional activities; however, we have found that children whose parents play an active role perform better in the long run.

Are parents welcome to participate in, or observe, treatment sessions?

Yes. As part of our parent training, we encourage parents to participate in actual teaching sessions, so they learn the same teaching skills our therapist use. We also have television cameras in each treatment room so that parents may observe their child's therapy from another room without distracting the child (not available in all locations).

How is the child's progress evaluated?

We clearly and objectively define every single skill that is being taught to the child and the criterion for mastery of each skill. This way, everyone knows exactly what skills are being taught and what is expected. Each day, progress data are collected on each of these skills. These data are reviewed at least weekly by the program supervisor. He or she then determines the appropriate course of action for each skill being taught.

How are parents informed of the child's progress?

The Therapist discusses the child's progress with the parents at the end of each daily session. Progress is also reviewed with the parents during periodic meetings. The parents may also review their child's progress data, which are updated daily, at any time between meetings.

Do you work with other professionals?

Yes. We are happy to collaborate with other professionals.

What are your fees?

Our fees vary according to the child's needs and the location of services. Please call us to discuss your child's needs and our current fee schedule. We provide the highest possible quality at the most reasonable cost.

Do you accept insurance or other third party payments such as Medicaid, or Medicare?

Typically, these groups do not pay for behavior analysis services. Therefore, our services are usually paid for privately. However, some families have been successful in obtaining insurance payment for our services. These families pay us directly for our services and then attempt to receive reimbursement from the insurance company themselves.

What type of assessment do you conduct?

Our assessment is designed to clearly and objectively identify the child's

strengths and weaknesses. This allows us to determine exactly what skills need to be taught and in what sequence. It will not provide another diagnosis or an age-equivalent score. We have found that these types of evaluations do not provide information sufficient to make accurate treatment decisions. Different children with the same diagnosis or the same age-equivalent scores can differ widely on the specific skills they need to learn. The assessment involves working directly with the child and asking parents to complete a written questionnaire regarding the child's skill level in various functional areas. Presently, we utilize the Assessment of Basic Language and Learning Skills-Revised.

How is the treatment program developed?

The treatment program is developed by a Board Certified Behavior Analyst (BCBA) and is based on the comprehensive assessment described above. We develop a program that is individualized to meet the specific needs of the child; we do not fit the child into a pre-existing program. The treatment plan will usually contain 5 – 10, or more, goals. A data collection system and specific learning materials are also prepared at this time.

What happens next?

Once the child begins therapy, he or she is seen according to the schedule agreed to by the parent and program supervisor (behavior analyst). Because children in our program make dramatic progress, the supervisors monitor progress and program implementation frequently to ensure that the child continues to progress as desired. This usually results in changes being made to the treatment plan weekly.

Do you accept children with difficult behaviors?

Yes. We have extensive training and experience treating children with problem behaviors. Our results are impressive, often completely eliminating the problem behavior. This might require additional fees due to the need for additional behavioral assessment, treatment plan development, staff and parent training, and program monitoring and adjustments.

What techniques do you use to manage difficult behaviors?

Our primary method of managing difficult behaviors is to teach the child, using positive reinforcement, desired behaviors to replace the unwanted behavior. We may also use extinction – withholding the reinforcer that is maintaining the problem behavior in conjunction with positive reinforcement for appropriate behavior. In all cases, we emphasize positive reinforcement-based procedures.

Do you ever use physical punishment or any physically intrusive procedures?

No. We have found that we can deal effectively with problem behavior by reinforcing desired behavior and ensuring that undesired behavior does not get reinforced.

Will therapy be too demanding for children who already have busy schedules?

Typically, children prefer our ABA sessions to most other routine activities. We make learning fun and the children want to attend. Children often run into our therapy rooms and some even ask their parents to take them to therapy. These are good signs that the child is not “burned out” by too much therapy.

Am I required to make a long-term commitment?

No. However, we suggest giving the program 90 days to properly evaluate how well the child will progress. The large majority of children begin making progress within the first few days. However, some children need longer to get adjusted and for our staff to learn the most effective ways of teaching that particular child.

How long can I expect therapy to last?

There is simply no way to predict how long therapy will last for a given child. Even with our highly trained staff and special teaching methods, the children in

our program progress at different rates, although every single child makes progress. There are many, many factors affecting therapy outcome (e.g., age, number of hours of therapy, parental involvement). Many of our students successfully leave our program in 1 – 2 years.

What is ABA?

ABA stands for Applied Behavior Analysis. ABA is an approach to understanding and improving behavior based on its environmental causes, rather than some inferred mental states. The science of ABA has shown repeatedly that behavior can be changed by identifying and changing the individual's environment. This has been demonstrated in thousands of research studies to the point where this is simply beyond dispute. ABA is the treatment of choice for improving behavioral and learning problems in children, adolescents and adults.

What evidence is there for the effectiveness of the behavioral approach?

There is a great deal of clinical evidence for the effectiveness of Applied Behavior Analysis in treating individuals with autism and related disorders. This proof may be found in the form of peer-reviewed scientific investigations published in dozens of scientific journals. No other form of therapy has such a scientific research base.

I understand you use the Verbal Behavior approach. What is this?

Verbal Behavior (VB) therapy is based on the principles and procedures of Applied Behavior Analysis. One of the underlying assumptions (which has been proven clinically) is that a person's verbal repertoire consists of several different classes of behavior. Furthermore, each of these classes is separate and distinct from the other classes, and occurs for different reasons. In typically developing children, the different classes are learned very quickly and without formal intervention. However, in children with speech delays, these difference classes become more apparent and each must be specifically taught, using special methods. For instance, there are several different "meanings" of the word "milk." A child may say milk when she wants milk to drink. She may also say "milk" when her father holds up a glass of milk and says, "what's this?" The child may also say "milk" when she's asked, "What do you drink for breakfast?" In each case, the word "milk" is the same, however, it is said for different reasons. In order for the child to have meaningful language, she must be taught to say "milk" under each separate condition. In this way, the child not only learns to say "milk" when shown a picture or glass of milk, but also says "milk" when she wants milk or when she is asked what she had for breakfast. If each of these classes is not specifically taught, the child's verbal repertoire may be very limited (e.g., only naming pictures but never asking for things). Other approaches teach children to name items and expect the child to "use" these words when ready. It is seen as the child's "fault" if he or she never uses the words. By specifically teaching the child each of the different classes (and there are more than described above), the child's verbal repertoire will become more complete and fluent. There is more to the VB approach but it is beyond the scope of this answer.

What is the difference between ABA, Lovaas Therapy, Discrete Trials Training, Verbal Behavior Therapy, and Early Intensive Behavioral Intervention?

All of the therapies mentioned above utilize the basic principles and procedures of ABA. However, there are subtle, but important, difference between some of these approaches. Ask your behavior analyst for more information about these differences.

Are other approaches successful?

Some other approaches may have some limited success for some children with autism. However, Applied Behavior Analysis has the greatest amount of scientific evidence for it's effectiveness with many children and is clearly the treatment

of choice for teaching and treating children with autism and related disorders. If your resources are limited, put your efforts into finding an expert behavior analyst to design and oversee a treatment program. This will give you the greatest likelihood of success.

What is the role of sensory integration in your treatment program?

None. We believe that children with autism (and all others) should only be exposed to treatments that have been scientifically proven to be useful. To date, there is no scientific evidence that sensory integration provides meaningful changes in speech, language, communication, behavior or learning. Therefore, we do not provide nor recommend sensory integration therapy. Instead, we provide treatment that has been scientifically proven, again and again, to improve all the areas mentioned above.

Will your program work with children who are not diagnosed as being on the autism spectrum but may have speech delay?

Absolutely. Our specialized treatment is effective with children with and without formal diagnoses. We have successfully served many children with mild to severe speech delays but who have not been formally diagnosed as being on the autism spectrum. They progress quickly.

How do I determine if someone is qualified to oversee my child's program?

There is clear evidence the principles and procedures of Applied Behavior Analysis are the treatment of choice in treating a child with autism. Therefore, the person designing and supervising the program must be a competent Behavior Analyst. However, just having some behavioral training is not sufficient. The Autism Special Interest Group of the Association for Behavior Analysis has established the following minimum standards for the person designing and overseeing a behavioral treatment program. This person must:

- Be a Board Certified Behavior Analyst (not Associate Behavior Analyst or person licensed in another field)

- Have at least one full calendar year of hands-on training in providing ABA services directly to individuals with autism under the supervision of a Board Certified Behavior Analyst with at least 5 years of experience in ABA programming for individuals with autism.

- Have training and experience in 13 specific competency areas.

Remember, these are only the minimum standards. Difficult-to-teach children may require additional training and experience.

Are people allowed to supervise home programs without being certified?

At present, there are no laws restricting who may or may not supervise behavioral programs. As a result, there are a great many unqualified people supervising treatment programs. The consequences of this are often disastrous for the child and his or her family. Children may be in therapy and not progressing, wasting the child's precious time and the parents resources; children developing behavior problems due to ill-conceived treatments and therapies; and, actual harm from aversive procedures. Unfortunately, some children will probably have to be seriously harmed by unqualified practitioners before something is done about allowing them to practice.

How can I find out if the person supervising my program is certified in behavior analysis?

The Behavior Analysis Certification Board maintains a registry of all persons it has certified at www.bacb.com. If the person's name is not on their list, they are not certified and are not qualified to supervise your program. If they claim to be certified, you should ask them for a copy of their behavior analysis certification and then contact the certification board to inquire why their name is not in the registry. Do not accept certification in other areas as a substitute for behavior analysis certification.

