



BOARD MEETING SUPPLEMENTAL MEETING MATERIALS

February 23-24, 2011

Included in this supplemental package are the following agenda item materials:

- III. January 13, 2011 Draft Board Meeting Minutes
- IV.a. Fund Condition Update
- X. LPCC Gap Examination

Blank Page

BOARD MEETING Minutes- **DRAFT** January 13, 2011

Alliant International University
2855 Michelle Drive, Room 319
Irvine, CA 92606

Members Present

Renee Lonner, Chair, LCSW Member
Elise Froistad, Vice Chair, MFT Member
Samara Ashley, Public Member
Jan Cone, LCSW Member
Mona Foster, Public Member
Judy Johnson, LEP Member
Patricia Lock-Dawson, Public Member
Michael Webb, MFT Member

Members Absent

Donna DiGiorgio, Public Member
Harry Douglas, Public Member
Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Asst. Executive Officer
Rosanne Helms, Legislative Analyst
Christina Kitamura, Administrative Analyst
Michael Santiago, Legal Counsel
Gary Duke, Legal Counsel

Guest List

On file

FULL BOARD OPEN SESSION

Renee Lonner Board of Behavioral Sciences (Board) Chair called the meeting to order at approximately 1:38 p.m. Christina Kitamura called roll, and a quorum was established. Staff, Board members and attendees introduced themselves.

I. Review and Approval of September 9, 2010 Board Meeting Minutes

Ms. Lonner noted a correction on the last paragraph of page 15; "has addressing" should be "has been addressing."

Judy Johnson moved to approve the September 9, 2010 Board meeting minutes as amended. Samara Ashley seconded. The Board voted (6 in favor, 1 abstention) to pass the motion passed.

II. Discussion and Possible Action on Marriage and Family Therapist Practicum Requirement; Trainees Counseling Clients; Exception

Tracy Rhine presented that Senate Bill (SB) 33 went into effect January 1, 2010. SB 33 made a number of changes to the education requirements for marriage and family therapist

(MFT) licensure. One change in the new law pertained to practicum. Two issues had been brought to staff's attention surrounding this change in law. First, with the passage of SB 33, there appeared to be a conflict between the following sections of the Business and Professions Code:

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

BPC Section 4980.42(a) states *Trainees may gain hours of experience outside the required practicum.*

Ms. Rhine explained that there seemed to be a conflict between the two sections when initially interpreted. The California Association for Marriage and Family Therapists (CAMFT) contended that no inconsistency actually existed due to fact that Section 4980.36(d)(1)(B)(iii) referenced and applied only to *students*, not *trainees*. In the response to this assertion, and others contained in letters submitted by CAMFT regarding the Board's interpretation of this section of law, Board Counsel rendered a legal opinion.

Ms. Rhine pointed out the second issue of requiring a trainee to be enrolled in practicum while counseling clients. If a student is required to be enrolled in a practicum course while counseling clients, what happens to the student during those periods of time when they cannot be enrolled in a practicum course? The Board directed staff to draft statutory language that would allow students to counsel clients outside of practicum if that period outside of practicum is less than 45 days.

Gary Duke, Board Counsel, presented his statutory analysis. He stated that upon the initial reading of the statute, it may appear that BPC Section 4980.36(d)(1)(B)(iii) is inconsistent with existing law, BPC Section 4980.42(a). Since BPC Section 4980.42 authorizes trainees to gain experience outside the required practicum, the newly enacted statute requires students to be enrolled in a practicum course while counseling clients. Mr. Duke stated that BPC Section 4980.42 is a permissive statute, stating that trainees may gain hours of experience outside the required practicum. He explained that this authorizes students; it does not require them to gain such hours.

Mr. Duke explained the principles used when interpreting a statute. The objective is to "ascertain and effectuate the underlying legislative intent." In determining legislative intent, the "plain meaning" in the language of the statute is considered. Some statutes have statutory definitions. Statutory definitions provided specifically within the law are applied. Mr. Duke added that various sections of all codes must "be read together and harmonize if possible." He stated that codes are to be "regarded as blending into each other and constituting a single statute"; and that the "codes must be construed to give effect to all provisions, if reasonably possible." Mr. Duke stated that it must be presumed that the Legislature's intent is to "maintain a consistent body of rules." The court's role is to harmonize the law when inconsistent statutes exist.

Mr. Duke stated that based on these principles, there is no conflict between BPC Sections 4980.36(d)(1)(B)(iii) and 4980.42 since both provisions can be harmonized in such a manner as to have legal effect to both provisions.

BPC Section 4980.36(d)(1)(B)(iii) – "A student must be enrolled in a practicum course while counseling clients." Mr. Duke stated the following:

'Student' is defined by the American Heritage Dictionary as: 'One who is enrolled or attends classes at a school, college, or university.' The statute requires students qualifying for hours for the required experience to be enrolled in a practicum course while counseling clients. All trainees under the Marriage and Family Therapist Act (Act) are students by definition. Under the Act's definitional provisions, a trainee is defined to mean 'an unlicensed person who is currently enrolled in a master's or doctor's degree program, as specified in Sections 4980.36 and 4980.37, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.' Since the term 'student' is understood to mean one who is enrolled or attends classes at a school, college, or university, a 'trainee' is also by statutory definition a 'student' since a trainee is defined as one who is 'currently enrolled in a master's or doctor's degree program.' Consequently, all trainees are students. Because all trainees are also students, the requirement under section 4980.36(d)(1)(B)(iii) applies equally to trainees. The practicum requirement is not inconsistent with section 4980.42.

Section 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 experience outside the required practicum. Those hours shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.” Mr. Duke stated the following:

Section 4980.42 is a permissive statute; it authorizes and provides that trainees may gain hours of experience outside the required practicum. This statute is not inconsistent with section 4980.36(d)(1)(B)(iii) which requires student, including trainees, to be enrolled in a practicum course while counseling clients. Section 4980.42 allows trainees to gain experience outside the required practicum. Experience that involves counseling, however, requires a trainee to be enrolled in a qualifying practicum course. This requirement does not conflict with section 4980.42 since it simply authorizes trainees to gain hours of experience outside the required practicum. The required practicum requirements still apply. Section 4980.42 also provides that hours of experience gained outside the required practicum shall be subject to the requirements of subdivision (b) and to other requirements of this chapter. Therefore, section 4980.36(d)(1)(B)(iii) requires all students, including trainees, to be enrolled in a practicum course while counseling clients.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), stated that CAMFT’s letters were “lame” with regard to separating the student and trainee issue. She added that the law clearly defines both terms. Ms. Riemersma stated that in taking a look at both sections, 4980.36 is directed at education and section 4980.42 is directed at experience. She believes that this is a public protection issue, and urged the Board to instead consider the entirety of the summer as opposed to the 45 day limit to allow students to counsel clients outside of practicum. The agencies employing the trainees and clients are placed in a difficult situation if the employees cannot work the entire summer, furthermore, it is punitive to the trainees if they work the entire summer but only receive credit for up to 45 days.

Kathleen Wenger, Pepperdine University, stated that there are 175 of their students that are currently enrolled in practicum. In addition to the summer session issue, there is also spring break and winter break. Technically, the students must be enrolled in or attending a class to counsel clients. This also creates a hardship on the public to not receive those services

from students if they have to stop seeing clients in the middle of their treatment. Ms. Wenger urged the Board for flexibility.

Ms. Lonner asked how students are employed over the summer if they are not enrolled in a practicum course. Ms. Riemersma responded that they are employed in exempt settings. Another meeting guest responded that the student may not necessarily be employed; the student may be volunteering.

Olivia Loewy, American Association for Marriage and Family Therapy California Division (AAMFT-CA), agreed with the concern regarding continuity of care. She indicated that some educators have expressed their concerns with lack of oversight over an extended amount of time. She suggested that schools create policies that address this issue.

Ms. Riemersma responded that most schools currently allow for that by creating a course and written agreement but it is not part of a practicum; it allows for hours of experience gained outside of practicum. Current law provides for that.

Janlee Wong, National Association of Social Worker (NASW), stressed the importance of practicum that requires faculty instruction for field work.

Carolyn Langone, stakeholder, asked how the Board came to the decision of the 45 day limit. Ms. Madsen responded that the discussion took place at the May 2010 Board meeting. The first issue addressed was whether or not the trainees should be enrolled in a practicum course. Also taken into account were the breaks and what those breaks look like: winter, spring, summer, quarter breaks, and semester breaks. Forty-five (45) days seemed to be a reasonable number and did not seem to adversely impact a great number of people.

Ms. Langone explained that the decision should not be made based on the length of the summer break; it should be made based on the duration that is determined to be safe to counsel clients outside of practicum.

Ms. Lonner recalled that in determining 45 days at the committee level and at board level, the Board did not intend to cover the entire summer. The 45-day limit was enough to cover an extensive winter break, gaps between semesters, and other breaks. Ms. Lonner added that non-client counseling Client Centered Advocacy hours can still be counted.

Ms. Riemersma asked if this was going to be pursued through a committee bill. Ms. Rhine responded that if the Board decides to pursue, it will be Board-sponsored legislation. She added that opposition is expected.

Elise Froistad joined the meeting at 2:15 p.m. Staff provided a brief overview of the discussion that took place.

Ms. Lonner presented the options before the Board: 1) leave the current law as is; 2) adopt proposed amendment; 3) direct staff to draft new language and bring back to the Board.

Patricia Lock-Dawson moved to adopt staff's recommendation of the amended language. Renee Lonner seconded. The Board voted unanimously (8-0) to pass the motion.

III. Public Comment for Items Not on the Agenda

No public comments were made for items not on the agenda.

IV. Suggestions for Future Agenda Items

Ms. Wenger proposed discussion regarding MFT clinical supervision hours. Currently LCSWs must have all of their hours supervised by an LCSW. She proposed a requirement that a portion of the MFT hours be supervised by an MFT.

The open session was closed at approximately 2:45 p.m., and the Board moved to closed session.

FULL BOARD CLOSED SESSION

V. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

The Board met in closed session to discuss and take possible action on disciplinary matters.

Closed session ended at 3:28 p.m.

FULL BOARD OPEN SESSION

The Board moved to open session to adjourn the Board meeting at approximately 3:34 p.m.

Blank Page

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

To: Board Members

Date: February 14, 2011

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Fund Condition Update

On February 9, 2011, Governor Brown announced the cancelation of the sale and proposed lease back of eleven state properties. This action was proposed by the previous administration to generate revenue to the General Fund in an effort to reduce the budget deficit.

To replace the one-time revenue this sale would have generated, Governor Brown proposes amending his budget proposal to include borrowing \$830 million from special fund reserves. His plan includes protections to ensure that these programs are not impacted:

- Loans will come from reserves—not program budgets.
- All loans will be paid back by FY 2013-14.
- If programs need additional funding before then, the Department of Finance will transfer money back.

The Board is one of the special fund programs affected by this action. On February 11, 2011, the Board received notification that a \$3.3 million loan will be taken from our reserve fund. This loan will be reflected in the Board 2011/2012 budget.

Beginning in the fiscal year 2011/2012 loan amounts to the General Fund will total \$12.3 million dollars.

Blank Page

0773 - Behavioral Science Analysis of Fund Condition

Prepared 2/2/2011

(Dollars in Thousands)

**NOTE: \$6.0 Million General Fund Outstanding (2002/03),
\$3.0 Million General Fund Outstanding (2008/09), and
\$3.3 Million General Fund Loan in FY 2011-12 with repayment in FY 2013-14 (Proposed)**

**Proposed FY 2011-12 Governor's Budget
SB 788 Revenue & AB 2191 Revenue Loss**

	ACTUAL 2009-10	CY 2010-11	BY 2011-12	BY + 1 2012-13	2013-14	2014-15	2015-16
BEGINNING BALANCE	\$ 4,493	\$ 4,885	\$ 5,246	\$ 3,662	\$ 4,441	\$ 8,857	\$ 9,994
Prior Year Adjustment	\$ 107	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 4,600	\$ 4,885	\$ 5,246	\$ 3,662	\$ 4,441	\$ 8,857	\$ 9,994
REVENUES AND TRANSFERS							
Revenues:							
125600 Other regulatory fees	\$ 79	\$ 72	\$ 78	\$ 78	\$ 78	\$ 78	\$ 78
125700 Other regulatory licenses and permits	\$ 1,884	\$ 3,706	\$ 2,850	\$ 2,850	\$ 2,850	\$ 2,850	\$ 2,850
Additional SB 788 Revenue			\$ 1,729	\$ 900	\$ 1,473	\$ 1,664	\$ 1,914
125800 Renewal fees	\$ 4,150	\$ 4,390	\$ 4,762	\$ 4,762	\$ 4,762	\$ 4,762	\$ 4,762
AB 2191 Revenue Loss			\$ (51)	\$ (51)	\$ (121)	\$ (121)	\$ (121)
125900 Delinquent fees	\$ 50	\$ 71	\$ 77	\$ 77	\$ 77	\$ 77	\$ 77
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ 8	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
150300 Income from surplus money investments	\$ 34	\$ 46	\$ 36	\$ 38	\$ 30	\$ 21	\$ 11
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ 3	\$ 3	\$ 3	\$ 3	\$ 3	\$ 3
161400 Miscellaneous revenues	\$ 3	\$ 3	\$ 3	\$ 3	\$ 3	\$ 3	\$ 3
Totals, Revenues	\$ 6,211	\$ 8,293	\$ 9,489	\$ 8,662	\$ 9,157	\$ 9,339	\$ 9,579
Transfers from Other Funds							
Proposed GF Loan Repayment	\$ -	\$ -	\$ -	\$ -	\$ 3,300	\$ -	\$ -
Transfers to Other Funds							
Proposed GF Loan		\$ -	\$ (3,300)	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 6,211	\$ 8,293	\$ 6,189	\$ 8,662	\$ 12,457	\$ 9,339	\$ 9,579
Totals, Resources	\$ 10,811	\$ 13,178	\$ 11,435	\$ 12,324	\$ 16,898	\$ 18,196	\$ 19,573
EXPENDITURES							
Disbursements:							
8860 FSCU (State Operations)	\$ 4	\$ 10	\$ 9	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for California		\$ 4	\$ 36				
1110 Program Expenditures (State Operations)	\$ 5,922	\$ 7,936	\$ 7,728	\$ 7,883	\$ 8,041	\$ 8,202	\$ 8,366
1111-04 Governor's Proposed		\$ (18)					
Net Reimbursements							
Total Disbursements	\$ 5,926	\$ 7,932	\$ 7,773	\$ 7,883	\$ 8,041	\$ 8,202	\$ 8,366
FUND BALANCE							
Reserve for economic uncertainties	\$ 4,885	\$ 5,246	\$ 3,662	\$ 4,441	\$ 8,857	\$ 9,994	\$ 11,207
Months in Reserve	7.4	8.1	5.6	6.6	13.0	14.3	