The mother of an autistic child has offered to set up and supervise a program for my child. Is she qualified to do this?

Not unless she is also a Board Certified Behavior Analyst with formal training and experience under the direction of an expert behavior analyst in designed treatment programs for children with autism. Many people claim to have expertise because their child attended an ABA program or they attended a few ABA workshops. She is no more qualified to supervise a behavioral program than she is to remove your child's appendix because her own child has his appendix removed and she watched a couple of appendectomies on the Discovery Channel. Find an expert behavior analyst to set up and supervise your program.

I've been searching for an experienced Therapist to run my home program. How much experience should he or she have?

Of course, the person delivering the therapy is a critical component of a treatment program. However, even more important is the expertise of the person supervising the home program. A therapist may have years of experience teaching children with autism, but unless they have all the other qualifications of a program supervisor (Board Certified Behavior Analyst, at least one year's experience supervising programs under the direction of an expert behavior analyst, training and experience in specific competency areas), she or he is not qualified to run the program without an expert behavior analyst as the program supervisor. First find yourself an expert behavior analyst to supervise your program. He or she can then train one or more therapists, who may or may not have experience. Experience alone is not as important as good training and good ongoing supervision.

My child had ABA services when he was younger and he frequently cried and ran away from the therapist. Doesn't this indicate he won't benefit now from this approach?

No. Your program was inappropriately designed and/or poorly implemented. A well designed and implemented behavioral program typically creates teaching/learning situations that the child wants to attend and produces therapists that the child runs to, not away from. We don't start any formal teaching until the child readily approaches the therapist. The child is not ready to learn if he or she runs and hides from the therapist or therapy situation. This should be the case for any therapy (speech, occupational, etc.) – if the child runs away from the therapist or tries to escape therapy, there is little likelihood of progress.

I've heard that ABA makes children behave like robot. Is this true?

No, not if the program is developed by someone with true expertise in applied behavior analysis. Unfortunately, many people designing and overseeing treatment programs do not have this expertise. This will result in many problems, one of which may be a child responding in a robot-like manner. This is not a problem with the behavioral approach itself; it is a problem with how the practitioner uses the methods of behavior analysis. Behavior analysis, like any treatment or therapy, can be misused. If the practitioner does not design and implement the procedures properly, the child will suffer. You must ensure that the person overseeing the program is a true expert.

I've been told the child must cry and tantrum before he or she can be taught. Is this correct?

Absolutely not. The myth of "breaking them down before building them up" has been suggested by people unfamiliar with the power of a positive reinforcement-based program. This type of approach is sure to create behavior problems where the child misbehaves to avoid or escape the teaching situation. We encounter this everyday from children who have been through more traditional programs. Children in our Verbal Behavior program actually want to be in therapy because they find it fun and rewarding. Obviously, the child who is a willing

participant in the teaching/learning process will far outgain the child who is forced to participate.

My child can name more than 100 items when shown the item or a picture of the item. However, he does not use these words spontaneously. I've been told that he will use these words when he is ready. How long should I wait?

You've already waited too long. Your child will not just use these words when he is ready. He must be specifically taught to use the words under different conditions. He must be specifically taught how to ask for things he wants. He must be specifically taught to answer questions. He must be specifically taught to carry on conversations. The ABA/Verbal Behavior approach is your best chance of getting your child to talk. Don't wait any longer.

[Back to Autism Treatment](#)

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AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE MARCH 23, 2010

SENATE BILL

No. 1282

Introduced by Senator Steinberg

February 19, 2010

An act to add *and repeal* Chapter 5.2 (commencing with Section 2529.50) ~~to~~ of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1282, as amended, Steinberg. Applied behavior analysis services: California Behavioral Certification Organization.

Existing law provides for the licensure and regulation of various healing arts practitioners, including, but not limited to, marriage and family therapists, clinical social workers, educational psychologists, and professional clinical counselors, by the Board of Behavioral Sciences in the Department of Consumer Affairs.

This bill would, *commencing September 1, 2011, and until January 1, 2017*, provide for the certification ~~or registration~~ of specified applied behavior ~~analysis practitioners~~ *analysts and applied behavior analyst assistants* by a California Behavioral Certification Organization, which would be a nonprofit organization meeting specified requirements, and would impose certain duties on the organization. The bill would ~~specify which individuals would be considered as qualified to practice applied behavior analysis services, and would prohibit an individual from holding himself or herself out as a practitioner unless he or she has complied with the act or another applicable licensing provision or is otherwise certified by certain nationally recognized entities. The bill would authorize the organization to establish specified curriculum and~~

~~continuing education standards, and establish a certification and registration process, in conjunction with the California Association for Behavior Analysis (CalABA). The bill would require CalABA to implement the certification or registration process until the organization is established. The bill would set forth other disciplinary standards and hearing requirements require applicants for certification to meet specified requirements, to pay fees required by the organization, and to submit fingerprints to the organization for purposes of obtaining background information, and would authorize the organization to take certain disciplinary action against certificate holders for specified reasons. The bill would make it an unfair business practice for a person to state, advertise, or represent that he or she is certified or licensed by a governmental agency as an applied behavior analyst or an applied behavior analyst assistant, or to use certain titles or other terms implying that he or she is certified under these provisions unless he or she is so certified. The bill would make its provisions subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection.~~

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

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

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to provide state recognition of educated, trained, and
3 experienced individuals that provide applied behavior analysis
4 services to individuals with medical conditions such as autism
5 spectrum disorder and other conditions that are responsive to
6 behavior analysis. This act recognizes those professionals
7 practicing with existing licenses issued by the state and those
8 certified by nationally accredited organizations, and is intended
9 to create an additional pathway for certification through the
10 establishment of a private nonprofit organization that will enable
11 consumers to identify qualified providers of applied behavior
12 analysis services. These pathways for recognition of qualified
13 providers will ensure that providers have completed sufficient
14 training at approved institutions of higher education and follow
15 nationally recognized standards for recognition of these
16 professionals upon which consumers and those who pay for applied
17 behavior analysis services, including private entities, governmental

1 entities, nonprofit organizations, health care service plans, or
2 insurers, may rely.

3 SEC. 2. Chapter 5.2 (commencing with Section 2529.50) is
4 added to Division 2 of the Business and Professions Code, to read:

5

6

CHAPTER 5.2. APPLIED BEHAVIOR ANALYSIS SERVICES

7

8 2529.50. For purposes of this chapter, the following terms have
9 the following meanings:

10 (a) *“Applicant” means a person who applies for certification*
11 *pursuant to this chapter.*

12 (b) *“Applied behavior analyst” means a person who provides*
13 *applied behavior analysis services and who may be certified by*
14 *the CBCO.*

15 (c) *“Applied behavior analyst assistant” means a person who*
16 *provides applied behavior analysis services under the supervision*
17 *of an applied behavioral analyst and who may be certified by the*
18 *CBCO.*

19 (a)

20 (d) *“ANSI” means the American National Standards Institute.*

21 (b)

22 (e) *“BACB” means the Behavior Analyst Certification Board.*

23 ~~(e) “CalABA” means the California Association for Behavior~~
24 ~~Analysis.~~

25 (d)

26 (f) *“CBCO” or “organization” means the California Behavioral*
27 *Certification Organization established by this chapter.*

28 (e)

29 (g) *“NCCA” means the National Commission for Certifying*
30 *Agencies.*

31 ~~2529.55.— (a) A person who is qualified to provide applied~~
32 ~~behavior analysis services, as enumerated in Section 2529.6, may~~
33 ~~do all of the following:~~

34 2529.55. (a) *For purposes of this chapter, “applied behavior*
35 *analysis services” means any of the following functions:*

36 (1) ~~Design, implement, and evaluate~~ *Designing, implementing,*
37 *and evaluating* systematic instructional and environmental
38 modifications to produce social improvements in the behavior of
39 individuals or groups.

1 (2) ~~Apply~~ *Applying* the principles, methods, and procedures of
2 behavior analysis.

3 (3) ~~Utilize~~ *Utilizing* contextual factors and ~~establish~~ *establishing*
4 operations, antecedent stimuli, positive reinforcement, other
5 consequences, and other behavior analysis procedures to help
6 people develop new behaviors, increase or decrease existing
7 behaviors, and emit behaviors under specific environmental
8 conditions.

9 (4) ~~Assess~~ *Assessing* functional relations between behavior and
10 environmental factors, known as functional assessment and
11 functional analysis.

12 (5) ~~Use~~ *Using* procedures based on scientific research and the
13 direct observation and measurement of behavior and environment.

14 (6) ~~Determine whether a nonlicensed or noncertified individual~~
15 ~~shall be deemed as qualified to provide applied behavior analysis~~
16 ~~services, exclusive of paragraph (7), subject to his or her~~
17 ~~supervision and solely for the purpose of implementing the services~~
18 ~~of applied behavior analysis developed by a person described in~~
19 ~~subdivision (a) of Section 2529.6.~~

20 (7) ~~Supervise the delivery of applied behavior analysis services~~
21 ~~by nonlicensed or noncertified individuals as described in~~
22 ~~paragraph (6).~~

23 (b) ~~The practice of applied behavior analysis excludes~~

24 (6) *Determining whether a nonlicensed or noncertified*
25 *individual shall be deemed as qualified to perform all of the*
26 *functions under this subdivision, subject to his or her supervision.*

27 (b) *“Applied behavior analysis services” do not include*
28 *psychological testing, neuropsychology, psychotherapy, sex*
29 *therapy, psychoanalysis, hypnotherapy,—and or long-term*
30 *counseling.*

31 (c) *The definition in this section shall apply regardless of the*
32 *source of payment or reimbursement.*

33 2529.6. (a) ~~The following persons shall be recognized as~~
34 ~~qualified to provide applied behavior analysis services as described~~
35 ~~in Section 2529.55:~~

36 (1) ~~Licensed professionals, including, but not limited to,~~
37 ~~physicians and surgeons, psychologists, social workers, marriage~~
38 ~~and family therapists, speech-language pathologists, occupational~~
39 ~~therapists, physical therapists, or counselors, when acting within~~

1 the scope of their license, formal training, experience, and accepted
2 standards of their profession.