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2010-11 AND ONGOING.
- B. ASSUMES INTEREST RATE AT 1%.
- C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

Blank Page

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

To: Board Members

Date: February 17, 2011

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Gap Examination

Background

On or about October 11, 2009, Governor Schwarzenegger signed Senate Bill 788, establishing the Licensed Professional Clinical Counselor Act (Act) under the Board of Behavioral Sciences. The Act authorized the Board to begin accepting applications for this new mental health profession effective January 1, 2011.

The Act provides Marriage and Family Therapists (MFT) and Licensed Clinical Social Workers (LCSW) a method to obtain licensure as a Licensed Professional Clinical Counselor (LPCC) if specific requirements are met and applications are received within a specified time period. This is commonly referred to as the *grand parenting* provision.

One requirement may include an examination on the differences between the practice of MFT and LPCC and the practice of LCSW and LPCC. Business and Professions Code section 4999.54 (b) (1) (2) states the following:

(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.

Pursuant to this section, Board staff met with the Office of Professional Examination Services (OPES) staff in November 2009. The purpose of the meeting was to discuss whether OPES had the staff and resources to conduct a comprehensive audit required to identify differences, if any, in the practice of the three professions (Marriage and Family Therapy, Licensed Clinical Social Work and Licensed Professional Clinical Counselors) considering the limited timelines to implement the program and the need to develop and administer an examination, if one was needed.

Following this meeting it was agreed that OPES was not able to perform this work necessary to meet the requirements of Senate Bill 788 due to constraints on its budget, demand of existing workloads, and the short time to complete the work.

Subsequently, the Board initiated the steps to obtain bids from outside vendors that could perform the comprehensive analysis required by the Act. The contract was awarded to Applied Measurement Services, LLC on or about January 12, 2010.

AMS completed the analysis on or about April 29, 2010 and presented the findings in a public report *Analysis of the Licensed Clinical Social Worker, Marriage and Family Therapists, and Licensed Professional Clinical Counselors* (AMS Report). The AMS Report was presented at the May 7, 2010 Board meeting.

AMS concluded that differences were identified in three categories: diagnostic and assessment services; professional practice activities; and professional development. AMS noted that the differences were not related to health and safety, and could be remediated with additional coursework, training, and certification. Therefore, AMS recommended that the Board not require a separate examination for MFTs and LCSWs who seek licensure as a LPCC under the grandparenting provision.

Previous Board Action

At its May 7, 2010 meeting the Board voted unanimously to not adopt a separate examination (commonly referred to as the Gap Examination) for MFT and LCSW candidates who seek LPCC licensure under the grandparenting provision.

On or about May 10, 2010, Board staff received a letter written on behalf of the California Division of the American Association of Marriage and Family Therapists (AAMFT-CA). The AAMFT-CA letter argued that Business and Professions Code section 4999.54 (b) requires the Board to develop an examination on any differences that may exist between the three professions and that it does not allow the Board to make an exception to the examination based on perceived significance of the differences.

At its July 28, 2010 board meeting, during an open session the Board discussed the AAMFT-CA letter, the AMS Report, listened to public comment, and inquired of the Board's legal counsel as to the requirements of the law.

Following the July 28, 2010 Board meeting a letter dated August 23, 2010, was received from Richard Segal, an attorney with Pillsbury, Winthrop, Shaw and Pittman LLP, representing the California Association of Marriage and Family Therapists (CAMFT). Mr. Segal expressed the view that the Board had violated the Bagley-Keene Open Meeting Act when it went into closed session on July 28, 2010 to discuss whether a Gap Examination should be required.

The letter requested the Board acknowledge the defect in procedures and suggested the violation could be cured by taking action that would bring the Board to the point prior to when the violation occurred, and then the Board could proceed properly.

In the interest of improving public perception and relations the Board met on September 9, 2010, to discuss and possibly rescind the decision made at the July 28, 2010 meeting to require a Gap Examination. Department of Consumer Affairs (DCA) Legal Counsel Spencer Walker attended this meeting and recommended the Board rescind its July 28, 2010 vote that required grandparenting applicants to take the Gap Examination. The Board voted unanimously to rescind the July 28, 2010 decision to require the Gap Examination.

Further, Mr. Walker advised the Board also rescind its May 7, 2010 vote that determined an examination was not required. The Board voted unanimously to rescind the May 7, 2010 vote.

During the September 9, 2010, meeting the AMS report was discussed and public comment was received. During the discussion Mr. Walker stated that the Board needs to ensure that it is protecting consumers, adding that by protecting consumers, the Board would be following the law. Mr. Walker reiterated that the law states that the Board must require a test on the differences between the LPCC license and the MFT and LCSW licenses. Clarification was provided as to the term “*any differences*” versus the term “*meaningful differences*.” The term “*meaningful differences*” was not part of the language in the law, although the term was part of the discussion in developing the language for this statute.

At its September 9, 2010 the Board voted to find that a Gap Examination is necessary and directed staff to have an examination developed.

CAMFT Litigation

On or about October 18, 2010, CAMFT filed a Petition for Writ of Mandate against the Board. The litigation alleged the following:

- The Board erred in assessing the purported differences between the professions of clinical counseling, clinical social work, and marriage and family therapy, instead of assessing the differences, if any, between the practice of clinical counseling, clinical social work, and marriage and family therapy.
- The Board failed to consult with OPES in determining whether the Gap Examination is necessary.
- The Board failed to exercise its independent judgment in determining whether the Gap Examination is necessary.

The litigation sought a judgment that would require the Board to set aside, vacating, and invalidating the September 9, 2010 decision and compel the Board to act in compliance with applicable laws and regulations when determining whether or not a Gap Examination was necessary. Further, the litigation sought an injunction that prohibited the Board from taking any action implementing or enforcing the September 9, 2010 decision to require the Gap Examination. The matter was scheduled for hearing on January 28, 2011.

Prior to the January 28, 2011 hearing, the court issued a tentative ruling. During the January 28, 2011 hearing oral arguments were presented. The judge adopted the tentative ruling as written on or about February 10, 2011. The court determined the following:

- The Board did not abuse its discretion in determining that practice and profession are essentially the same thing.
- The Board abused its discretion in failing to consult with OPES in determining whether the Gap Examination is necessary.
- The Board did not abuse its discretion in determining the Gap Examination is required if the Board determines there are “any” differences between the professions.

On February 14, 2011, the court issued a Peremptory Writ of Mandate that requires the following:

- The Board set aside its decision requiring the Gap Examination.
- The Board shall make its determination whether a Gap Examination is required “in consultation” with OPES.
- The Board will file a response to the court within 60 days after the issuance of the writ, setting forth what the Board has done to comply with the writ.

Compliance with Writ

On or about February 14, 2011 the Board issued an Order to set aside its decision to require a Gap Examination.

On or about January 31, 2011, the April 29, 2010 AMS Analysis of the Licensed Clinical Social Worker, Marriage and Family Therapists, and Licensed Professional Clinical Counselors Public Progress Report was provided to OPES for its review and comments. On or about February 8, 2011, the AMS confidential analysis report regarding the analysis of the professions was provided to OPES for review. This report was provided with the approval of the National Board of Clinical Counselors and under a confidentiality agreement.

On February 11, 2011, the Board received a response from OPES.

Request for Action

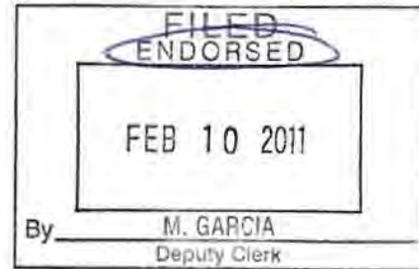
Staff requests the Board review the April 29, 2010 AMS Analysis of the Licensed Clinical Social Worker, Marriage and Family Therapists, and Licensed Professional Clinical Counselors Public Progress Report, the minutes from the September 9, 2010 Board meeting wherein differences between the professions were identified in the AMS Public Progress Report, and the response from OPES to conduct a discussion regarding the differences between the practice of the professions and whether a Gap Examination is necessary.

If the Board determines that a Gap Examination regarding the differences in practice is necessary, direct staff to jointly develop the Gap Examination with OPES to address the differences between the practice of Professional Clinical Counseling and Marriage and Family Therapy and between Professional Clinical Counseling and Licensed Clinical Social Work.

Attachment

- A. Formal Order and Judgment, Case Number 34-2010-80000689, CAMFT v. BBS
- B. Peremptory Writ of Mandate, Case Number 34-2010-80000689, CAMFT v. BBS
- C. Order to Set Aside Decision to Require a Gap Examination
- D. AMS Analysis of the Licensed Clinical Social Worker, Marriage and Family Therapists, and Licensed Professional Clinical Counselors Public Progress Report dated April 29, 2010
- E. September 9, 2010 Board meeting minutes
- F. Office of Professional Examination Services Response

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
4 JANICE K. LACHMAN
Supervising Deputy Attorney General
5 State Bar No. 083047
1300 I Street, Suite 125
6 P.O. Box 944255
Sacramento, CA 94244-2550
7 Telephone: (916) 324-5339
Fax: (916) 327-8643
8 E-mail: Arthur.Taggart@doj.ca.gov
Attorneys for Defendants and Respondents
9 *Board of Behavioral Sciences*



10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO

13
14 **CALIFORNIA ASSOCIATION OF**
15 **MARRIAGE AND FAMILY**
16 **THERAPISTS, a California Non-Profit**
Mutual Benefit Corporation,

17 Plaintiff and Petitioner,

18 v.

19 **BOARD OF BEHAVIORAL SCIENCES,**
20 **and DOES 1-50,**

21 Defendants and Respondents.

Case No. 34-2010-80000689

~~PROPOSED~~ JUDGMENT

Judge: Honorable Allen H. Sumner
Dept.: 42

22
23 Pursuant to the Verified Petition for Writ of Mandate of Petitioner California Association of
24 Marriage and Family Therapists having been granted in part and denied in part, as reflected by the
25 ruling of this Court dated January 28, 2011, a copy of which is attached hereto as Exhibit "A" and
26 is incorporated herein by this reference, the Court now enters judgment in favor of Petitioner
27 California Association of Marriage and Family Therapists and against Respondent Board of
28 Behavioral Sciences as follows:

1 Let a peremptory writ of mandate issue, commanding Respondent Board of Behavioral
2 Sciences to set aside its decision requiring a Gap Examination for currently licensed marriage and
3 family therapists who seek to be licensed as professional clinical counselors. The peremptory
4 writ of mandate shall further command Respondent Board of Behavioral Sciences to file a return
5 within 60 days after issuance of the writ, setting forth the actions Respondent has taken to comply
6 with the writ.

7 APPROVED AS TO FORM:

8
9 DATED: February 7, 2011

PILLSBURY WINTHROP SHAW
PITTMAN LLP



RICHARD M. SEGAL
Attorneys for Plaintiff and Petitioner
CALIFORNIA ASSOCIATION OF
MARRIAGE AND FAMILY THERAPISTS

10
11
12
13
14 DATED: February 8, 2011

KAMALA D. HARRIS, Attorney General
of the State of California



ARTHUR D. TAGGART
Supervising Deputy Attorney General
Attorneys for Defendants and Respondents
BOARD OF BEHAVIORAL SCIENCES

15
16
17
18
19
20 IT IS SO ORDERED.