3 ~~(2) An individual with certification in applied behavior analysis~~
4 ~~from the BACB or another organization that is accredited by the~~
5 ~~NCCA or ANSI whose mission is to meet professional~~
6 ~~credentialing needs identified by behavior analysts, governments,~~
7 ~~and consumers of behavior analysis services.~~

8 ~~(3) An individual specializing in the treatment of autism~~
9 ~~spectrum disorder who meets all of the following requirements if~~
10 ~~verified on or before December 31, 2014, by one of the~~
11 ~~organizations specified in Section 2529.8:~~

12 ~~(A) Possesses a master's or doctorate degree in applied behavior~~
13 ~~analysis or a related field.~~

14 ~~(B) Demonstrates three years of experience in the last five years~~
15 ~~of providing, on a consistent rather than an episodic basis, applied~~
16 ~~behavior analysis services to individuals with autism spectrum~~
17 ~~disorder, either as an independent professional or as an employee~~
18 ~~of an organization providing services to those with autism spectrum~~
19 ~~disorder.~~

20 ~~(C) Submits references from at least two individuals who meet~~
21 ~~the requirements of paragraph (1) or (2).~~

22 ~~(4) An individual certified by the CBCO pursuant to subdivision~~
23 ~~(f) of Section 2529.7.~~

24 ~~(5) An individual who holds a bachelor's degree and meets the~~
25 ~~requirements of subparagraphs (B) and (C) of paragraph (3), subject~~
26 ~~to registration by one of the organizations specified in Section~~
27 ~~2529.8.~~

28 ~~(b) The following persons shall be recognized as qualified to~~
29 ~~provide applied behavior analysis services as described in Section~~
30 ~~2529.55, so long as supervised by a person described in paragraph~~
31 ~~(1), (2), (3), or (4) of subdivision (a):~~

32 ~~(1) A person who is certified as an Assistant Behavior Analyst~~
33 ~~by the BACB.~~

34 ~~(2) A person who is certified as a California certified assistant~~
35 ~~services professional by the CBCO pursuant to subdivision (g) of~~
36 ~~Section 2529.7.~~

37 ~~(e) (1) Pursuant to subdivisions (a) and (b), all of the following~~
38 ~~shall apply:~~

39 ~~(A) Persons meeting the requirements of paragraph (1) of~~
40 ~~subdivision (a) may hold themselves out as licensed professionals~~

1 according to the conditions of their professional license and shall
2 be deemed by the state as qualified to provide the services set forth
3 in Section 2529.55. These persons may also hold themselves out
4 as certified behavior analysis professionals if they meet any of the
5 criteria specified in paragraph (2), (3), or (4) of subdivision (a).

6 ~~(B) Persons meeting the requirements of paragraph (2), (3), or~~
7 ~~(4) of subdivision (a) may hold themselves out as certified behavior~~
8 ~~analysis professionals and shall be deemed by the state as qualified~~
9 ~~to provide the services set forth in Section 2529.55.~~

10 ~~(C) Persons meeting the requirements of paragraph (5) of~~
11 ~~subdivision (a) may hold themselves out as registered behavior~~
12 ~~analysis professionals and shall be deemed by the state as qualified~~
13 ~~to provide the services set forth in Section 2529.55.~~

14 ~~(D) Persons meeting the requirements of subdivision (b) may~~
15 ~~hold themselves out as certified assistant behavior analysis~~
16 ~~professionals and shall be deemed by the state as qualified to~~
17 ~~provide the services set forth in Section 2529.55.~~

18 ~~(E) Persons meeting the requirements of paragraph (6) of Section~~
19 ~~2529.55 may hold themselves out as qualified by the state solely~~
20 ~~for the purpose of implementing the services of applied behavior~~
21 ~~analysis, as set forth in Section 2529.55.~~

22 ~~(2) Paragraph (1) shall apply regardless of whether the services~~
23 ~~provided by those persons are paid for by private entities,~~
24 ~~governmental entities, nonprofit organizations, health care service~~
25 ~~plans, or insurers.~~

26 ~~2529.7. (a) There is hereby established a California~~
27 ~~Behavioral Certification Organization, which shall be a nonprofit~~
28 ~~corporation exempt from taxation under Section 501(c)(3) of the~~
29 ~~Internal Revenue Code and subdivision (d) of Section 23701 of~~
30 ~~the Revenue and Taxation Code.~~

31 ~~(b) The organization may commence activities as authorized~~
32 ~~by this chapter once it has submitted a request to the Internal~~
33 ~~Revenue Service and the Franchise Tax Board seeking tax~~
34 ~~exemption. The tax exempt application shall include information~~
35 ~~necessary to illustrate that the organization will operate in a manner~~
36 ~~consistent with the requirements imposed upon, and authority~~
37 ~~given to, the organization pursuant to this chapter.~~

38 ~~(c) The organization shall have until January 1, 2016, to receive~~
39 ~~accreditation from either ANSI or NCCA.~~

- 1 ~~(d) If the organization does not obtain national accreditation by~~
2 ~~January 1, 2016, it may not certify any additional individuals.~~
3 ~~However, any individuals certified during the five-year period~~
4 ~~commencing with the enactment of this section may retain their~~
5 ~~certification indefinitely provided they continue to meet any~~
6 ~~requirements established by the organization for certification~~
7 ~~maintenance and ethical compliance.~~
8 ~~(e) The CBCO board of directors shall be comprised of 12~~
9 ~~members who shall be residents of the state.~~
10 ~~(f) The CBCO board of directors shall determine through a~~
11 ~~process involving public input the specific standards necessary to~~
12 ~~receive certification as a certified behavior analysis professional,~~
13 ~~as described in paragraph (4) of subdivision (a) of Section 2529.6.~~
14 ~~However, in the interest of consumer protection, the specific~~
15 ~~standards shall include one of the following:~~
16 ~~(1) Option one, which minimum requirements shall include all~~
17 ~~of the following:~~
18 ~~(A) A doctoral or master's degree in applied behavior analysis~~
19 ~~or a related field from a nationally accredited institution of higher~~
20 ~~learning and a course sequence in applied behavior analysis that~~
21 ~~is approved by the CBCO. The course sequence shall be at least~~
22 ~~equivalent to or more rigorous than an approved course sequence~~
23 ~~of the BACB.~~
24 ~~(B) The successful completion of an approved practicum or~~
25 ~~supervised experience in the practice of applied behavior analysis,~~
26 ~~totaling at least 1,500 hours over a period of not less than one~~
27 ~~calendar year, of which at least 75 hours are in direct one-to-one~~
28 ~~contact with the supervisor, or which is equivalent to or more~~
29 ~~rigorous than the approved practicum requirements of the BACB.~~
30 ~~(C) To ensure mastery of the material, successful completion~~
31 ~~of an examination administered by the BACB or the CBCO, which~~
32 ~~is at least as rigorous or equivalent to the examination administered~~
33 ~~by the BACB.~~
34 ~~(2) Option two, which minimum requirements shall include all~~
35 ~~of the following:~~
36 ~~(A) A doctoral or master's degree from a recognized educational~~
37 ~~program accredited by the Association for Behavior Analysis~~
38 ~~International, or from a program at a recognized educational~~
39 ~~institution that is approved by the third organization and that~~
40 ~~substantially meets the educational standards of the accreditation~~

1 board of the Association for Behavior Analysis International. The
2 program shall also include an approved course sequence of the
3 BACB.

4 (B) The successful completion of an approved practicum or
5 supervised experience in the practice of applied behavior analysis,
6 totaling at least 1,500 hours over a period of not less than one
7 calendar year, of which at least 75 hours are in direct one-to-one
8 contact with the supervisor.

9 (C) To ensure mastery of the material, successful completion
10 of an examination administered by the BACB or the CBCO, which
11 is at least as rigorous or equivalent to the examination administered
12 by the BACB.

13 (g) The CBCO board of directors shall determine through a
14 process involving public input the specific standards necessary to
15 receive certification as a California certified assistant services
16 professional, as described in paragraph (2) of subdivision (b) of
17 Section 2529.6. However, in the interest of consumer protection,
18 the specific standards shall meet all the following minimum
19 requirements:

20 (1) A bachelor's degree from a nationally accredited institution
21 of higher learning and a course sequence in applied behavior
22 analysis that is approved by the CBCO. The course sequence shall
23 be at least equivalent to or more rigorous than an approved course
24 sequence for an Assistant Behavior Analyst from the BACB.

25 (2) The successful completion of an approved practicum or
26 supervised experience in the practice of applied behavior analysis,
27 totaling at least 1,000 hours over a period of not less than six
28 months, of which at least 50 hours are in direct one-to-one contact
29 with the supervisor, or which is equivalent to or more rigorous
30 than the approved practicum requirements for an Assistant
31 Behavior Analyst from the BACB.