21
22 DATED: February 10, 2011



THE HONORABLE ALLEN H. SUMNER
JUDGE OF THE SUPERIOR COURT

Exhibit A
Minute Order dated January 28, 2011

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE

MINUTE ORDER

DATE: 01/28/2011 TIME: 11:00:00 AM DEPT: 42

JUDICIAL OFFICER PRESIDING: Allen Sumner
CLERK: M. Garcia
REPORTER/ERM: L. Kennedy CSR# 8927
BAILIFF/COURT ATTENDANT: J. Travis

CASE NO: 34-2010-80000689-CU-WM-GDSCASE INIT.DATE: 10/18/2010
CASE TITLE: California Association Of Marriage And Family Therapists a California Non Profit
Mutual Benefit Corporation vs. Board Of Behavioral Sciences
CASE CATEGORY: Civil - Unlimited

EVENT TYPE: Petition for Writ of Mandate - Writ of Mandate

APPEARANCES

Arthur Taggart, counsel, present for Respondent(s).
Richard Segal on behalf of the Petitioner
Janice Lachman on behalf of the Respondent

The above-entitled action came before this court on this date for writ hearing. The above named parties were present.

The Court issued a tentative ruling on January 27, 2011 as follows:

The petition for writ of mandate by Petitioner California Association of Marriage and Family Therapists challenging the decision by Respondent Board of Behavioral Sciences to require an examination for obtaining licensure as a Licensed Professional Clinical Counselor is granted in part and denied in part.

This shall constitute the court's tentative ruling on the petition, which is scheduled for hearing on January 28, 2011, in Department 42. The tentative ruling shall become the final ruling of the court, unless a party wishing to be heard so advises the clerk of this Department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the clerk that such party has notified the other side of its intention to appear.

BACKGROUND

The Licensed Professional Clinical Counselor Act

In 2009, the Legislature enacted the Licensed Professional Clinical Counselor Act ("Act"), creating a new licensed profession -- professional clinical counselors ("LPCCs"). (SB 788 (Wyland), Chap. 619, Stats. 2009 [Adding Bus. & Prof. Code §§ 4999.10 *et seq.*][1].) The Act authorizes the Board of Behavioral Sciences ("Board") to issue an LPCC license to those who meet certain enumerated requirements. [2] (§§ 4999.50(a)(1)-(3).)

The Act also contains a "grandfathering" clause authorizing the Board to issue LPCC licenses to those currently licensed as marriage and family therapists ("MFTs") or clinical social workers ("LCSWs"). (§ 4999.54(a)(2).) To qualify for an LPCC license, current MFTs and LCSWs must meet specific

coursework requirements. Additionally, the Board is to determine whether current MFTs and LCSWs should have to take an examination on the differences between the practice of professional clinical counseling, the practice of marriage and family therapy, and the practice of clinical social work. (§ 4999.54(b).) This is known as the "Gap Examination."

On September 9, 2010, the Board determined that a Gap Examination is necessary for those current MFTs and LCSWs who wish to be licensed as LPCCs.

Petitioner, the California Association of Marriage and Family Therapists, filed this action challenging the Board's determination. [3] Petitioner argues the Board erred in three respects in determining that the Gap Examination is required:

First, the Board erred in assessing purported differences between the *professions* of clinical counseling, clinical social work, and marriage and family therapy, instead of assessing the differences, if any, between the *practice* of clinical counseling, clinical social work, and marriage and family therapy.

Additionally, the Board failed to consult with the Office of Professional Examination Services ("OPES") in determining whether the Gap Examination is necessary.

Finally, the Board failed to exercise its independent judgment in determining whether the Gap Examination is necessary.

As discussed below, the court finds the Board did not abuse its discretion in determining that a Gap Examination is necessary if any differences were discovered between the MFT and LPCC "practices" as defined by statute. However, the court concludes the Board abused its discretion in failing to determine whether a Gap Examination was required "in consultation with" the OPES.

Board Proceedings

In November 2009, the Board's Executive Officer met with OPES staff to discuss whether OPES had the resources to conduct the audit required to identify the differences, if any, in the practice of MFTs, LCSWs and LPCCs. (Declaration of Kim Madsen in Opposition to Petition ("Madsen Decl."), at ¶ 9; Declaration of Amy Welch Gandy in Opposition to Petition ("Gandy Decl."), ¶ 3.) OPES determined it was not able to perform the audit. (Madsen Decl. at ¶ 9; Gandy Decl. at ¶ 6.)

The Board then obtained bids from outside vendors to perform a comprehensive analysis of the MFT, LCSW and LPCC professions under contract with the Board. (Madsen Decl. at ¶ 10.) Under the Board's Statement of Work, the contractor was to "determine whether any meaningful differences" exist between the LPC and MFT professions. (Madsen Decl. at Exh. 2; Declaration of Tracy A. Montez in Opposition to Petition ("Montez Decl."), Exh. 1.) In January 2010 the Board awarded the contract to Applied Measurement Services LLC ("AMS"). (Madsen Decl. at ¶ 10; Montez Decl. at ¶ 11.)

Between January and April 2010, AMS conducted its review, which AMS described as a "professions analysis." On April 29, 2010, AMS notified the Board that AMS had completed the first phase of its review, providing a report on the results of its analysis and recommendations. (Petitioner's Notice of Lodgment of Exhibits in Support of Petition ("NOL"), Exh. "B.") AMS found that the expectations for entry-level practice as an MFT or LPCC differed in three categories: diagnostic and assessment services; professional practice activities; and professional development. (Montez Decl. at ¶ 30.) However, AMS concluded these differences for MFTs and LPCCs could be remediated by additional coursework, training, and certification. [4] (*Id.* at ¶ 34.) Accordingly, AMS recommended that the Board

not adopt require a separate Gap Examination for MFTs seeking to be grandfathered in as LPCCs. (*Id.* at ¶ 36; NOL at Exh. "B.")

On September 9, 2010, the Board voted 5-3 to require a Gap Examination for licensed MFTs and LCSWs who wanted to be licensed as LPCCs. (Madsen Decl. at Exhs. 16, 17; NOL at Exh. "K.") At its hearing, the Board received testimony from Dr. Tracy Montez of AMS regarding the differences she found between the practice of MFTs, LCSWs and LPCCs, and why Dr. Tracy believed a Gap Examination was not warranted. (Madsen Decl. at Exh. 17.) The Board also questioned Dr. Montez on the distinction, if any, between a "profession" and a "practice." (*Ibid.*) Additionally, the Board requested advice from its legal counsel as to whether the Board had any discretion in requiring a Gap Examination if the Board determined there were differences in the practice of MFTs, LCSWs and LPCCs. (*Ibid.*)

On October 18, 2010, Petitioner filed the instant petition seeking a peremptory writ of mandate compelling the Board to set aside its decision requiring a Gap Examination for MFTs. (Petition at ¶ 10; Memorandum at 28:25-29:1.) [5].

DISCUSSION

The petition turns upon the construction of the "grandfathering" language in section 4999.54, subd. (b), which states in relevant part:

(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.

(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. [6]

Standard of Review

The court's review of the Board's quasi-legislative action is limited to an inquiry into whether the Board's decision was "arbitrary, capricious, or entirely lacking in evidentiary support, contrary to established public policy, unlawful, procedurally unfair, or whether the agency failed to follow the procedure and give the notices the law requires." (*Cal. Water Impact Net. v. Newhall County Water Dist.* (2008) 161 Cal.App.4th 1464, 1483 (citation omitted); *Wirth v. State* (2006) 142 Cal.App.4th 131, 138 (citation omitted).)

- **The Board did not abuse its discretion in determining that "practice" and "profession" are essentially the same.**

The crux of Petitioner's argument centers on the distinction, if any, between a *profession* and a *practice*. Petitioner contends the Board abused its discretion in requiring a Gap Examination because AMS incorrectly analyzed the MFT, LCSW and LPCC *professions* instead of the MFT, LCSW and LPCC *practices*.

Petitioner argues section 4999.54, subd. (b), requires the analysis to focus on the "practice of professional clinical counseling and the practice of marriage and family therapy," which Petitioner construes as "what those professionals may *do* after they are licensed." (Memorandum at 11:16-18, 11:27-28.) Petitioner thus argues the Board erred when AMS analyzed the differences between the requirements to *become licensed* as an MFT and to *become licensed* as a professional clinical

counselor, rather than the differences between what those professions may *do once licensed* (i.e., the practices of those professions). (Memorandum at 15:5-8.)

The Board responds that the terms *practice* and *profession* share the same meaning. The Board argues Petitioner mistakenly focuses on the actual practices of the professions rather than the "practice of the professions" as defined by statute. The Board contends that AMS's analysis of these professions appropriately focused on the practice of the professions as defined by statute.

As is evident from the parties' dispute, the Legislature failed to define the terms *practice* and *profession* as used in section 4999.54. Both constructions argued by the parties are reasonable. The language of section 4999.54 is thus ambiguous. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal. 4th 763, 775 ["A statute is regarded as ambiguous if it is capable of two constructions, both of which are reasonable."].)

Faced with this ambiguity, the court's analysis is now to attempt to ascertain and effectuate the Legislature's intent by first evaluating the language of the relevant statutes. (*Hughes v. Board of Architectural Examiners, supra*, 17 Cal. 4th at 775.) In doing so, the court may look to the entire statutory scheme, as well as the history and background of the statute, and its apparent purpose. (*Ibid.*) Additionally, the Board's construction of the statute it is charged with implementing, while not binding on the court, is entitled to "consideration and respect" by the court unless "clearly erroneous." (*Bonnell v. Med. Bd.* (2003) 31 Cal.4th 1255, 1264 and 1265.

In the absence of clear definition or direction by the Legislature as to what it meant by the terms *practice* and *profession*, the Board's construction was reasonable. Petitioner's argument and alternative definition fail for several reasons.

The Legislature defines the "practice of marriage and family therapy" in section 4980.02:

[T]he practice of marriage and family therapy shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling.

The application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training required by Sections 4980.36, 4980.37, and 4980.41, as applicable.

The practice of "professional clinical counseling" as newly recognized by the Act is defined in section 4999.20:[7]

(1) "Professional clinical counseling" means the application of counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. "Professional clinical counseling" includes conducting assessments for the purpose of establishing counseling goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, change behavior, and make well-informed, rational decisions.

(2) "Professional clinical counseling" is focused exclusively on the application of counseling interventions and psychotherapeutic techniques for the purposes of improving mental health, and is not intended to

capture other, nonclinical forms of counseling for the purposes of licensure. For purposes of this paragraph, "nonclinical" means nonmental health.

(3) "Professional clinical counseling" does not include the assessment or treatment of couples or families unless the professional clinical counselor has completed all of the following additional training and education, beyond the minimum training and education required for licensure:

(A) One of the following:

(i) Six semester units or nine quarter units specifically focused on the theory and application of marriage and family therapy.

(ii) A named specialization or emphasis area on the qualifying degree in marriage and family therapy; marital and family therapy; marriage, family, and child counseling; or couple and family therapy.

(B) No less than 500 hours of documented supervised experience working directly with couples, families, or children.

(C) A minimum of six hours of continuing education specific to marriage and family therapy, completed in each license renewal cycle.

Petitioner argues the *practice* of these professions includes only those tasks that a licensee may conduct once licensed – excluding the training and education requirements necessary in order to obtain a license. (See Memorandum at 11:16-18, 11:27-28, 15:5-8.) This, however, is inconsistent with the definitions of the *practices* of MFTs and LPCCs quoted above, where the Legislature includes education and training requirements in defining these practices.

For example, the "practice of marriage and family therapy" is defined as including ". . . integration of the coursework and training required" for licensure. (§ 4980.02.) [8] Similarly, the *practice* of LPCCs includes completion of specified and education requirements. (§ 4999.20(a)(3).)

Therefore, the statutory scheme defining and regulating MFTs and LPCCS does not support Petitioner's restricted construction of *practice* as focusing only upon what the individual does after he or she has obtained their license.

Petitioner's challenge to the terminology used by the AMS analysis is similarly unpersuasive. In response to this issue, Dr. Montez informed the Board "[a]lthough the terms *practice* and *profession* have different meanings, they are often used interchangeably in occupational analysis work." (Montez Decl. at Ex. 3 [emphasis original].) Dr. Montez explained:

In licensing, an *occupational analysis* (also known as a job analysis or practice analysis) defines the *practice of a profession* in terms of the actual tasks that licensees must be able to perform safely and competently. The underlying knowledge required to perform those tasks in the practice of the profession is also delineated. [¶.]

. . . [T]he professions analysis findings and associated recommendation are based on the occupational analysis of the four professions involving hundreds of [Subject Matter Experts] from each profession and their input about the tasks performed in the *practice* of the respective *professions*." (*Ibid.* [emphasis original].)

The AMS analysis of the *practices* of the MFT and LPCC *professions*, including their respective education and training requirements and post-licensing tasks, gave the Board ample basis for its decision.[9]

Finally, the Legislature's own declaration of findings and intent supports the Board's construction:

In enacting this chapter, the Legislature recognizes that licensed professional clinical counselors **practice a separate and distinct profession** from the **professions practiced** by licensed marriage and family therapists and licensed clinical social workers. As such, the Legislature recognizes the need to appropriately test licensed marriage and family therapists and licensed clinical social workers seeking to become licensed professional clinical counselors on **the difference in practice between the professions**. (§4999.11 [emphasis added].)