32 (3) To ensure mastery of the material, successful completion of
33 an examination administered by the CBCO, which is equivalent
34 to or more rigorous than the examination for an Assistant Behavior
35 Analyst administered by the BACB.

36 (h) The CBCO may charge applicants a fee not to exceed the
37 costs of implementation of the chapter.

38 2529.8.— (a) (1) Until December 31, 2014, the CBCO shall
39 have the primary responsibility for verifying the qualifications of

1 persons submitting the information set forth in paragraph (3) of
2 subdivision (a) of Section 2529.6.

3 (2) The CBCO shall have the primary responsibility for verifying
4 the qualifications of persons submitting the information set forth
5 in paragraph (5) of subdivision (a) of Section 2529.6.

6 (b) (1) Prior to the establishment and operation of the CBCO
7 or through December 31, 2014, whichever is earlier, CalABA or
8 its designee shall be authorized to verify the qualifications of
9 persons submitting the information set forth in paragraph (3) of
10 subdivision (a) of Section 2529.6.

11 (2) Prior to the establishment and operation of the CBCO,
12 CalABA or its designee shall be authorized to verify the
13 qualifications of persons submitting the information set forth in
14 paragraph (5) of subdivision (a) of Section 2529.6.

15 (e) (1) Prior to December 31, 2014, an individual meeting the
16 requirements of paragraph (3) of subdivision (a) of Section 2529.6
17 may submit to the CBCO, or to CalABA, if the latter is accepting
18 submissions, information necessary to establish that the individual
19 meets the requirements set forth in paragraph (3) of subdivision
20 (a) of Section 2529.6.

21 (2) If submitted to CalABA under subdivision (b), CalABA
22 shall issue to an individual that meets the qualifications a certificate
23 of temporary certification as a California Certified Behavior
24 Services Professional, which shall be valid for one year or until
25 the CBCO is accepting submissions from those seeking certification
26 pursuant to paragraph (3) of subdivision (a) of Section 2529.6,
27 whichever is later. Once the CBCO commences accepting
28 applications, CalABA shall finish processing all the submissions
29 it has received and shall notify the CBCO of all individuals
30 previously receiving certification from CalABA. Those individuals
31 shall automatically receive CBCO certification.

32 (3) If an individual submits information to the CBCO, the CBCO
33 shall issue to an individual that meets the qualifications,
34 certification as a California Certified Behavior Services
35 Professional.

36 (d) (1) An individual meeting the requirements of paragraph
37 (5) of subdivision (a) of Section 2529.6 may submit to the CBCO,
38 or to CalABA, if the latter is accepting submissions, information
39 necessary to establish that the individual meets the requirements
40 set forth in paragraph (5) of subdivision (a) of Section 2529.6.

1 ~~(2) If submitted to CalABA under subdivision (b), CalABA~~
2 ~~shall issue to an individual that meets the qualifications a certificate~~
3 ~~of temporary registration as a California applied behavior analysis~~
4 ~~professional, which shall be valid for one year or until the CBCO~~
5 ~~is accepting submissions from those seeking registration pursuant~~
6 ~~to paragraph (5) of subdivision (a) of Section 2529.6, whichever~~
7 ~~is later. Once the CBCO commences accepting applications,~~
8 ~~CalABA shall finish processing all the submissions it has received~~
9 ~~and shall notify the CBCO of all individuals previously receiving~~
10 ~~registration from CalABA. Those individuals shall automatically~~
11 ~~receive CBCO registration, which shall be valid for five years from~~
12 ~~the original date of issuance by CalABA.~~

13 ~~(3) If an individual submits information to the CBCO, the CBCO~~
14 ~~shall issue to an individual who meets the qualifications,~~
15 ~~registration as a California applied behavior analysis professional,~~
16 ~~which shall be valid for five years.~~

17 ~~(e) No later than January 1, 2016, individuals who have received~~
18 ~~certification pursuant to subdivision (c), shall maintain that~~
19 ~~certification only if they meet the requirements established by the~~
20 ~~CBCO for compliance with continuing education and ethical~~
21 ~~standards. If the CBCO is not in operation, those previously~~
22 ~~certified by the CBCO shall no longer be able to represent~~
23 ~~themselves as California Certified Behavior Services Professionals,~~
24 ~~but may represent that they are recognized by the state as qualified~~
25 ~~to provide applied behavior analysis services.~~

26 ~~2529.9. (a) It shall be unlawful for any person to hold himself~~
27 ~~or herself out as a Board Certified Behavior Analyst (BCBA)~~
28 ~~unless the person is currently certified as a Board Certified~~
29 ~~Behavior Analyst by the BACB.~~

30 ~~(b) It shall be unlawful for any person to hold himself or herself~~
31 ~~out as a Board Certified Assistant Behavior Analyst (BCaBA)~~
32 ~~unless the person is currently certified as a Board Certified~~
33 ~~Assistant Behavior Analyst by the BACB.~~

34 ~~(e) It shall be unlawful to claim to have state recognition,~~
35 ~~certification, or registration as a California Certified Behavior~~
36 ~~Services Professional, California applied behavior analysis~~
37 ~~professional, or California certified assistant services professional~~
38 ~~by CalABA, the CBCO, or the BACB, unless the person is~~
39 ~~otherwise recognized, certified, or registered by that entity.~~

1 ~~2529.10. The CBCO shall implement this chapter in conformity~~
2 ~~with accepted standards for professional credentialing programs,~~
3 ~~including, but not limited to, doing all of the following:~~

4 ~~(a) Conducting certification activities in a manner that upholds~~
5 ~~standards for the competent practice of the profession of behavior~~
6 ~~analysis.~~

7 ~~(b) Structuring and governing the certification program in ways~~
8 ~~that are appropriate for the profession of behavior analysis and~~
9 ~~ensure autonomy in decision making over certification activities.~~

10 ~~(c) Including certified behavior analysts and at least one~~
11 ~~consumer or public member on the CBCO board of directors.~~

12 ~~(d) Having adequate financial and human resources to conduct~~
13 ~~effective and thorough certification, registration, recertification,~~
14 ~~and reregistration activities.~~

15 ~~(e) Establishing, publishing, applying, and reviewing policies~~
16 ~~and procedures for key certification or registration activities, such~~
17 ~~as determining eligibility criteria, applying for certification or~~
18 ~~registration, administering assessment instruments, establishing~~
19 ~~performance domains, appeals confidentiality, certification and~~
20 ~~registration statistics, and discipline, and complying with applicable~~
21 ~~laws.~~

22 ~~(f) Publishing a description of the assessment instruments used~~
23 ~~to make certification and registration decisions and the research~~
24 ~~methods used to ensure that the assessment instruments are valid.~~

25 ~~(g) Awarding certification or registration only after the~~
26 ~~applicant's knowledge and skill have been evaluated and found to~~
27 ~~be acceptable.~~

28 ~~(h) Maintaining a publicly available list of certified behavior~~
29 ~~analysts and verifying their certification.~~

30 ~~(i) Analyzing, defining, and publishing performance domains~~
31 ~~and tasks and associated knowledge and skills for the practice of~~
32 ~~behavior analysis, and using them to develop the assessment~~
33 ~~instruments.~~

34 ~~(j) Using assessment instruments that are derived from the job~~
35 ~~or practice analysis and are consistent with accepted psychometric~~
36 ~~principles and procedures, such as for setting passing scores,~~
37 ~~scoring and interpreting assessment results, ensuring reliability of~~
38 ~~scores, or establishing that different forms of the assessment~~
39 ~~instruments are equivalent.~~

- 1 ~~(k) Developing, adhering to, and publishing appropriate,~~
2 ~~standardized, and secure procedures for developing and~~
3 ~~administering the assessment instruments and for retaining all~~
4 ~~evidence of the validity and reliability of the assessment~~
5 ~~instruments, assessment results, and scores of all candidates.~~
6 ~~(l) Requiring periodic recertification and establishing,~~
7 ~~publishing, applying, and periodically reviewing policies and~~
8 ~~procedures for recertification or reregistration.~~
9 ~~(m) Requiring adequate continuing education.~~
10 ~~(n) Monitoring the practicing of applied behavioral analysis~~
11 ~~services consistent with the accepted standards of their respective~~
12 ~~professions and that the practice of applied behavior analysis is~~
13 ~~commensurate with their level of formal training and experience.~~
14 ~~(o) Maintaining accreditation by demonstrating continued~~
15 ~~compliance with accreditation standards.~~
16 ~~(p) Demonstrating that recertification or reregistration~~
17 ~~requirements measure or enhance the competence of those certified~~
18 ~~or registered.~~
19 ~~(q) Developing appropriate supervision guidelines for the~~
20 ~~provision of applied behavior analysis services.~~
21 ~~(r) (1) Establishing and maintaining a process to receive, review,~~
22 ~~and take corrective action, when necessary, with regard to~~
23 ~~complaints by consumers of applied behavior analysis or other~~
24 ~~interested parties against certificate holders or registrants and to~~
25 ~~make available to the public current status of those persons, such~~
26 ~~as whether they are in good standing or their certificate or~~
27 ~~registration has been suspended or revoked and details of any~~
28 ~~complaints or corrective action taken.~~
29 ~~(2) Maintaining on the organization's Internet Web site~~
30 ~~information updated annually related to implementation of this~~
31 ~~chapter.~~
32 ~~(s) Establishing a disciplinary and hearing process pursuant to~~
33 ~~Sections 2529.11 and 2529.12.~~
34 ~~(t) Requiring an applicant for certification or registration to~~
35 ~~submit fingerprint images to the CBCO, and establishing a~~
36 ~~procedure consistent with state law to obtain background~~
37 ~~information on the applicant.~~
38 ~~2529.6. (a) A California Behavioral Certification Organization~~
39 ~~(SCBCO) shall be created as a nonprofit corporation exempt from~~
40 ~~taxation under Section 501(c)(3) of the Internal Revenue Code~~