In recognizing that LPCCs and MFTs practice "separate and distinct profession[s]," the Legislature declined to specifically identify the differences between these professions. Instead, in enacting section 4999.54, subd. (b), the Legislature delegated to the Board the authority to determine the precise differences between the professions that warranted testing and to then develop the appropriate Gap Examination covering those differences. (See, e.g., *Credit Ins. General Agents Ass'n. v. Payne* (1976) 16 Cal. 3d 651, 656 ["Courts have long recognized that the Legislature may elect to defer to and rely upon the expertise of administrative agencies"].)

The Board's construction and application of the terms *profession* and *practices* is consistent with the statutory scheme and the Legislature's own declaration. The Board did not err in finding that there were differences between these two professions.

- The Board abused its discretion in failing to consult with OPES in determining whether the Gap Examination is necessary.

Petitioner contends the Board failed to comply with the statutory directive of section 4999.54, subd. (b)(2), which states in relevant part: "if the board, **in consultation with the Office of Professional Examination Services**, determines that an examination is necessary pursuant to this subdivision" (Emphasis added.) The Board disagrees, contending it "fully complied with the requirements of [section 4999.54(b)] by consulting with OPES." (Opposition at 20:6-7.)

The Board's position is not supported by the record.

Section 4999.54, subd. (b), plainly requires the Board to (1) make its initial determination whether the Gap Examination is required "in consultation with" OPES; and (2) if the Board determines that an examination is required, to then "jointly develop" the examination with OPES. (§ 4999.54(b)(1) and (2).)

The record shows only that the Board's executive officer met with staff from OPES to discuss whether OPES would be able to conduct an audit to identify any differences in the practice of LPCCs, MFTs and LCSWs. (Madsen Decl. at ¶ 9; Gandy Decl. at ¶ 3.) It was ultimately determined that OPES did not have the resources to conduct this audit. However, OPES would be able to develop a California law and ethics examination for candidates licensed as LPCCs in another state who wished to be grandparented into California as LPCCs. (Gandy Decl. at ¶¶ 5, 6.)

As a result, the Board contracted with AMS to analyze the MFT, LPCC and LCSW professions. The record contains no further reference to any participation by OPES in the Board's decision to require a Gap Examination. The minutes from the Board's September 9, 2010, meeting where the Board made its decision, indicate no participation or comment by OPES on this question. (Madsen Decl. at Exh. 17.) Additionally, the Board presented no evidence or argument that it did in fact make this decision "in consultation" with OPES.

In directing the Board to make its decision "in consultation with" OPES, the Legislature clearly required

the Board to confer with OPES in making the threshold determination whether an examination is necessary. (See, e.g., "Consult." *Merriam-Webster Online Dict. 2011*: "Consult" means "to ask the advice of opinion of" [Merriam-Webster Online, Jan. 25, 2011, <http://www.merriam-webster.com/dictionary/consult>].)

There is no evidence in the record, or argument asserting, that the Board in fact consulted with OPES before the Board made its determination. It appears that once the Board contracted with AMS to analyze the professions, the Board had no further contact with OPES before the Board unilaterally determined the Gap Examination was necessary.

- **The Board did not abuse its discretion in determining the Gap Examination is required if the Board determines there are "any" differences between the professions.**

Petitioner argues the Board abused its discretion in concluding the Gap Examination was required if the Board found **any** differences between the profession, even if any differences are insignificant. Petitioner argues that in requiring the Board to determine whether the Gap Examination is "necessary," section 4999.54, subd. (b), gives the Board discretion to determine whether any differences between the professions are significant enough to warrant examination. Petitioner thus argues the Board's decision to require the Gap Examination was an abuse of discretion because the Board failed to exercise its discretion at all.

Section 4999.54, subd. (b), provides:

(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.

(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. (Emphasis added.)

This language, while hardly a model of clarity, reasonably supports the Board's interpretation that the Gap Examination is required if the Board determines there are any differences between the MFT, LPCC, and LCWS professions. The Board's interpretation is supported by the Legislature's finding:

... the Legislature recognizes that licensed professional clinical counselors practice a separate and distinct profession from the professions practiced by licensed marriage and family therapists and licensed clinical social workers. As such, the Legislature recognizes the need to appropriately test licensed marriage and family therapists and licensed clinical social workers seeking to become licensed professional clinical counselors on the difference in practice between the professions. (§ 4999.11.)

The construction of an act by the agency charged with its enforcement is given deference, and will be followed unless erroneous. (See *Bonnell, supra*, 31 Cal.4th at 1265 (citation omitted); *League of Women Voters of Cal. v. Countywide Criminal Justice Coordination Comm.* (1988) 203 Cal.App.3d 529, 548; *Edgar v. Workers Comp. Appeals Bd.* (1988) 65 Cal.App.4th 1, 9.) Here, the Legislature directed the Board to require the Gap Examination on "any" differences between these professions. The Board concluded that it was to exercise its judgment and expertise on the threshold question of whether differences exist between the professions. But, should the Board determine that differences do exist, the Board concluded it was then mandated to require the Gap Examination. This is a reasonable construction of the statute.

DISPOSITION

The petition for a peremptory writ of mandamus is GRANTED in part and DENIED in part.[10]

A judgment shall issue granting a peremptory writ commanding Respondent Board to set aside its decision requiring the Gap Examination due to the Board's failure to comply with the requirement in section 4999.54, subd. (b), that the Board shall make its determination whether the Gap Examination is required "in consultation with" OPES. The writ shall further command Respondent to file a return within 60 days after issuance of the writ, setting forth what it has done to comply with the writ. The court reserves jurisdiction in this action until there has been full compliance with the writ.

In accordance with Local Rule of Court, rule 9.16, Petitioner is directed to prepare a formal order and judgment, incorporating this court's ruling as an exhibit, and a peremptory writ of mandamus; submit them to opposing counsel for approval as to form in accordance with California Rule of Court, rule 3.1312(a); and thereafter submit them to the court for signature and entry of judgment in accordance with California Rule of Court, rule 3.1312(b).

/n

[1] All statutory citations are to the Business & Professions Code.

[2] LPCC licensing requirements include: (1) receipt of a master's or doctoral degree; (2) completion of at least 3,000 hours of supervised experience in the practice of professional clinical counseling; and (3) evidence of a passing score on examinations designated by the Board. (See § 4999.50.)

[3] Petitioner's members include individuals who hold licenses as MFTs or are preparing for licensure as MFTs. (Petition at ¶¶ 11, 13.)

[4] "In AMS's opinion, MFTs could fulfill the requirements outlined in SB 788 if they completed the additional coursework and stayed within their scopes of practice and competence as an MFT." (Montez Decl. at ¶ 34.)

[5] Petitioner also asserts causes of action for declaratory and injunctive relief, which are duplicative of its request for a peremptory writ of mandate.

[6] As Petitioner's claims are brought on behalf of MFTs only, and not LCSWs, the court addresses section 4999.54, subd. (b), only as it relates to MFTs.

[7] Unlike section 4980.02, which defines the "practice of marriage and family therapy," section 4999.20 does not utilize the term "practice" in defining "professional clinical counseling." The parties agree, however, that this provision nevertheless defines the "practice" of LPCCs. (See Memorandum at 18:23-19:4; Opposition at 13:19-28.)

[8] For example, section 4980.02 expressly references section 4980.36, which requires an MFT license applicant to have participated in a doctor's or master's degree program that meets certain requirements.

[9] AMS explained that it evaluated the three professions by following a "psychometrically valid method," which included evaluating the actual tasks performed by licensed MFTs and LPCCs; background information regarding the professions, including prior occupational analysis work, education and training requirements, and the philosophy and scope of the profession; focus groups with subject matter experts who define the profession in terms of actual work behaviors performed in the practice of the profession; and information regarding the qualitative tasks that are considered important for entry-level competence. (Montez Decl. at ¶¶ 15, 17, 19 and 20.)

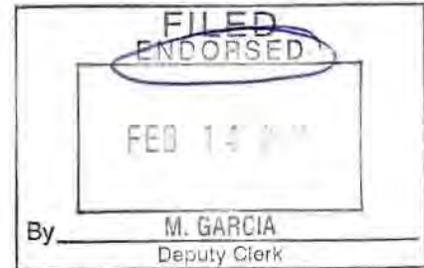
[10] Petitioner's Objections to Evidence are SUSTAINED.

The Court heard oral argument, as fully stated on the record.

The Court adopted its tentative ruling and ordered the Respondent to prepare the judgment.

Blank Page

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
4 JANICE K. LACHMAN
Supervising Deputy Attorney General
5 State Bar No. 083047
1300 I Street, Suite 125
6 P.O. Box 944255
Sacramento, CA 94244-2550
7 Telephone: (916) 324-5339
Fax: (916) 327-8643
8 E-mail: Arthur.Taggart@doj.ca.gov
Attorneys for Defendants and Respondents
9 *Board of Behavioral Sciences*



10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO

13
14 **CALIFORNIA ASSOCIATION OF**
15 **MARRIAGE AND FAMILY**
16 **THERAPISTS, a California Non-Profit**
Mutual Benefit Corporation,

17 Plaintiff and Petitioner,

18 v.

19 **BOARD OF BEHAVIORAL SCIENCES,**
20 **and DOES 1-50,**

21 Defendants and Respondents.
22

Case No. 34-2010-80000689

~~PROPOSED~~ PEREMPTORY WRIT
OF MANDATE

Judge: Honorable Allen H. Sumner
Dept.: 42

23 **TO THE BOARD OF BEHAVIORAL SCIENCES:**

24 The petition for writ of mandate on file herein having been considered, and this Court
25 having ordered that a peremptory writ of mandate issue, YOU ARE COMMANDED forthwith
26 upon receipt of this writ to set aside your decision requiring a Gap Examination for currently
27 licensed marriage and family therapists who seek to be licensed as professional clinical
28 counselors, consistent with the views expressed in this Court's January 28, 2011 ruling. YOU

1 ARE FURTHER COMMANDED to file a return within sixty (60) days after issuance of this
2 peremptory writ of mandate, setting forth the actions you have taken to comply herewith.

3 By order of the Court.

4
5 DATED: FEB 14 2011



6 _____
7 Witness
8 The Honorable Allen H. Sumner
9 Judge of the Superior Court of the State of
10 California in and for the County of Sacramento

11 Attest my hand and seal of this Court this ___ day of _____, 2011.

12 _____
13 Clerk Administrator

14 By: _____
15 Deputy Clerk

16
17
18
19
20
21
22
23
24
25
26
27
28

BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

California Association of Marriage and Family Therapists, a
California Non-Profit Mutual Benefit Corporation
Plaintiff and Petitioner

Case No.:
34-2010-80000689

v.

Board of Behavioral Sciences: and Does 1-50
Defendant and Respondent

ORDER

Pursuant to the Superior Court's ruling dated February 14, 2011, the Board hereby sets aside its decision made on September 9, 2010 finding that a "Gap" examination is necessary to address the differences between the practice of professional clinical counseling, and the practice of marriage and family therapy, and between the practice of professional clinical counseling and the practice of clinical social work.

This Decision shall become effective February 14, 2011.

It is so ORDERED February 14, 2011.



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

Blank Page

Applied Measurement Services, LLC

April 29, 2010

California Department of Consumer Affairs
Board of Behavioral Sciences
Attn: Kim Madsen, Executive Officer
1625 N. Market Blvd., Ste. S-200
Sacramento, CA 95834

Dear Ms. Madsen:

The purpose of this letter is to notify the Board of Behavioral Sciences (BBS) that Applied Measurement Services, LLC (AMS) has completed the first phase of the contract to assist with examination-related evaluations for the Licensed Professional Counselor / Licensed Professional Clinical Counselor.

Attached is a public progress report presenting the results of the professions analysis and associated recommendation. These results and the associated recommendation will be discussed at the May 7, 2010 BBS board meeting in Irvine.

Based on the professions analysis, AMS recommends that the BBS *not* adopt a separate examination requirement for Licensed Clinical Social Workers and Marriage and Family Therapists seeking to be grandparented as Licensed Professional Clinical Counselors. This recommendation is based on applicants meeting the education and training requirements and that the counselors adhere to their respective scopes of practice and competence as outlined in the BBS Statutes and Regulations.

Sincerely,



Tracy A. Montez, Ph.D.
President

Blank Page

An Analysis of the
Licensed Clinical Social Worker,
Marriage and Family Therapist and
Licensed Professional Counselor
Professions

Performed for the
California Department of Consumer Affairs
Board of Behavioral Sciences

Performed by Applied Measurement Services, LLC

April 29, 2010

PUBLIC PROGRESS REPORT

Chapter 1: Introduction

Licensing boards and bureaus within the Department of Consumer Affairs are required to ensure that examination programs used in the California licensure process are in compliance with psychometric guidelines and legal standards. The public must be reasonably confident that an individual passing a licensing examination has the requisite knowledge and skills to competently and safely practice in the respective profession.

In January 2010, the Department of Consumer Affairs Board of Behavioral Sciences (hereafter referred to as "Board") contracted with Applied Measurement Services, LLC (AMS) to assist with examination-related evaluations for the Licensed Professional Counselor (LPC). The first phase, a professions analysis, concluded April 29, 2010.