1 *and subdivision (d) of Section 23701 of the Revenue and Taxation*
2 *Code. The CBCO may commence activities as authorized by this*
3 *chapter after it has submitted a request to the Internal Revenue*
4 *Service and the Franchise Tax Board seeking that exemption.*

5 *(b) The CBCO shall have the responsibilities and duties as set*
6 *forth in this chapter and may take any reasonable actions to carry*
7 *out the responsibilities and duties set forth in this chapter,*
8 *including, but not limited to, hiring staff and entering into*
9 *contracts.*

10 *(c) (1) The CBCO shall be governed by a board of directors*
11 *made up of two representatives selected by each professional*
12 *society, association, or other entity whose membership is comprised*
13 *of applied behavior analysts, unless any of those entities choose*
14 *not to exercise this right of selection. To qualify, a professional*
15 *society, association, or other entity shall have a dues-paying*
16 *membership in California or on a national basis of at least 1,000*
17 *individuals for the last three years, and shall have bylaws that*
18 *require its membership to comply with a code of ethics. The board*
19 *of directors shall also include additional persons as established*
20 *by the bylaws of the CBCO. Additional members of the board of*
21 *directors may include certified behavior analysts, consumers, and*
22 *public members.*

23 *(2) The initial board of directors shall establish the CBCO,*
24 *initiate the request for tax-exempt status from the Internal Revenue*
25 *Service and the Franchise Tax Board, and solicit input from the*
26 *applied behavior analyst community concerning the operations of*
27 *the organization. The initial board of directors, in its discretion,*
28 *may immediately undertake to issue the certificates authorized by*
29 *this chapter after adopting the necessary bylaws or other rules,*
30 *or may establish by adoption of bylaws the permanent governing*
31 *structure of the CBCO prior to issuing certificates.*

32 *(d) The board of directors shall establish fees reasonably related*
33 *to the cost of providing services and carrying out its ongoing*
34 *responsibilities and duties. Initial and renewal fees shall be*
35 *established by the board of directors annually.*

36 *(e) The meetings of the CBCO shall be subject to the rules of*
37 *the Bagley-Keene Open Meetings Act (Article 9 (commencing with*
38 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
39 *the Government Code). Section 11130.7 of the Government Code*
40 *shall not apply to the CBCO board of directors.*

1 2529.8. (a) *The CBCO shall issue a certificate under this*
2 *chapter to an applicant who satisfies the requirements of this*
3 *chapter.*

4 (b) *In order to obtain certification as an applied behavior*
5 *analyst, an applicant shall submit a written application, pay all*
6 *fees required by the CBCO, and provide the CBCO with*
7 *satisfactory evidence of either of the following:*

8 (1) *That he or she holds a current, valid certification in applied*
9 *behavior analysis from the BACB or another organization that is*
10 *accredited by the NCCA or ANSI whose mission is to meet*
11 *professional credentialing needs identified by behavior analysts,*
12 *governments, and consumers of applied behavior analysis services.*

13 (2) *That he or she meets all of the following requirements:*

14 (A) *Possesses a master's or doctorate degree in applied*
15 *behavior analysis or a related field.*

16 (B) *Demonstrates three years of experience in the last five years*
17 *of providing those functions specified in subdivision (a) of Section*
18 *2529.55 to individuals, either as an independent professional or*
19 *as an employee of an organization.*

20 (c) *In order to obtain certification as an applied behavior*
21 *analyst assistant, an applicant shall submit a written application,*
22 *pay all fees required by the CBCO, and provide the CBCO with*
23 *satisfactory evidence of either of the following:*

24 (1) *That he or she holds a current, valid certification as an*
25 *applied behavior analyst assistant from the BACB or another*
26 *organization that is accredited by the NCCA or ANSI whose*
27 *mission is to meet professional credentialing needs identified by*
28 *behavior analysts, governments, and consumers of applied*
29 *behavior analysis services.*

30 (2) *That he or she meets all of the following requirements:*

31 (A) *Possesses a bachelor's degree.*

32 (B) *Demonstrates three years of experience in the last five years*
33 *of providing those functions specified in subdivision (a) of Section*
34 *2529.55 to individuals, either as an independent professional or*
35 *as an employee of an organization.*

36 (d) *A certificate issued pursuant to this chapter shall be subject*
37 *to renewal every two years in a manner prescribed by the CBCO,*
38 *and shall expire unless renewed in that manner. The CBCO may*
39 *provide for late renewal of a certificate.*

1 (e) For purposes of this section and any other provision of this
2 chapter for which the CBCO is authorized to receive factual
3 information as a condition of taking any action, the CBCO shall
4 have the authority to conduct oral interviews of the applicant and
5 others or to make any investigation deemed necessary to establish
6 that the information received is accurate and satisfies any criteria
7 established by this chapter.

8 (f) Individuals who have received certification pursuant to
9 subdivision (b) may maintain that certification only if they meet
10 the requirements established by the CBCO for compliance with
11 continuing education and ethical standards.

12 2529.9. The CBCO shall not issue certificates pursuant to this
13 chapter prior to September 1, 2011.

14 2529.10. (a) The CBCO shall establish a procedure consistent
15 with state law to obtain background information on each applicant.

16 (b) Prior to issuing a certificate to an applicant, the CBCO
17 shall require each applicant to submit fingerprint images to the
18 CBCO for purposes of obtaining background information on the
19 applicant.

20 2529.11. (a) The CBCO may discipline a certificate holder or
21 registrant by any, or a combination, of the following methods:

22 (1) Placing the certificate holder or registrant on probation.

23 (2) Suspending the certificate or registration and the rights
24 conferred by this chapter on a certificate holder or registrant for a
25 period not to exceed one year.

26 (3) Revoking the certificate or registration.

27 (4) Suspending or staying the disciplinary order, or portions of
28 it, with or without conditions.

29 (5) Taking other action as the organization, as authorized by
30 this chapter or its bylaws, deems proper.

31 (b) The CBCO may issue an initial certificate or registration on
32 probation, with specific terms and conditions, to any applicant.

33 2529.12. It is a violation of this chapter for a certificate holder
34 to commit, and the CBCO may deny an application for a certificate
35 or discipline a certificate holder for, any of the following:

36 (a) Unprofessional conduct, including, but not limited to, denial
37 of licensure, revocation, suspension, restriction, or any other
38 disciplinary action against a certificate holder by another state
39 or territory of the United States, by any other government agency,
40 or by a California health care professional licensing board. A

1 *certified copy of the decision, order, or judgment shall be*
2 *conclusive evidence of these actions.*

3 *(b) Procuring a certificate by fraud, misrepresentation, or*
4 *mistake.*

5 *(c) Violating or attempting to violate, directly or indirectly, or*
6 *assisting in or abetting the violation of, or conspiring to violate,*
7 *any provision or term of this chapter or any rule or bylaw adopted*
8 *by the CBCO.*

9 *(d) Conviction of any felony, or conviction of a misdemeanor*
10 *that is substantially related to the qualifications or duties of a*
11 *certificate holder, in which event the record of the conviction shall*
12 *be conclusive evidence of the crime.*

13 *(e) Impersonating an applicant or acting as a proxy for an*
14 *applicant in any examination referred to under this chapter for*
15 *the issuance of a certificate.*

16 *(f) Impersonating a certified applied behavior analyst or*
17 *certified applied behavior analyst assistant, or permitting or*
18 *allowing an uncertified person to use a certificate.*

19 *(g) Committing any fraudulent, dishonest, or corrupt act that*
20 *is substantially related to the qualifications or duties of a certificate*
21 *holder.*

22 *(h) Committing any act punishable as a sexually related crime.*
23 ~~2529.12.~~

24 2529.13. (a) No certificate holder, registrant, or applicant may
25 be disciplined or denied a certificate or registration pursuant to
26 Section ~~2529.11~~ 2529.12 except according to procedures satisfying
27 the requirements of this section. A denial or discipline not in accord
28 with this section shall be void and without effect.

29 (b) Any applicant denial or discipline shall be done in good
30 faith and in a fair and reasonable manner. Any procedure that
31 conforms to the requirements of subdivision (c) is fair and
32 reasonable, but a court may also find other procedures to be fair
33 and reasonable when the full circumstances of the denial or
34 discipline are considered.

35 (c) A procedure is fair and reasonable if all of the following
36 apply:

37 (1) The provisions of the procedure have been set forth in the
38 CBCO articles or bylaws, or copies of those provisions are sent
39 annually to certificate holders or registrants if required by the
40 articles or bylaws.

1 (2) It provides the giving of 15 days prior notice of the denial
2 or discipline and the reasons therefor.

3 (3) It provides an opportunity for the applicant or certificate
4 holder or registrant to be heard, orally or in writing, not less than
5 five days before the effective date of the denial or discipline by a
6 person or body authorized to decide that the proposed denial or
7 discipline not take place.

8 (d) Any notice required under this section may be given by any
9 method reasonably calculated to provide actual notice. Any notice
10 given by mail must be given by first-class or certified mail sent to
11 the last address of the applicant or certificate holder or registrant
12 shown on the organization's records.

13 (e) Any action challenging a denial or discipline, including any
14 claim alleging defective notice, shall be commenced within one
15 year after the date of the denial or discipline. If the action is
16 successful, the court may order any relief, including reinstatement,
17 that it finds equitable under the circumstances.

18 (f) This section governs only the procedures for denial or
19 discipline and not the substantive grounds therefor. A denial or
20 discipline based upon substantive grounds that violates contractual
21 or other rights or is otherwise unlawful is not made valid by
22 compliance with this section.

23 (g) An applicant or certificate holder or registrant who is denied
24 or disciplined shall be liable for any charges incurred, services or
25 benefits actually rendered, dues, assessments, or fees incurred
26 before the denial or discipline or arising from contract or otherwise.

27 ~~2529.13. (a) Nothing in this chapter shall be interpreted to~~
28 ~~prohibit individuals not recognized in Section 2529.6 from~~
29 ~~providing the services defined as applied behavior analysis~~
30 ~~services, as set forth in Section 2529.55, provided those individuals~~
31 ~~do not hold themselves out to be Certified Behavior Analysts or~~
32 ~~claim to have state recognition or certification by the CBCO or~~
33 ~~CalABA pursuant to this chapter.~~

34 ~~(b) Nothing in this chapter shall be construed to prevent~~
35 ~~2529.14. It is an unfair business practice for a person to state~~
36 ~~or advertise or put out any sign or card or other device, or to~~
37 ~~represent to the public through any print or electronic media, that~~
38 ~~he or she is certified, registered, or licensed by a governmental~~
39 ~~agency as an applied behavior analyst or an applied behavior~~
40 ~~analyst assistant.~~

1 2529.15. *It is an unfair business practice for any person to*
2 *hold himself or herself out or to use the title of “certified applied*
3 *behavior analyst” or “certified applied behavior analyst assistant”*
4 *or any other term, such as “licensed,” “registered,” “CABA,” or*
5 *“CABAA,” that implies or suggests that the person is certified as*
6 *a applied behavior analyst or applied behavior analyst assistant*
7 *without having a certificate issued pursuant to Section 2529.8.*

8 2529.16. *The superior court in and for the county in which any*
9 *person acts in violation of the provisions of this chapter, may,*
10 *upon a petition by any person, issue an injunction or other*
11 *appropriate order restraining the conduct. The proceedings under*
12 *this paragraph shall be governed by Chapter 3 (commencing with*
13 *Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.*

14 2529.17. *The CBCO shall make available to the public the*
15 *current status of certificate holders, including, but not limited to,*
16 *whether they are in good standing or their certificate has been*
17 *suspended or revoked and the details of any disciplinary action*
18 *taken. The CBCO shall maintain on its Internet Web site*
19 *information updated annually related to implementation of this*
20 *chapter.*

21 2529.18. (a) *Nothing in this chapter shall be construed to*
22 *prevent behavior analysis service providers who are vendorized*
23 *by one of the California Regional Centers or hold state accredited*
24 *nonpublic agency status from developing, providing, or supervising*
25 *applied behavior analysis consistent with the requirements of their*
26 *Regional Center vendorization or nonpublic agency certification*
27 *or accreditation, provided their practice of behavior analysis is*
28 *commensurate with their level of training and experience, and they*
29 *do not hold themselves out to the public by any title or description*
30 *stating or implying that they are Certified Behavior Analysts, that*
31 *they are “certified” to practice behavior analysis if they are not in*
32 *fact certified, or that they are recognized or certified by the state*
33 *to practice applied behavior analysis.*

34 (e)

35 (b) *Nothing in this chapter shall be construed to require*
36 *certification, licensure, recognition, or authorization to provide*
37 *applied behavior analysis services nor to add to or increase*
38 *requirements for providing those services.*

39 ~~SEC. 3.— Nothing in this act shall be construed as interpreting~~
40 ~~an existing statutory or regulatory requirement.~~

1 2529.19. *This chapter shall be subject to the review required*
2 *by Division 1.2 (commencing with Section 473).*
3 2529.20. *This chapter shall remain in effect only until January*
4 *1, 2017, and as of that date is repealed, unless a later enacted*
5 *statute, that is enacted before January 1, 2017, deletes or extends*
6 *that date.*

O

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To: Policy and Advocacy Committee Members

Date: May 26, 2010

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Budget Update

2009/2010 Fiscal Year

Attached are the current expenditure reports for the 2009/2010 fiscal year. Each report reflects figures as of May 26, 2010. The Board's expenditure report projects a year-end balance of \$77,000, a significant change since the April update which estimated a \$226,000 year-end balance. The difference is attributed to the increase in enforcement expenditures.

The report continues to reflect the Board's commitment to revert \$219,000 from our Operating Expense and Equipment (OE&E) budget line. This figure is expected to change as result of the licensing backlog project.

In March, the Board was directed to utilize the necessary resources to reduce any licensing backlog. Further, the Board was authorized to use the funds from the OE&E savings to compensate staff who worked extra hours on non-furlough days. Final compensation figures will be reported at the July Board meeting.

The Mental Health Service Act (MHSA) budget reflects an unexpended balance of \$4000.

The Board's fund condition reflects 6.4 months in reserve as of March 23, 2010.

2010/2011

The Board's 2010/2011 budget is \$8,596,000 as a result of the addition of a new professional license category, Licensed Professional Clinical Counselor (LPCC). The Budget Change Proposal (BCP) requesting twelve (12) staff and funding associated with the LPCC program was discussed at both the Assembly and Senate Budget Committee hearings.

The Assembly Budget Committee approved the Board's BCP as submitted. The Senate Budget Committee did not and recommended reducing the staffing request from twelve (12) to five (5). The Department of Finance and the Legislative Analyst Office did not express any concerns with the Board's BCP as submitted.

As a result of the different recommendations from each legislative budget committee, the Board's BCP will be discussed at a Budget Conference Committee hearing, which will occur in the next few weeks. This committee is comprised of members from both the Assembly and the Senate.

The exact number of staff the Board will receive to implement the LPCC program will not be known until the completion of these hearings. However, the Board's ability to efficiently operate the LPCC program will be adversely impacted without all of the requested staff.

The Board's 2010/2011 MHSA budget will decrease to \$91,000. This figure reflects the loss of the \$200,000 one time funding from the Department of Mental Health (DMH) as well as reductions to DMH's budget.

Attachments

BBS Fund Report
MHSA Fund Report
BBS Fund Condition

BBS EXPENDITURE REPORT FY 2009/10

OBJECT DESCRIPTION	08/09	FY 2009/10			
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT AS OF 4/30/2010	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	1,433,012	1,579,636	1,177,412	1,543,000	36,636
Salary & Wages (Stat Exempt)	90,599	79,051	61,184	78,000	1,051
Temp Help (907)(Seasonals)	36,805	105	96,756	15,000	(14,895)
Temp Help (915)(Proctors)	0	444	0	0	444
Board Memb (Per Diem)	9,500	12,900	4,400	8,000	4,900
Overtime	70,115	7,533	1,921	2,100	5,433
Totals Staff Benefits	667,989	697,193	597,911	718,000	(20,807)
Salary Savings		(79,547)			(79,547)
TOTALS, PERSONAL SERVICES	2,308,020	2,297,315	1,939,584	2,364,100	(66,785)
OPERATING EXP & EQUIP					
Fingerprint Reports	5,159	36,954	24,435	33,000	3,954
General Expense	66,706	51,263	67,605	74,000	(22,737)
Printing	76,604	107,630	59,324	71,000	36,630
Communication	12,579	37,019	9,615	14,000	23,019
Postage	72,822	118,645	66,125	73,000	45,645
Travel, In State	104,351	98,665	65,179	98,665	0
Travel, Out-of-State	0	3,600	2,061	2,100	1,500
Training	13,448	22,202	6,483	7,400	14,802
Facilities Operations	166,926	219,547	142,831	182,500	37,047
C&P Services - Interdept.	0	14,939	0	0	14,939
C&P Services-External Contracts	59,349	10,978	16,758	18,000	(7,022)
DEPARTMENTAL PRORATA					
DP Billing	404,464	351,616	291,800	351,800	(184)
Indirect Distribution Costs	347,651	320,114	266,760	320,200	(86)
Public Affairs	17,424	27,988	23,320	28,000	(12)
D of I Prorata	14,015	12,859	10,720	12,859	0
Consumer Relations Division	17,090	15,545	12,950	15,545	0
OPP Support Services	0	490	0	490	0
Interagency Services (OER IACs)	237,692	245,065	157,247	223,426	21,639
Consolidated Data Services	2,295	24,382	2,901	15,000	9,382
Data Proc (Maint,Supplies,Cont)	8,378	7,357	7,612	8,000	(643)
Statewide Pro Rata	211,636	177,947	133,461	177,947	0
EXAM EXPENSES					
Exam Site Rental	63,193	99,630	44,551	85,000	14,630
Exam Contract (PSI) (404.00)	337,052	345,412	289,700	355,000	(9,588)
Expert Examiners (404.03)	279,555	295,260	127,845	295,260	0
ENFORCEMENT					
Attorney General	508,831	888,992	634,986	875,000	13,992
Office of Admin. Hearing	52,569	201,228	43,824	59,000	142,228
Court Reporters	3,224	0	4,438	5,500	(5,500)
Evidence/Witness Fees	30,368	71,334	43,983	60,000	11,334
Division of Investigation	289,156	366,725	305,600	370,000	(3,275)
Minor Equipment (226)	34,933	48,300	24,748	27,000	21,300
Equipment, Replacement (452)		7,000	0	0	7,000
Equipment, Additional (472)		24,000	29,270	31,000	(7,000)
OE&E Reduction Plan				219,000	(219,000)
TOTAL, OE&E	3,438,117	4,252,686	2,916,129	4,108,692	143,994
TOTAL EXPENDITURES	5,746,137	\$6,550,001	\$4,855,713	\$6,472,792	77,209
Fingerprints	(4,392)	(24,000)	34,603		
Other Reimbursements	(16,044)	(26,000)	10,470		
Unscheduled Reimbursements	(35,307)	0	64,903		
Total Reimbursements	(55,743)	(50,000)	109,976		
NET APPROPRIATION	5,690,394	\$6,500,001	\$4,855,713	\$6,472,792	\$77,209

BLUE PRINT INDICATES THE ITEMS ARE SOMEWHAT DISCRETIONARY.