Specifically, AMS provided the following services: (a) determined whether significant differences exist between the LPC and Licensed Clinical Social Worker (LCSW) professions by comparing the national LPC occupational analysis to the California LCSW occupational analysis; (b) determined whether significant differences exist between the LPC and Marriage and Family Therapist (MFT) professions by comparing the national LPC occupational analysis to the California MFT occupational analysis; (c) prepared for and conducted interviews to obtain input related to the differences between the LPC and LCSW professions and the LPC and MFT professions; (d) prepared a confidential report providing the results of the analyses, feedback received from the interviews, and recommendations; and, (e) met with Board management to present the results and recommendations associated with grandparenting LCSWs and MFTs into the LPC profession.

The results of the professions analysis and associated recommendations will be presented at the May 7, 2010 Board meeting. This progress report provides those results.

During the first phase, AMS worked primarily with Kim Madsen, Executive Officer and Tracy Rhine, Assistant Executive Officer from the Board. AMS received and reviewed reports and reference materials provided by Shawn O'Brien, Vice President, Center for Credentialing and Education, National Board for Certified Counselors (NBCC). AMS also downloaded materials from relevant websites (see the Reference section of the *final* report for a complete listing).

Finally, these services were conducted according to professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing (Standards)*¹ and *Business and Professions Code section 139* (see the *Examination Validation Policy*)².

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

² California Department of Consumer Affairs. (2004). *Examination Validation Policy*. Sacramento, CA: California Department of Consumer Affairs.

Chapter 2: Information-Gathering

After discussions with Board management to confirm expectations associated with the scope of services and identify contacts from the NBCC, AMS began the process of gathering information about the LCSW, MFT and LPC professions for comparison purposes.

For the first phase of the contracted project, AMS reviewed several pertinent documents and reports including, for example, the following:

- Statutes and Regulations relating to the Practice of Professional Clinical Counseling, Marriage and Family Therapy, Educational Psychology, Clinical Social Work (Statutes);
- LCSW examination plan (see Appendix A for an abbreviated version);
- MFT examination plan (see Appendix B for an abbreviated version);
- National Counselor Examination (NCE) content outline (see Appendix C for a public version);
- National Clinical Mental Health Counseling Examination (NCMHCE) content outline;
- NBCC documents and reports;
- Coursework syllabi from California Masters of Social Work programs;
- A Competency-Based Curriculum in Community Mental Health for Graduate Social Work Students report from the California Social Work Education Center (CalSWEC);
- California Council of Community Mental Health Agencies: Recommendations to the California Board of Behavioral Sciences Regarding Marriage and Family Therapy Curriculum; and,
- DACUM Competency Profile for MFT produced by the California Community College Economic and Workforce Development Program Health Initiative.

Next, interviews and meetings were conducted to discuss the history associated with the passage of Senate Bill 788 (Wyland, Chapter 619, Statutes 2009) and the similarities and differences among the three professions. Participants in the interviews and meetings included individuals involved in the regulatory process associated with SB788 and subject matter expert LCSWs, MFTs, and LPCs (i.e., licensed in states other than California such as Florida, Texas, and Virginia).

The goal of the information-gathering process was twofold. First was to determine whether significant differences exist between the LPC and LCSW professions, and whether significant differences exist between the LPC and MFT professions. And second, to determine if an examination was needed to assess those differences prior to being grandparented into the LPC profession. It is important to note that the term “significant” was not intended to imply statistical significance, but merely a qualitative or descriptive term.

Below is a summary of the three professions as defined in the Board’s Statutes.

Chapter 3: Licensed Clinical Social Worker

According to Business and Professions Code of California, Chapter 14. Social Workers, Article 4. Licensure, Section 4996.9.,

... the practice of clinical social work is defined as a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive social adjustments.

Further,

the application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, or groups; providing information and referral services; providing or arranging for the provision of social services; explaining or interpreting the psychosocial aspects in the situations of individuals, families, or groups; helping communities to organize, to provide, or to improve social or health services; or doing research related to social work.

As of April 1, 2010, there were 18,004 valid LCSW licensees. To qualify for a license to practice as a LCSW in California, the Board has three primary competency hurdles: education requirements, experience requirements, and examinations.

Education requirements include possessing a qualifying Master's degree as well as completion of additional coursework in key subject matter areas (e.g., child abuse assessment and reporting, substance abuse and dependency, and aging and long term care).

In addition to degree and coursework requirements, an applicant is also required to accrue 104 weeks of supervision and 3,200 hours of supervised work experience. The experience must be gained under the supervision of a licensed mental health professional.

Once an applicant meets all requirements and the Board approves the application for examination eligibility, the applicant receives an eligibility notice to take the LCSW Standard Written Examination. Upon passing the Standard Written Examination, the applicant must pass a LCSW Clinical Vignette Examination. Once an applicant passes both examinations, he or she must apply for an Initial License Issuance within one year of passing both examinations in order to receive a license number.

Business and Professions Code, Sections 4996.2. and 4996.23. of the Board's Statutes define LCSW qualifications in greater detail.

Chapter 4: Marriage and Family Therapist

According to Business and Professions Code of California, Chapter 13. Marriage and Family Therapists, Article 1. Regulation, Section 4980.02,

. . . the practice of marriage and family therapy shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and pre-marriage counseling.

Further,

the application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training required by Sections 4980.37 4980.40, and 4980.41.

As of April 1, 2010, there were 30,497 valid MFT licensees. To qualify for a license to practice as a MFT in California, the Board has three primary competency hurdles: education requirements, experience requirements, and examinations.

Education requirements include possessing a qualifying Master's or Doctor's degree, as well as completion of additional coursework in key subject matter areas (e.g., child abuse assessment and reporting, alcohol and chemical dependency, and aging and long term care).

In addition to degree and coursework requirements, an applicant is also required to accrue 104 weeks of supervision and 3,000 hours of supervised work experience. The experience must be gained under the supervision of a licensed mental health professional.

Once an applicant meets all requirements and the Board approves the application for examination eligibility, the applicant receives an eligibility notice to take the MFT Standard Written Examination. Upon passing the Standard Written Examination, the applicant must pass a MFT Clinical Vignette Examination. Once an applicant passes both examinations, he or she must apply for an Initial License Issuance within one year of passing both examinations in order to receive a license number.

Business and Professions Code, Sections 4980.40 of the Board's Statutes define MFT qualifications in greater detail.

Chapter 5: Licensed Professional Clinical Counselor

According to Business and Professions Code of California, Chapter 16. Licensed Professional Clinical Counselors, Article 1. Administration, Section 4999.20.,

... Professional clinical counseling” means the application of counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. “Professional clinical counseling” includes conducting assessments for the purpose of establishing counseling goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, change behavior, and make well-informed rational decisions.

Further,

Professional clinical counseling” is focused exclusively on the application of counseling interventions and psychotherapeutic techniques for the purposes of improving mental health, and is not intended to capture other, nonclinical forms of counseling for the purposes of licensure. For the purposes of this paragraph, “nonclinical” means nonmental health.

To qualify for registration and examination eligibility as a LPCC in California beginning after August 1, 2012 or completed after December 31, 2018, the Board has three primary competency hurdles: education requirements, experience requirements, and examinations.

Education requirements include possessing a qualifying Master’s or Doctoral degree, as well as completion of additional coursework in key subject matter areas (e.g., child abuse assessment and reporting, alcohol and chemical dependency, and aging and long term care).

In addition to degree and coursework requirements, an applicant is also required to accrue 104 weeks of supervision and 3,000 hours of supervised work experience. The experience must be gained under the supervision of a licensed mental health professional.

Once an applicant meets all requirements and the Board approves the application for examination eligibility, the applicant will be eligible to take the examination designated by the Board pursuant to Section 4999.52.

Business and Professions Code, Article 3: Licensure of the Board’s Statutes define LPCC qualifications in greater detail.

Chapter 6: Confidential Recommendations³

Based on the review and evaluation of relevant documents and reports, including information obtained from interviews and meetings, the professions analysis does show that each profession has its own distinct scope of practice, theoretical foundations, and philosophy. In addition, differences in education, training, and examination requirements associated with licensure were noted.

For example, the NCE content outline (i.e., examination) assesses the following competencies that are *not fully* measured in the LCSW examination plan (i.e., examination):

- Diagnostic and assessment services (Content Area III).
- Professional practice activities (Content Area IV).

Similarly, the NCE content outline (i.e., examination) assesses the following competencies that are *not fully* measured in the MFT examination plan (i.e., examination):

- Diagnostic and assessment services (Content Area III).
- Professional practice activities (Content Area IV).
- Professional development, supervision, and consultation activities (Content Area V).

It is important to note, however, that the NCE examination is considered a certification examination; whereas the Board examinations are for licensure purposes only. Typically, certification examinations are broader in content and assess a full spectrum of competencies associated with a profession. In this case, passage of the NCE means that an individual counselor has met national standards established by the counseling profession.

Licensing examinations, on the other hand, typically assess a more narrow range of competencies associated with public safety and competent practice. The intent of the licensing examination is to assess those critical competencies associated with entry-level performance as a practitioner and ensure that the depth of measurement of those competencies is reliable and valid. Therefore, state licensing examinations usually do not assess competencies associated with professional development and supervision. In the Board examinations, the concept underlying many of these competencies is measured under ethics or law content areas. For example, Task 164 "Implement therapeutic techniques to provide services within scope of practice" from the LCSW examination plan implies that practitioners recognize limits on scope and competence. Similarly, Task 85 "Manage clinical issues outside the therapist's scope of competence to meet client needs" demonstrates the recognition of professional boundaries.

³ In response to NBCC confidentiality parameters, additional examination content material will be discussed during closed session.

Based on the types of examination, it was expected that the scope of measurement across the professions would differ. Also, interviews with LPCs confirm that states have differing scopes of practice. Although the NCE assesses a broad range of competencies, many states consider certain competencies to be specialties thus requiring additional training and certification.

It appears that many of the “gaps” in assessment or requirement for licensure can be mitigated by additional coursework, training, and certification. Thus, allowing LCSWs and MFTs to practice within scope of *competence* complying with the requirements outlined in SB788. In fact, the Statutes specifically discuss scope and competence.

LCSW 4992.3. Unprofessional conduct includes, but is not limited to, the following: (m) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

MFT 4982. Unprofessional conduct includes, but is not limited to, the following: (s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

LPCC 4999.90. Unprofessional conduct includes, but is not limited to, the following: (s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

Finally, LCSWs and MFTs seeking to be grandparented into the Licensed Professional Clinical Counselor (LPCC) profession must demonstrate completion of coursework beyond the minimum requirements for their respective license. These individuals seeking to become LPCCs have a six-month period to apply for licensure (January 1, 2011 to June 30, 2011), with one year from application date to meet the educational requirements and qualify under the grandparenting provision of SB788.

Therefore, based on the professions analysis conducted for this first phase of this contracted project, AMS recommends that the Board *not* adopt an examination requirement for the LCSWs and MFTs seeking to be grandparented as LPCCs as long as the education and training requirements are met and counselors adhere to their scopes of practice and competence as outlined in the Board Statutes.

Chapter 7: Next Steps

The second phase of the contract, assisting the Board with examination-related evaluations for LPC/LPCC, continues through June 30, 2011.

The next phase includes a more in-depth review of the NBCC NCE and the NCMHCE, including the underlying occupational analyses and examination development activities used to support the validity of the examinations.

Specifically, AMS will provide the following services: (a) review the NCE and NCMHCE examinations to determine whether they meet the prevailing standards for the validation and use of licensing and certification tests in California, and their suitability for use as a licensure requirement for LPCCs in California; (b) review the occupational analyses that were used for developing the national examinations to determine whether they adequately describe the licensing group (California LPCCs) and adequately determine the tasks, knowledge, skills and abilities that LPCCs need to perform the functions within their scope of practice in California; (c) prepare a confidential report that details the results of the review and provides recommendations; (d) meet with Board management and OPES to present results and recommendations; and, (e) present recommendations to Board members.

By completing the contracted work, AMS will meet the following objectives and goals:

- Determine whether there are meaningful differences between the LPC and LCSW professions and if so, what those differences are.
- Determine whether there are meaningful differences between the LPC and MFT professions and if so, what those differences are.
- Determine whether an examination will be necessary for MFTs or LCSWs who apply for a LPCC license during the grandparenting period
- Determine whether the national examinations meet the prevailing standards for the validation and use of licensing tests in California and their suitability for use in California.
- Determine whether the national occupational analyses adequately determine the tasks knowledge, skills and abilities that LPCCs need to perform the functions within their scope of practice in California.
- Determine whether the Board can use the national examinations or will need to work with OPES to develop a California LPCC examination.

References⁴

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

California Council of Community Mental Health Agencies. (2007). *Recommendation to the California Board of Behavioral Sciences regarding the marriage and family therapy curriculum*. Sacramento, CA: Author.

California Department of Consumer Affairs. (January, 2010). *Statutes and regulations relating to the practice of: Marriage and family therapy, educational psychology, clinical social work*. Sacramento, CA: Author.

California Department of Consumer Affairs. (2004). *Examination validation policy*. Sacramento, CA: Author.

California Department of Consumer Affairs Office of Professional Examination Services. (In press). *Validation report: Licensed Clinical Social Worker*. Sacramento, CA: Author.

California Department of Consumer Affairs Office of Examination Resources. (August, 2007). *Validation report: Marriage and family therapist*. Sacramento, CA: Author.