OE&E Reduction Plan \$219,000
 OT paid to staff (Estimate / March-June) \$13,000
 Linda Alderman (Estimate / May&June) \$2,117 Linda A.(\$25.65/hr.)
 Balance \$203,883

MHSa EXPENDITURE REPORT FY 2009/10

OBJECT DESCRIPTION	2008/09	FY 2009/10			
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT AS OF 4/30/2010	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	61,104	64,000	51,188	63,000	1,000
Totals Staff Benefits	33,620	26,511	21,410	26,000	511
Salary Savings		(3,083)			(3,083)
TOTALS, PERSONAL SERVICES	94,724	87,428	72,598	89,000	(1,572)
OPERATING EXP & EQUIP					
General Expense	2,655	5,656	1,263	1,500	4,156
Printing	817	800	0	0	800
Communication	871	1,000	473	900	100
Postage	5,000	800	0	0	800
Travel, In State	3,580	200	1,972	4,000	(3,800)
Training	10,479	1,000	5,180	6,180	(5,180)
Facilities Operations	2,328	2,000	1,960	2,400	(400)
Minor Equipment (226)	433	0	0	0	0
C&P Svcs - External (402)	118,197	200,000	53,189	190,000	10,000
Statewide Prorata (438)		7,116	5,468	8,000	(884)
TOTAL, OE&E	144,360	218,572	69,506	212,980	5,592
TOTAL EXPENDITURES	239,084	\$306,000	\$142,104	\$301,980	\$4,020

Index - 3085

PCA - 18385

DGS Code - 057472

**0773 - Behavioral Science
Analysis of Fund Condition**

Prepared 3/23/2010

(Dollars in Thousands)

**NOTE: \$6.0 Million General Fund Outstanding (2002/03)
plus \$3.0 Million General Fund Outstanding (2008/09)**

2010-11 Governor's Budget + SB788 Revenue		ACTUAL 2008-09	CY 2009-10	Governor's Budget BY 2010-11	BY + 1 2011-12	2012-13	2013-14	2014-15
BEGINNING BALANCE		\$ 7,048	\$ 4,493	\$ 4,568	\$ 4,711	\$ 3,863	\$ 3,410	\$ 2,965
Prior Year Adjustment		\$ 110	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance		\$ 7,158	\$ 4,493	\$ 4,568	\$ 4,711	\$ 3,863	\$ 3,410	\$ 2,965
REVENUES AND TRANSFERS								
Revenues:								
125600	Other regulatory fees	\$ 49 \$ -	\$ 100 \$ -	\$ 103 \$ -	\$ 103	\$ 103	\$ 103	\$ 103
125700	Other regulatory licenses and permits	\$ 1,788 \$ -	\$ 2,217 \$ -	\$ 2,362 \$ -	\$ 2,362	\$ 2,362	\$ 2,362	\$ 2,362
	Additional SB788 Revenue			\$ 1,729	\$ 900	\$ 1,473	\$ 1,664	\$ 1,914
125800	Renewal fees	\$ 3,928 \$ -	\$ 4,148 \$ -	\$ 4,390 \$ -	\$ 4,390	\$ 4,390	\$ 4,390	\$ 4,390
125900	Delinquent fees	\$ 60 \$ -	\$ 64 \$ -	\$ 70 \$ -	\$ 70	\$ 70	\$ 70	\$ 70
141200	Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500	Miscellaneous services to the public	\$ 1 \$ -	\$ 1 \$ -	\$ 1 \$ -	\$ 1	\$ 1	\$ 1	\$ 1
150300	Income from surplus money investments	\$ 128	\$ 45 \$ -	\$ 43 \$ -	\$ 38 \$ -	\$ 34 \$ -	\$ 29 \$ -	\$ 26
160400	Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000	Escheat of unclaimed checks and warrants	\$ 2 \$ -	\$ 4 \$ -	\$ 4 \$ -	\$ 4	\$ 4	\$ 4	\$ 4
161400	Miscellaneous revenues	\$ 1 \$ -	\$ 1 \$ -	\$ 1 \$ -	\$ 1	\$ 1	\$ 1	\$ 1
Totals, Revenues		\$ 5,957	\$ 6,580	\$ 8,703	\$ 7,869	\$ 8,438	\$ 8,624	\$ 8,871
Transfers from Other Funds								
F00683	Teale Data Center (CS 15.00, Bud Act of 2005)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds								
T00001	GF loan per item, BA of 2008	\$ (3,000)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers		\$ 2,957	\$ 6,580	\$ 8,703	\$ 7,869	\$ 8,438	\$ 8,624	\$ 8,871
Totals, Resources		\$ 10,115	\$ 11,073	\$ 13,271	\$ 12,580	\$ 12,301	\$ 12,034	\$ 11,836
EXPENDITURES								
Disbursements:								
8860	FSCU (State Operations)	\$ 2	\$ 4	\$ 10	\$ -	\$ -	\$ -	\$ -
8880	Financial Information System for California			\$ 4				
1110	Program Expenditures (State Operations)	\$ 5,620	\$ 6,501 \$ -	\$ 8,546 \$ -	\$ 8,717	\$ 8,891	\$ 9,069	\$ 9,250
Total Disbursements		\$ 5,622 \$ -	\$ 6,505 \$ -	\$ 8,560 \$ -	\$ 8,717 \$ -	\$ 8,891 \$ -	\$ 9,069 \$ -	\$ 9,250
FUND BALANCE								
Reserve for economic uncertainties		\$ 4,493	\$ 4,568	\$ 4,711	\$ 3,863	\$ 3,410	\$ 2,965	\$ 2,586
Months in Reserve		8.3	6.4	6.5	5.2	4.5	3.8	

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2008-09 AND ON-GOING.
- B. ASSUMES INTEREST RATE AT 2%.
- C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

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To: Policy and Advocacy Committee

Date: June 1, 2010

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Review of Board Sponsored and Monitored Legislation

BOARD-SPONSORED LEGISLATION

SB 1489 (Committee on Business, Professions, and Economic Development) – Board Omnibus Bill

This proposal includes the following statutory changes approved by the Board at its May 6, 2010 meeting:

1. Marriage and Family Therapist Experience Hours
With the passage of SB 33 (Correa) 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. This proposal adds language to clarify the experience requirements.
2. Associate Clinical Social Worker Experience Hours
This proposal corrects an inconsistency in statute regarding the hours of direct supervisor contact per week specified for an Associate Clinical Social Worker.
3. Failure to Comply with Telemedicine Provisions
This proposal amends Licensed Professional Clinical Counselor (LPCC) licensing law to add a violation of telemedicine statute to the unprofessional conduct section.
4. Licensed Professional Clinical Counselor Intern Experience Setting
This proposal makes an amendment to statute clarifying the appropriate setting in which an intern may gain experience.

Status: *This bill is being held in the Assembly.*

AB 2191 (Emmerson) Retired License

This proposal would allow the Board to create a retired license category for all licensees, with a one-time fee of \$40. A retired licensee would retain the ability to reactivate their license within five years or less, or after five years or more by passing the current required licensing exams.

Status: *This bill has been referred to the Senate Business, Professions and Economic Development Committee.*

BOARD-SUPPORTED LEGISLATION

AB 1310 (Hernandez) Healing Arts: Database

This proposal will allow the Board to collect the following demographic information from persons licensed or registered with the Board:

- a) Educational background and training, including, but not limited to, degree, related school name and location, and year of graduation, and, as applicable, the highest professional degree obtained, related professional school name and location, and year of graduation.
- b) Birth date and place of birth.
- c) Sex.
- d) Race and ethnicity.
- e) Location of high school.
- f) Number of hours per week spent at primary practice location, if applicable.
- g) Description of primary practice setting, if applicable.
- h) Primary practice information, including, but not limited to, primary specialty practice, practice location ZIP Code, and county.
- i) Information regarding any additional practice, including, but not limited to, a description of practice setting, practice location ZIP Code, and county.

Personally identifiable information collected pursuant to the provisions of this bill shall be confidential and not subject to public inspection. The Board adopted a position of "support" on this legislation at its meeting on May 6, 2010.

Status: *This bill is being held under submission in the Senate Appropriations Committee.*

AB 2028 (Hernandez) Confidentiality of Medical Information: Disclosure

This proposal will allow a health care provider or health care service plan to disclose information relevant to an incident of child abuse or neglect, or an incident of elder or dependent adult abuse, without needing written authorization before they can report as specified in current law. The Board adopted a position of "support" on this legislation at its meeting on May 6, 2010.

Status: *This bill is pending in the Senate Judiciary Committee.*

AB 2086 (Coto) Publication of License Examination Passage Rates

This proposal requires an institution of higher education, in order to qualify for the Cal-Grant program, to provide information on where to access license examination passage rates for the most recent year available from graduates of programs leading to employment for which

passage of a state examination is required, if that data is available. These rates may be published in the form of an internet address which is labeled as an access point for the passage rates. The Board adopted a position of “support” on this legislation at its meeting on May 6, 2010.

Status: *This bill is pending in the Senate Rules Committee.*

AB 2167 (Nava) Clinical Social Workers: Examination Requirements

This proposal removes the requirement for Licensed Clinical Social Worker (LCSW) licensure that an applicant take a standard written examination and clinical vignette examination and instead, requires those applicants to pass both of the following:

- a) The Association of Social Work Boards Clinical Level Exam administered by the Association of Social Work Boards (ASWB).
- b) A California jurisprudence and ethics examination incorporated or developed and administered by the Board.

The provisions of this bill would be effective January 1, 2014 only if the board determines by December 1, 2013 that the ASWB examination meets the prevailing standards for validation and use of the licensing and certification tests in California.

The Board adopted a position of “support” on this legislation at its meeting on May 6, 2010.

Status: *This bill is pending in the Senate Rules Committee.*

AB 2229 (Brownley) Mandated Child Abuse Reporting

This proposal defines a “child abuse investigation and prevention multidisciplinary personnel team” as any team of *two* or more persons are trained in the prevention, identification, and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. This may include Board licensees. It allows members of a child abuse investigation and prevention multidisciplinary personnel team to disclose and exchange with one another information and writings that relate to any incident of child abuse that may be designated as confidential under state law if it is can reasonably be considered relevant to the prevention, identification, or treatment of child abuse. This exchange of information may be done via telephone or electronically if there is adequate verification of the identity of the child abuse investigation and prevention multidisciplinary personnel involved.

The Board adopted a position of “support” on this legislation at its meeting on May 6, 2010.

Status: *This bill has been sent to the Assembly Consent Calendar.*

AB 2339 (Smyth) Child Abuse Reporting

This proposal allows information relevant to an incident of child abuse or neglect and information relevant to a report made relating to a child suffering serious emotional damage, to be given to an investigator from an agency that is investigating a known or suspected case, the State Department of Social Services, or specified county agencies. The Board adopted a position of “support” on this legislation at its meeting on May 6, 2010.

Status: *This bill is pending hearing in the Senate Public Safety Committee.*

AB 2380 (Lowenthal) Child Abuse Reporting

This proposal clarifies the meaning of reasonable suspicion as it relates to the reporting of child abuse by adding the following language to statute:

- a) Reasonable suspicion does not require certainty that a child abuse or neglect has occurred;
- b) Reasonable suspicion does not require a specific medical indication of child abuse or neglect; any reasonable suspicion is sufficient; and
- c) Reasonable suspicion may be based on any information considered credible by the reporter, including statements from other individuals.

The Board adopted a position of “support” on this legislation at its meeting on May 6, 2010.

Status: *This bill is pending hearing in the Senate Public Safety Committee.*

SB 1172 (McLeod) Regulatory Boards: Diversion Programs

This proposal 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. The Board adopted a position of “support” on this legislation at its meeting on May 6, 2010.

Status: *This bill is pending third reading on the Senate floor.*

THE BOARD IS MONITORING THE FOLLOWING LEGISLATION:

AB 612 (Beall) Child Custody Investigations

This proposal prohibits the use of “unproven, nonscientific theories” in making a determination related to a child custody proceeding. The Board adopted a position of “oppose” at its meeting on May 6, 2010.

Status: *This bill is being held in the Senate Judiciary Committee.*

AB 2435 (Lowenthal) Elder and Dependent Adult Abuse

This proposal requires Marriage and Family Therapists (MFT), Licensed Clinical Social Workers (LCSW), and Licensed Professional Clinical Counselor (LPCC) applicants, to complete coursework which includes instruction on the assessment and reporting of, as well as the treatment related to, elder and dependent adult abuse and neglect. At its meeting on May 6, 2010, the Board adopted a position of “support if amended” for this bill. The Board noted that some references to the implementation dates in the bill may cause confusion for students, the consumer, and Board staff, and therefore requested changes to add consistency and clarity of the implementation dates.

Status: *This bill has been referred to the Senate Business, Professions and Economic Development Committee.*

AB 2699 (Bass) Healing Arts: Licensure Exemption

This proposal allows a health care practitioner who is licensed or certified in another state to provide health care for which he or she is licensed in the State of California if they meet the following conditions:

- 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.

The health care services provided pursuant to the provisions of this bill must meet the following conditions:

- a) Care is to uninsured or underinsured persons;
- b) Care is on a short-term, voluntary basis;
- c) Care is in association with a sponsoring entity that registers with the applicable healing arts board, and provides specified information to the county health department of the county in which the health care services will be provided; and
- d) It is without charge to the recipient or to a third party on behalf of the recipient.

At its meeting on May 6, 2010, the Board took an “oppose unless amended” position on this legislation. As the intent of this bill is to provide medical, dental, and vision services to the uninsured and underinsured, the Board asked the author to narrow the scope of this bill to exclude the Board of Behavioral Sciences.

Status: *This bill is pending third reading on the Assembly floor.*

SB 389 (Negrete McLeod) Fingerprint Submission

This proposal requires, beginning January 1, 2011, specified entities under the Department of Consumer Affairs to require, as a condition of licensure renewal, the submission of fingerprints by licensees for whom an electronic record of the submission of fingerprints no longer exists with the Department of Justice (DOJ). The Board adopted a position of “oppose unless amended” at its meeting on May 6, 2010. The Board has asked the author’s office to exempt the Board from the requirements of the bill. Recently approved regulatory changes allowed the Board to require licensees complete a state and federal level criminal offender record information search conducted through DOJ before his or her license renewal date. These regulations went into effect on October 31, 2009.

Status: *This bill has failed passage in the Assembly Public Safety Committee. Re-consideration has been granted.*

SB 543 (Leno) Minors: Consent to Mental Health Treatment

This proposal would allow a minor who is 12 years of age or older to consent to mental health services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services. The Board opted to take no position on this legislation at its meeting on May 6, 2010.

Status: *This bill has been placed on the Assembly Inactive File.*

SB 1282 (Steinberg) Applied Behavioral Analysis Services: California Behavioral Certification Organization

This proposal would establish the California Behavioral Certification Organization (CBCO), a nonprofit organization that provides for the certification and registration of applied behavioral analysis practitioners if they submit a written application, pay fees as required by CBCO, meet specified educational and professional requirements, and submit fingerprints. At its meeting on May 6, 2010, the Board voted to take an "oppose" position on this bill.

This bill was amended on May 26, 2010. It would now make it an unfair business practice for a person to use certain titles or other terms implying he or she is a certified as an applied behavior analyst unless he or she holds a current certification from a specified organization.

Status: *This bill is pending third reading on the Senate floor.*

Updated: May 26, 2010

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To: Policy and Advocacy Committee Members **Date:** May 26, 2010
From: Tracy Rhine
Assistant Executive Officer **Telephone:** (916) 574-7847
Subject: Rulemaking Update

PENDING REGULATORY PROPOSALS

Title 16, CCR 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, 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, 1888, and adding 1820, 1821, and 1822, Licensed Professional Clinical Counselors, Exceptions to Continuing Education Requirements

This proposal would implement all provisions related to SB 788, Chapter 619, Statutes of 2009, and the creation of Licensed Professional Clinical Counselors. Additionally, this rulemaking incorporates changes approved by the Board relating to Continuing Education requirements for licensed educational psychologists. **The Board approved the proposed text at its May 6, 2010. The rulemaking package was published in the Office of Administrative Law's Notice Registry on May 28, 2010. A public comment hearing is scheduled for July 13, 2010.**

Title 16, CCR Sections 1807, 1807.2, 1810, 1819.1, 1887 to 1887.14, Continuing Education Requirements: Licensed Educational Psychologists

This proposal would implement a continuing education program for Licensed Educational Psychologists. **The board approved the originally proposed text at its February 26, 2009 meeting. The rulemaking package was published in the Office of Administrative Law's Notice Registry on October 30, 2009. The public comment period closed on December 14, 2009 and a public comment hearing was conducted on December 17, 2009. This proposed regulation was incorporated into the rulemaking package relating Licensed Professional Clinical Counselors. A Notice of Decision Not to Proceed was published in the Notice Registry on May 28, 2010.**

Title 16, CCR Section 1887.2, Exceptions to Continuing Education Requirements

This regulation sets forth continuing education exception criteria for MFT and LCSW license renewals. This proposal would amend the language in order to clarify and better facilitate the request for exception from the CE requirement. **The board approved the originally**

proposed text at its meeting on May 31, 2007. This proposed regulation was incorporated into the rulemaking package relating Licensed Professional Clinical Counselors.

Title 16, CCR Sections 1887, 1887.2, 1887.3, and 1887.7, Minor Clean-Up of Continuing Education Regulations

This proposal would make minor clean-up amendments to continuing education regulations. **The Board approved the originally proposed text at its meeting on May 31, 2007. This proposed regulation will be incorporated into the rulemaking package relating to Licensed Professional Clinical Counselors.**

Title 16, CCR Section 1811, Revision of Advertising Regulations

This proposal revises the regulatory provisions related to advertising by Board Licensees. **The Board approved the originally proposed text at its meeting on November 18, 2009. Staff is currently preparing the rulemaking package for Notice with the Office of Administrative Law.**