California Social Work Education Center. (2006). *A competency-based curriculum in community mental health for graduate social work students*. Berkeley, CA: Author.

Equal Employment Opportunity Commission, Civil Service Commission, Department of Labor, and Department of Justice. (1978). *Federal Uniform Guidelines for Employee Selection Procedures*. Washington, DC: Author.

⁴ This is a partial list of reference material. The complete list of references will be provided in the final report.

Appendix A: Licensed Clinical Social Worker Examination Outline⁵

Content Area	Number of Tasks in Content Area	Number of Tasks in Content Subarea	Area Weight (%)	Subarea Weight (%)
I. Biopsychosocial Assessment	55		23	
A. Assessing for Risk		9		5
B. Assessment of Client Readiness and Appropriateness of Treatment		3		1
C. In-depth Assessment				
1. Comprehensive Exploration of Symptoms				
a. psychological factors		11		4
b. cultural/personal factors		5		2
2. Comprehensive Evaluation of Problem				
a. social-environmental history		7		3
b. medical and developmental history		7		3
c. history of substance abuse/abuse		3		1
3. Comprehensive Evaluation of Inter- and Intrapersonal Resources		10		4
II. Diagnostic Formulation	13		6	
III. Treatment Plan Development	26		11	
A. Identify/Prioritize Objectives, Goals and Methods of Treatment		12		5
B. Integrate/Coordinate Concurrent Treatment Modalities and Adjunctive Resources		6		3
C. Monitoring, Evaluation and Revision		8		3
IV. Resource Coordination	22		9	
A. Service Identification and Coordination		10		4
B. Client Advocacy and Support		12		5
V. Therapeutic Interventions	106		40	
A. Crisis Intervention		7		3
B. Short-term Therapy		9		4
C. Therapy for Children and Adolescents		22		8
D. Therapy for Adults (Individual and Group)		24		9
E. Therapy for Couples		17		5
F. Therapy for Families		16		6
G. Managing the Therapeutic Process		11		5
VI. Legal Mandates and Obligations	11		5	
A. Protective Issues/Mandated Reporting		5		2
B. Professional Conduct		6		3
VII. Ethical Standards	14		6	
Total	247	-	100	-

⁵ This is the current LCSW examination plan. The updated examination plan will be presented in the LCSW validation report which is in press.

Appendix B: Marriage and Family Therapist Examination Outline

Content area	Number of Tasks in Content Area	Number of Tasks in Content Subarea	Number of Tasks in Content Sub-section	Area Weight (%)	Subarea Weight (%)	Sub-section Weight (%)
I. Clinical Evaluation	22			22		
A. Initial Assessment		6			7	
B. Additional Assessment		7			7	
C. Referrals		3			3	
D. Diagnosis		6			5	
II. Crisis Management	15			14		
A. Assessment		3			3	
B. Evaluation		5			5	
C. Management		7			6	
III. Treatment Planning	18			14		
A. Goals		3			3	
B. Clinical Factors		7			6	
C. Theoretical Orientation		8			5	
IV. Treatment	21			17		
A. Therapeutic Relationships		5			5	
B. Interventions		16			12	
1. Theory			8			5
2. Clinical Factors			4			4
3. Termination			4			3
V. Ethics	16			16		
A. Informed Consent		5			5	
B. Therapeutic Boundaries		4			5	
C. Management of Ethical Issues		7			6	
VI. Law	17			17		
A. Confidentiality and Privilege		7			7	
B. Exception		3			2	
C. Professional Conduct		7			8	
TOTAL	109			100		

Appendix C: National Counselor Examination (public version)

I. Fundamental Counseling Issues

This section encompasses counseling tasks related to the professional counselor's theoretical and applied knowledge to address the client's multifaceted issues.

II. Counseling Process

This section addresses tasks necessary for structuring, directing and facilitating counseling sessions as well as treatment interventions.

III. Diagnostic and Assessment Services

This section addresses the professional counselor's application of responsible and effective diagnostic and assessment procedures.

IV. Professional Practice

This section encompasses professional counseling activities typically undertaken as adjuncts to direct client service. Tasks in this section also include behaviors associated with the application of skills characteristic of the in-session counseling process.

V. Professional Development, Supervision, and Consultation

This section covers tasks related to the development and maintenance of counselor identity, competence, and professional collaboration.

Blank Page

BOARD MEETING MINUTES September 9, 2010

The Board of Behavioral Sciences met via telephone on September 9, 2010 at the following locations:

Department of Consumer Affairs
San Francisco Room
3rd Floor North, N318
1625 N. Market Blvd.
Sacramento, CA 95834

Alliant International University
Scripps Ranch Campus
MFT Program, Daley Hall 2nd Floor
10455 Pomerado Rd
San Diego, CA 92131

Hotel Maya
Fuego Restaurant
700 Queensway Drive
Long Beach, CA 90802

Pioneer High School
10800 E Benavon Street
Whittier, CA 90606

1151 Dove Street, #170
Newport Beach, CA 92660

415 Karla Court
Novato, CA 94949

1104 Ridgefield
Carson City, NV 89706

1615 E. 17th Street
Santa Ana, CA 92705

5506 Ranchito Avenue
Sherman Oaks, CA 91401

Members Present

Renee Lonner, Chair, LCSW Member
Elise Froistad, MFT Member, Vice-Chair
Samara Ashley, Public Member
Jan Cone, LCSW Member
Gordonna (Donna) DiGiorgio, Public Member
Harry Douglas, Public Member
Mona Foster, Public Member
Judy Johnson, LEP Member
Michael Webb, MFT Member
Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Assistant Executive Officer
Spencer Walker, Legal Counsel
Marsha Gove, Examination Analyst
Roseanna Helms, Legislative/Regulatory Analyst

Members Absent

Patricia Lock-Dawson, Public Member

FULL BOARD OPEN SESSION

Renee Lonner called the meeting to order at approximately 11:00 a.m. Marsha Gove called roll, and a quorum was established.

I. Discussion and Possible Action Regarding Previous Board Action to Require California Licensed Marriage and Family Therapists and Licensed Clinical Social Workers to Take a Gap Examination for Licensure as a Licensed Professional Clinical Counselor

Spencer Walker, Legal Counsel, reported that the Board, at its July 28, 2010 meeting, revisited the prior Board vote to not require an examination for marriage and family therapists (MFTs) and licensed clinical social workers (LCSWs) seeking licensure as a Licensed Professional Clinical Counselor (LPCC) during the grand-parenting period. He indicated that based on information presented at that meeting, the Board voted to require a Gap Examination; the action reversed the Board's May 7, 2010 action. Mr. Walker reported that subsequently, on August 24, 2010, the Board received correspondence from an attorney representing the California Association of Marriage and Family Therapists (CAMFT). The letter alleged violations of the Bagley Keene Open Meeting Act had occurred at the Board's July 23, 2010 meeting. Mr. Walker indicated that, specifically, it was alleged that the Board improperly and unlawfully met in closed session to discuss whether a Gap Examination should be required.

Mr. Walker commented that public perception is key when conducting the people's business. He reported that in the interest of fostering improved public perception and relations with the Board of Behavioral Sciences, the September 9, 2010 Board Meeting was scheduled for the purpose of discussing and possibly rescinding the Board's July 28, 2010 action to require a Gap Examination. Mr. Walker stated that if the Board elects to rescind its previous action, following comment from the public, the Board's May 7, 2010 action to not require a Gap Examination would be revived, and the Board would move on to the next agenda item.

Mr. Walker recommended to the Board to rescind its previous action and move on to discussion and possible action regarding the LPCC Gap Examination.

Renee Lonner moved to rescind the Board's July 28, 2010 motion and the related Board action to require a Gap Examination. Donna DiGiorgio seconded.

The matter was opened for board discussion. There was no discussion. The matter was open for public comment.

Ben Caldwell, American Association for Marriage and Family Therapy California Division (AAMFT-CA), asked if the Board were to take action to rescind the July vote, the parties interested in Agenda Item II should act as though the discussion preceding the vote never occurred. He clarified by asking if interested parties should act as though the discussion leading up to the Board's vote never occurred, or only that the vote itself never occurred. Mr. Walker responded that it would be as if the July discussion and action never occurred.

With the motion on the floor, a roll-call vote was taken. The Board voted unanimously (10-0) to rescind the July 28, 2010 action.

II. Discussion and Possible Action Regarding the Licensed Professional Clinical Counselor Gap Examination

Ms. Lonner asked Mr. Walker to discuss the legal issues that the Board should be aware of prior to beginning the discussion of this agenda item.

Mr. Walker indicated that, since the Board voted to rescind its July 28, 2010 action to require a Gap Examination for licensure as an LPCC, the Board's previous decision to not require that examination has been revived. He indicated that the May 7, 2010 decision currently stands as the Board's decision in this matter. He added that since the Board's action taken in July 2010 has been rescinded, the agenda item that permitted such action must still be addressed because it was not tabled. Mr. Walker indicated that as such, the language used to frame the issue in Agenda Item II is the same language that appeared on the July 28, 2010 agenda.

Mr. Walker continued that in order to avoid any public perception or concerns regarding the procedural aspects of again addressing this issue, he recommended that the May 7, 2010 action to not require the Gap Examination also be rescinded before commencing discussions on the necessity of the examination. Ms. Lonner asked Mr. Walker to confirm that rescinding the May 2010 action would "wipe the slate clean" and the Board would then have a fresh discussion about the need for the Gap Examination. Mr. Walker responded that Ms. Lonner's understanding of the issue was correct.

Michael Webb moved to rescind the Board's May 7, 2010 motion and the related Board action to not require a Gap Examination for grand-parenting purposes. Christine Wietlisbach seconded.

The matter was opened for board discussion. There was no discussion. The matter was open for public comment. There was no public input regarding this matter.

With the motion on the floor, a roll-call vote was taken. The Board voted unanimously (10-0) to rescind the July 28, 2010 action.

Prior to the onset of discussion regarding the LPCC Gap Examination, Mr. Walker encouraged meeting participants to be aware that any discussions that occurred at the July 28 and May 7, 2010 meetings, since both actions had been rescinded, had nothing to do with the September 9, 2010 meeting. He added that the participants needed to deal with the issue at hand as though it was being addressed for the first time.

Ms. Lonner asked Tracy Rhine, Assistant Executive Officer, to review the item. Ms. Rhine introduced herself. She then proceeded to explain that SB 788, which created the LPCCs, sets forth a grand-parenting period. One of the pathways to licensure during the grand-parenting period is for licensees regulated by the Board of Behavioral Sciences – specifically MFTs and LCSWs. Ms. Rhine stated that Business and Professions Code (BPC), Section 4999.54, states that MFTs and LCSWs would have to take an examination on the differences between an LPCC and an MFT, and an LPCC and an LCSW, if the Board and OPES found that there are differences between the professions. She read the pertinent Code section, 4999.54(b), to meeting participants, as follows:

“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.”

Ms. Rhine indicated that the Board has contracted with Dr. Tracy Montez to perform an audit of the practice of LPCCs and how that practice differs from the practice of MFTs and LCSWs. Ms. Rhine asked Dr. Montez to report her findings from the audit.

Dr. Montez, Applied Measurement Services (AMS), introduced herself and presented the Board with the results of her review of the MFT, LCSW, and LPCC practices. She reported that consistent with the statement of work and contracted services or significant differences were examined to determine whether a Gap exam is needed. Dr. Montez explained that to standardize the analysis of the professions, the exam plans or content outlines from the respective occupational analyses of the MFT, LCSW, and LPCC practices were compared. She indicated that qualitative data from interviews and document reviews were also used to supplement the comparisons.

Dr. Montez stated that with respect to the analyses, the results show the expectations for entry level practice as an MFT, LCSW, or LPCC differ. Those differences were noted across the three broad content areas of Diagnostic and Assessment Services; Professional Practice Activities; and Professional Development. Dr. Montez noted that due to a confidentiality agreement with the National Board for Certified Counselors (NBCC), she is precluded from disclosing further details. She indicated it was nonetheless important to emphasize that although the three professions perform work tasks across those three domains, it is the depth of knowledge and the associated practice expectations upon entry into the profession that differ. Dr. Montez reported that it was the conclusion of AMS that those differences will diminish once the full requirements for grand-parenting are achieved. She added that LCSWs and MFTs grand-parenting into the LPCC profession would be expected to meet minimum acceptable competence standards to practice as an LPCC in California. Dr. Montez noted that it would then be AMS' recommendation to the Board that a Gap Examination is not necessary.

The matter was then opened for discussion.

Mr. Webb asked Dr. Montez for clarification as to whether she was recommending that a Gap Examination is not necessary. Dr. Montez answered affirmatively, indicating she is staying with her original and ongoing recommendation that a Gap Examination is not necessary.

Ms. Lonner asked Dr. Montez if it was her opinion that the spirit and intent of the law would be met even if no Gap Exam was administered; that it is consistent with the relevant code section pertaining to LPCCs. Dr. Montez responded that she is not an expert in law and therefore declined to respond to the question. She stated that the services she was contracted to perform were to look for meaningful differences between the professions. Dr. Montez indicated she did find differences, but it was her opinion that once the

requirements for grand-parenting are met, those differences would diminish and the individuals who are currently licensed and in good standing as an MFT or LCSW could then meet the same expectations for entry level practice as an LPCC.

Ms. Lonner expressed her understanding of Dr. Montez's position that the noted differences between the MFT, LCSW and LPCC professions would be diminished by the established requirements for grand-parenting into the LPCC profession. Dr. Montez confirmed, and she explained there are several course requirements that must be met which represent those areas that are not tested as in-depth on the MFT and LCSW exam plans as compared to the LPCC exam.

Ms. Rhine attempted to frame the issue by explaining that what Dr. Montez is saying is that there are differences, but those differences would be remediated before licensure would occur. She added that part of the discussion should be that the law does not say that the Board should develop an examination if significant or meaningful differences exist, but rather if any (emphasis added) differences exist. Ms. Rhine expressed her understanding of Dr. Montez's findings, which are that differences exist between the professions.

Ms. Lonner indicated that her understanding of the statute is that it does not allow any subjectivity. She asked Mr. Walker or Ms. Rhine if they were of the same understanding as she, that there is very little subjectivity in the statute as written. Mr. Walker agreed with Ms. Lonner's interpretation of the law. He indicated his reading of the statute is that it does not provide any "wobble room." He commented that since Dr. Montez had reported that the differences will no longer exist when it comes to licensure, there is no violation of the statute by not requiring an examination. However, if the differences are only reduced then it would mean that some of the noted differences would continue to exist after licensure. He asked Dr. Montez for clarification, if possible. Dr. Montez responded that she is comfortable in saying that the way the statute was written is that the differences would be alleviated. The requirements were established so that if the candidate took the required coursework they would therefore be on equal standing. She added that it appears from AMS' analysis that the homework was done in terms of reviewing the gaps in knowledge, and it was built into the remediation. She indicated that the remediation would cover the areas which are deficient. Dr. Montez emphasized that her findings are contingent on the applicant meeting the other requirements in the statute. Mr. Walker stated his understanding that if the candidate meets the requirements at the time of licensure, the differences would no longer exist once licensure is obtained. Dr. Montez responded that the expectation is that the candidates would have the exposure and would therefore be expected to practice at the entry level standards.

Mr. Walker commented that based on Dr. Montez' clarification, it was his opinion that not requiring a Gap Examination would meet the requirements in existing statute. Ms. Lonner asked Mr. Walker if he was saying that legally a Gap Examination is not required. Ms. Wietlisbach expressed her disagreement with the notion that the problem would be remediated simply by taking coursework. She expressed the position that if that were true, everyone would obtain licensure right after graduating from college; she added the position that that is the reason for taking the state board examination. She expressed uncertainty that the Board could definitely say that the candidate would meet the requirements for licensure once the remedial coursework is completed, and that the candidate still needed to be tested on what they have learned.

Ms. Lonner expressed her agreement with Ms. Wietlisbach, but argued that the quantity of material is so different between what would be on a Gap Examination and what is on a licensing examination. Ms. Wietlisbach responded that the Gap Exam would only need to test on the differences, so it would not be the same as the licensing exam. She expressed the belief that the law clearly requires the Board to test on the differences.

Ms. DiGiorgio asked the time frame for the grand-parenting period. Ms. Rhine responded the period ran from January 1, 2011 through June 30, 2011, with an additional twelve months to remediate deficiencies. She added that the time frame, in total, was eighteen months. Kim Madsen explained that a candidate who applies during the grand-parenting period would have the application reviewed and would be notified of any deficiencies. The candidate would have one year from the date of notification to clear those deficiencies.

Dr. Montez clarified that this was a unique situation because the grand-parenting candidates are individuals who already hold a license and are in good standing. They are not individuals who have not passed a licensing examination but rather have been practicing and in good standing.

Judy Johnson expressed thoughts similar to those of Dr. Montez. She noted that the grand-parenting candidates currently hold a professional license under which they have been practicing, and that license is in good standing. The individuals understand what is within the scope of practice. Ms. Johnson stated that if these candidates are taking classes for content, it is different; that is why it is considered grand-parenting. The Board is not saying these individuals need to take an examination in order to become licensed; they have already been practitioners.

Ms. Lonner again asked Mr. Walker if, from the legal standpoint, he does or does not feel a Gap Examination is necessary or required by law. Mr. Walker responded that after listening to the comments from the board members, he was not comfortable with the statement that the deficiencies would not exist at the time of licensure. He expressed that the Board would need some type of proof or evidence that that would not be the case. He stated that without such proof before the Board, he stated the position that the examination is required because differences have been identified.

Mr. Webb expressed the understanding that there is already a provision in place for remediation and that there is no Gap Examination required for an LPCC who wants to practice Marriage and Family Therapy. He asked Ms. Rhine if his understanding is accurate. Ms. Rhine asked if Mr. Webb was speaking about the provision in law that states that LPCCs cannot work with couples or families unless they take specified coursework and have accrued a certain number of hours of experience. Mr. Webb responded affirmatively. He asked if there are a specific number of hours in question. He expressed the understanding that the requirement was more about taking appropriate coursework. Ms. Rhine explained to Mr. Webb that the issue he raised is separate from the issue being discussed. Mr. Webb again expressed concern with the idea that there would be no Gap Exam necessary. Ms. Johnson clarified that those candidates were not trying to obtain another license.

Ms. Rhine commented to Mr. Webb that the section he was referring to specifically pertains to LPCCs who, after becoming licensed by the Board, intend to work with couples or families. Those individuals have to earn a certain number of hours of supervised experience working with those populations, and also must complete specified coursework.

She emphasized that those are individuals who are already licensed as LPCCs. Mr. Webb expressed concern that the Board may get into the position of having to require a Gap Exam any time a licensed individual wants to practice in another domain; for example, an LCSW who wants to practice as an MFT, or vice versa. Ms. Rhine expressed her understanding of Mr. Webb's concerns, and clarified that the issue currently under discussion is strictly based on what is in statute for this specific licensing category. The current discussion pertains only to a Gap Examination for the LPCC profession. She emphasized that it is not simply something subjective the Board decided to do, but rather a provision the Board is tasked with implementing. Ms. Lonner expressed to Mr. Webb that this is a separate license type, which is different from the different forms of specialty certifications that an individual can obtain.

Ms. Lonner noted that the Board has not introduced a new license in many years. She asked staff if there is any precedent or anything to think about, perhaps in terms of other boards, to better understand how the issue has been viewed previously. She offered the position that the issue was a legal issue versus a more subjective approach. Mr. Walker responded that the subject is both a factual and legal issue. He stated that the factual issue is whether or not any differences exist. He noted that differences have been found to exist. Differences have been identified. The legal issue is, according to statute, the Board must test on those differences. He stated that there is no evidence or proof of any kind before the Board to indicate that some of the identified differences would not exist after licensure. He indicated that the Board needs to ensure that it is protecting consumers; by protecting consumers, the Board would be following the law. Mr. Walker emphasized this was the Board's obligation and duty.

Ms. Lonner and Ms. Johnson commented that it seems clear what the Board must do, versus choosing an option that might be preferred.

Ms. DiGiorgio asked Mr. Walker if he had stated that the exam would be required unless proof could be provided that by taking the coursework those differences would be remediated. Mr. Walker responded that he had originally taken that position. He explained that because of input by board members during this discussion, he had been provided with additional information that resulted in his change of perspective, which is that there is no wiggle room the way the law is written.

Mr. Webb asked Mr. Walker what was the intent of the language. He recognized that there are differences in the "anatomy." He explained that LPCCs and MFTs have the ability to accomplish the same job; they may do it differently, one may do it better, but they have the ability to do the same job. In that sense, there are no differences in terms of the scope in which they do their job. Mr. Webb questioned whether the intent was in regards to the differences in "anatomy" or in regards to one cannot do the other job adequately.

Mr. Walker responded that in trying to determine the intent of the legislature when enacting a statute, one first looks at the plain meaning of the statute by looking at the words. He stated that when looking at the plain meaning of the LPCC statute regarding grand-parenting, the word that must be focused on is "any." He explained that if the legislature had wanted certain differences to not be included in the analysis, the legislature would have specifically exempted or excluded those issues. Mr. Walker emphasized that, because the word "any" is used, there is no wiggle room.

Elise Froistad asked for clarification regarding “any differences” versus “any meaningful differences,” referring to a comment that had been made earlier. She asked if the statute contained language about “meaningful differences.” Ms. Madsen explained that the term “meaningful differences” was not in the law, but had from the onset been part of the discussion in developing the language for this statute. She expressed the belief that most if not all of the individuals involved in crafting the language assumed that differences should be “meaningful.” Ms. Madsen noted that it was not until it was pointed out that the statute states “any” differences was it realized that the group’s assumption was erroneous.

Discussion continued about the wording and intent of the law. Ms. Lonner expressed her agreement with Mr. Walker’s interpretation, and expressed the position that if the legislature had intended the Board to have any leeway, the language in the statute would have contained qualifiers regarding the differences. Ms. Lonner stated that in her opinion, the language was intended to be “cut and dry.”

Ms. Wietlisbach asked about Mr. Walker’s earlier comment regarding the Board doing its job in terms of public protection. She stated the position that it doesn’t seem that requiring a Gap Exam with individuals who have been in private practice is a safety issue or an issue of public protection. She noted that the individuals in question have previously been found safe to practice. She asked if there was any way that a previous determination of competence to practice could be taken into consideration in the current situation. Ms. Wietlisbach expressed the position that a Gap Examination will not change whether an individual is safe to practice. Ms. Johnson commented that it is a matter of competence and scope of practice. Mr. Walker affirmed that it comes down to competence, and added that when dealing with competence one is talking about safety of the public. He stated that because the legislature found that testing is required if any differences exist, the legislature clearly found this to be a consumer protection issue in the broad sense.

Ms. DiGiorgio asked why, if the language allowed the Board no flexibility, there was any need for discussion or Board vote on the subject. Ms. Johnson and Ms. Lonner agreed with the question. Mr. Walker responded that because the statute requires the Board to make a determination about whether differences exist and to test on those differences, the Board’s Executive Officer could not drive a policy if the Board did not take action to set a policy; in this case whether or not an examination is required. He pointed out that the Board drives the Executive Officer. Mr. Walker emphasized that is why the issue is before the Board, and why it must be voted on by the Board. He stated that the Board must set the policy on the issue of whether or not the examination is required. He continued that once the Board votes to make a determination about requiring the exam, the action sets the policy and gives direction to the Executive Officer to develop that examination. This is what will be voted on.

Ms. Rhine reported that the issue originally came before the Board because of the need to hear the findings from the study done by AMS, and discuss whether there were in fact differences in the professions. Ms. DiGiorgio raised the subject of Dr. Montez’ recommendation that no examination is required. Ms. Rhine confirmed that was the recommendation, but emphasized the recommendation was based on the fact that the differences found by Dr. Montez were not significant in nature or meaningful. She explained that if the Board accepted the report that there are differences in the professions, then the Board must then adhere to the statutory requirement that the Board implement a Gap Examination. Ms. Lonner noted that Dr. Montez’ recommendation was offered as a psychometrician expert, not as an attorney.

Mr. Webb asked if the differences were merely qualitative; in other words, there are no differences in that they are able to do the same thing, but the differences of mere quality, but each can practice at a level of competence in which there is no difference. Ms. Lonner stated that is not what she heard Dr. Montez say. Mr. Webb continued that the LPCC may be able to practice qualitatively at a higher level, but the LCSW can still practice, but they are still practicing at minimal competency. In that sense, there are no differences. Ms. Lonner responded that Dr. Montez could address that, and added that this is not what is stated in law. The law states “any differences.” Mr. Webb stated that the law mentions “differences exist between the practice;” you have the words “any differences” and “the practice of professional clinical counseling” and “the practice of marriage and family therapy.” Mr. Webb explained that “practice” is meaning on a clinical level, meaning one will practice maybe on a higher level, clinically in terms of qualitatively. However, the marriage and family therapist can practice at a minimal competency level. There is a difference, but the difference is such that it will put the public at risk.

Ms. Lonner asked Mr. Walker for his input. Mr. Walker again expressed that since Dr. Montez has found differences in the professions, the Board must test on those differences.

Jan Cone commented about the varying opinions and types of information being presented to the Board. She asked if there should be more weight given to the data from an objective consultant than to other data that has been presented via discussion of the issue. She expressed concern that if the Board has only one piece of information leading to a statement that there are differences in the professions, can a different opinion by the Board counteract that objective data. Ms. Madsen responded that it is important to remember that the Board is a regulatory agency and is charged with implementing and carrying out the BPC statutes that govern the Board’s licensees. She voiced her willingness to make use of any legal flexibility a statute might afford, but emphasized that absent any such wiggle room it is very difficult to show proof of public protection by not adhering to the law. She commented that it is those times when there is deviation from the requirements of the law that lead to negative publicity and reactionary responses. Ms. Madsen stated that while it would be a relief from the staffing perspective to not have to develop and administer a Gap Examination, she could foresee significant problems if the Board deviated from what the statute states.

Mr. Walker added that if the Board decided to not require the Gap Examination, it would be necessary to make sure there was documented proof or evidence to support the finding that there are no differences between the professions. He indicated that requiring the exam would be a sound decision because it is supported by the analysis prepared by Dr. Montez, that analysis finding that there are differences, although those differences were not construed to be “meaningful.” Ms. DiGiorgio asked if the word “meaningful” is part of the statute. Ms. Madsen responded that it is not; the statute says “any.” Mr. Walker clarified he was referring to the analysis prepared by AMS.

Ms. Lonner commented that the task Dr. Montez was contracted to perform was an analysis of the professions to determine if there are differences in the professions. Dr. Montez confirmed Ms. Lonner’s assessment of the task. She reiterated that the analysis went back to the occupational analysis performed for the professions under discussion. She stated that the job analysis is considered a scientific study of the professions at a precise moment in time. It is a way of standardizing an examination, with critical studies

performed and documents examined. Dr. Montez emphasized that there is a scientific basis to the services she was contracted to provide.

Ms. Froistad commented that although the board members may have different opinions about the issue, it did not seem that legally those opinions have any weight. Rather, the scientific research performed by Dr. Montez would have more weight than the opinions of those who are discussing the matter. Ms. Lonner agreed with Ms. Froistad.

Mr. Webb asked Mr. Walker and Ms. Madsen what would happen if, hypothetically, the Board was to vote to not require a Gap Examination, and that decision was challenged. What would be the consequence? Mr. Walker responded that if the Board voted to require a Gap Exam, the decision would be in line with the findings reported by Dr. Montez. If the vote was to not require the exam, the Board would have to break down the analysis by AMS. Each of the identified differences would have to be countered by documented evidence in support of the differing opinions. He noted that while the Board can vote to disagree with the findings of the analysis and not require a Gap Exam, based on opinions that may be opposed to Dr. Montez', such a decision would be difficult to support. Mr. Walker stated that the report is very clear.

Ms. Johnson expressed the concern that the Board needs to be efficient with its time, adding that with the impact of the budget delays and related restrictions, this is a time-sensitive issue. She pointed out that there will be many professionals and consumers who will be affected by this decision, and emphasized the need to make a decision and move forward with implementation of LPCC licensure in California. Ms. Lonner agreed.

The matter was opened for input by the public.

Richard Segal, counsel to California Association of Marriage and Family Therapists (CAMFT), stated there were points he wanted to discuss, some of which CAMFT agrees with, and others that lean in favor of not having the Gap Examination. First, he made reference to Mr. Walker's explanation that the primary way to determine the Legislature's intent in drafting a statute is to look at the words in the statute itself. He noted that the entire discussion about the Gap Exam had been based around what the statute says and what the Board believes it requires them to do. Mr. Segal commented that the difficulty is that it seems in some of the paraphrasing that has occurred over the preceding several months has resulted in the meaning of the statute having changed in terms of what has unfolded versus what the law actually says. He referred to two memos that had been presented to the Board by Ms. Rhine in which reference is made to differences in the *professions*. He noted that the same language was used in the contract with Dr. Montez asking her to examine if there are differences in the *professions*. Mr. Segal also noted that the word "professions" was used several times in the letter from the American Association for Marriage and Family Therapy, California Division (AAMFT-CA). He expressed the opinion that many board members feel constrained because the statute says "any differences" as opposed to any "material" or "substantial" differences. He stated that the entire assumption of the discussion has been any differences in the professions, because that is what involved parties have been told repeatedly.

Mr. Segal stated that the statutory language that needs to be reviewed is BPC Section 4999.54(b). He read the section as follows:

“The Board and the Office of Professional Examination services shall jointly develop an examination on the differences, if any differences exist between the following: ... The practice (emphasis added) of professional clinical counseling and the practice (emphasis added) of marriage and family therapy; (and) ... The practice of professional clinical counseling and the practice of clinical social work.”

He noted that the language in that section was different from the sections of the statute that talk about and at the beginning of the statute declare that there are differences in the three professions. There are different names and courses of study. He stated that there is no dispute that the professions are different. He summarized the pertinent statute as saying that there are differences in the professions, and a third profession is being created. Now it must be determined if the *practices* of the professions are different, and test on those differences if any are identified.

Mr. Segal continued that if the intent had been that the Board must test on any differences, the law would have said that there are differences and therefore a test must be given. He again emphasized that the law states that a test must be given if differences in the *practices* are identified and test on those differences if any. Mr. Segal added that Dr. Montez had conducted a study, as requested, on the differences in the professions. He emphasized that Dr. Montez was not asked to determine if there are differences in the practices of the professions. He noted that any comments made on that subject by Dr. Montez in her report were very minor and in his opinion do not provide a basis to make that decision because all of the major differences that were identified pertain to educational background, courses of study, and how a candidate can ameliorate by completing the course of study required for the grand-parenting candidate. He commented that the results of the study did not address what the various professions actually do.

Mr. Segal went on to say that in order to determine that a Gap Examination is required, according to the express language in the statute, the finding has to be made that there are differences in the practices of the professions, an issue he noted that Mr. Webb had also raised. Mr. Segal expressed CAMFT's opinion that there was no evidence before the Board on which that statement could be based.

Mr. Segal noted one area in which he was in disagreement with Mr. Walker pertains to the burden the Board has in this situation. He noted that Mr. Walker's point was that, without proof of no differences, the exam is required. He then referred to BPC Section 4999.54(b)(2). Mr. Segal paraphrased the section as indicating that if the Board determines that an examination is necessary – for example, if the Board determines that there are differences in the practices – then a test must be administered. He expressed the opinion that the Board's obligation is to test if differences are found in the practices. He offered the position that the statute provides if no differences are found in the practices, then, by default, no test is required. Mr. Segal stated that the information provided to the Board to date has all been about differences in the professions, but that is not the correct question. He stated emphatically that the correct question pertains to differences in the practices. He expressed CAMFT's opinion that as a result of how things have progressed, in addition to the information that has been provided to the Board about what the question is, there is no information before the Board on which a determination can be made that differences exist in the practices of the professions, such that a Gap Examination is required.

Mr. Segal spoke next about Mr. Walker's interpretation that the statute offers no wiggle room. He noted that it is a general rule of statutory interpretation that a statute is not interpreted to be absurd in its results, but rather that all statute must be interpreted to have a reasonable result. He offered the hypothetical scenario involving a facet of LPCC practice being a dimming of lights when in session. He continued that such is not the same in MFT practice. Mr. Segal noted that this would be a difference in the practice of LPCC versus MFT. He then stated that it would likely be considered absurd to assume that the legislature requires testing on the ability to dim lighting, even though a difference in the practices has been identified. Mr. Segal stated it was clear to him that the wording "any difference" doesn't really mean "any difference;" it has to mean any reasonable difference under the circumstances. He argued that while CAMFT would agree that it would be clearer to have the statute include wording like "meaningful" or "substantial," but the absence of those words does not mean that any means absolutely any under any circumstances. He expressed the position that such would not be a reasonable reading of the statute.

In closing, Mr. Segal commented that the fact that the Board has been given the discretion to examine this issue and is not just ordered to administer an examination when the statute recognizes there are differences in the professions seems to imply two things. First, he believed it implies that the Board is not supposed to be looking at the professions but rather at the practices of those professions as set forth in statute. He added that, secondly, it implies that the Board is allowed a certain amount of discretion as to where to draw the line as to what a "real" difference is in those practices. He continued that that is why regulatory bodies exist - to make such determinations given the guidance provided by the statutes by the legislature.

Mr. Walker responded that Mr. Segal had raised a good point regarding profession and practice. He expressed the view that Dr. Montez should be asked if in her opinion there is a difference between profession and practice, so the Board can make a determination whether or not it does have adequate information at its disposal.

Dr. Montez stated that in her analysis, "profession" and "practice" have the same meaning. She noted that the words tend to be used interchangeably, explaining that one might hear about professions analysis, practice analysis, occupational analysis or task analysis. All are essentially looking at relatively the same thing where licensure is concerned, that being the expectations for entry level practice. Dr. Montez read to the group from the Standards for Educational and Psychological Testing, Standard XIV, 14, as follows:

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

Dr. Montez then read the additional comments in the book that underscored her earlier assertion that the words "profession" and "practice" are used interchangeably. She noted that when an occupational analysis or job analysis is conducted, you will see the words

profession and practice used interchangeably, the idea being that you are looking at the tasks performed by those individuals in the profession.

Mr. Segal responded by noting that the question is not what the clinical definition would be, but rather what the statutory definition would be. He noted that what the group was attempting to accomplish is to determine what the legislature meant. He stated that from the statutory interpretation standpoint, if you start off with the idea that there are three different professions, there would be no need for the analysis to be performed to determine if there are differences, since the legislature already has said that differences exist. He repeated his earlier assertion that the statutory language would have said that there are differences, therefore you must test on the differences. Mr. Segal again stated that his interpretation of the statute is that it has been determined there are differences in the professions, and now the Board needs to determine whether there are any differences between the practices of the professions. If there are differences found, then the Board must test on those differences. He expressed the position that the distinction exists in the legislation, which could necessitate a distinction between the two words in Dr. Montez's analyses. He added that if the words meant the same thing, he considered the approach taken in this case to be absurd because the legislature would have already declared the right answer.

Dr. Montez clarified that in her analyses the words are used interchangeably. She explained that the analysis did involve looking at the three professions and their expectations of practice, including the particular tasks performed in the professions and the underlying knowledge used to perform those tasks in the practice setting.

Mary Riemersma, CAMFT, expressed concern that, since it appeared the discussion was returning to where it had been prior to the May Board Meeting, board members were arriving at conclusions about an issue without the benefit of public input. She spoke about the statement of work from which Dr. Montez was performing her analysis. She commented that the Statement of Work says there would be public meetings throughout California to obtain public input related to meaningful differences between the LPCC, MFT, and LCSW professions, said meetings to be held in February and March. Ms. Riemersma noted that to her knowledge, those hearings did not occur. She continued that, if the group was speaking about the letter of the law, the letter of the law says that the work would be done by the Office of Professional Examination Services. She noted that it was not until a question was raised about that that the issue was brought forth for public comment.

Ms. Riemersma voiced CAMFT's belief that a test is unnecessary. She commented that when looking specifically at the practices of the professions, you see three professions that deliver the same service, making an examination unwarranted and unnecessary. Ms. Riemersma stated that CAMFT concurs with Dr. Montez' findings, even though the Statement of Work Dr. Montez was responding to contained incorrect language and was talking about differences in the professions; Ms. Rhine's memos to the Board also speak about differences in the professions and not differences in the practices. She emphasized, as had Mr. Segal, that the letter from AAMFT-CA contained seven references to differences in the professions, adding that it fails to state the law accurately. Ms. Riemersma added that if the group is talking about accuracy and looking at the intent of the law, to CAMFT it is clear.

Ms. Riemersma spoke about participating in the negotiations on the legislation with the various stakeholders involved in those discussions. She named various involved parties, including the Board's former Executive Officer, Paul Riches. Ms. Riemersma reported that Mr. Riches had presented a detailed analysis comparing the scopes of practice of the three disciplines. His conclusion at that time, was that after reviewing the scopes of practice of the three disciplines, what you were left with was professions that ultimately deliver the same service although the approaches are different. She noted that all three are providing mental health services with members of the public and the two differences that are attempting to be grand-parented into the LPCC profession have passed examinations that qualify them and have determined them safe to practice with the public providing mental health counseling and psychotherapy. She voiced the position that it is unnecessary to require further testing for work that said licensees can already perform. She stated that the statute was very carefully worded to make sure the involved parties were looking at practices and not differences in the professions.

Richard Leslie, counsel to CAMFT, expressed the opinion that the Board has been provided with bad information and voiced an interest in reviewing certain points so the Board would fully understand CAMFT's position on this issue, which he described as serious.

Mr. Leslie first referred to the AAMFT letter dated May 10, 2010, which he noted was received by the Board three days following the May Board Meeting during which the Board unanimously passed a motion. Mr. Leslie repeated Mr. Segal's earlier comment that seven times in the AAMFT letter the word "professions" is used. He emphasized that the word "professions" is nowhere in the statute that AAMFT refers to when speaking of BPC 4999.54(b)(1) or (b)(2). He added that in Ms. Rhine's memo of August 30, 2010, she states that BPC Section 4999.54(b)(2) gives the Board the authority to determine if an examination on the differences in the professions is necessary. He again emphasized that in looking at sections 4999.54(b)(1) and (b)(2), no reference is made to the "professions."

Mr. Leslie expressed the opinion that Mr. Webb had made a key statement in the Board's discussion and raised a key issue. Mr. Leslie reminded the group that MFTs and LCSWs work with individuals, adults and children, couples, families and groups. He asked for a response to the question about what, in practice, an LPCC can do that an MFT or LCSW cannot do. He expressed an interest in having a discussion with the Board in an open meeting and open forum to explore that question. Mr. Leslie voiced the position that a review of the situation would reveal things an LPCC cannot do in their practice that an MFT or LCSW can do. He provided as an example that MFTs are authorized in law to perform custody evaluations; LPCCs are not. He continued by noting that he could provided a list of settings where an LPCC cannot work but an MFT can, and tasks such as treating minors without parental consent. He again emphasized that there is nothing an LPCC can do that an MFT cannot do. Mr. Leslie repeated his position that the discussions on this issue be conducted with participation by board members and the public.

Mr. Leslie again restated the concern that the letter from AAMFT seven times misstates the law. He commented about earlier statements by the Board Chair that the Board must do what the law says. Mr. Leslie again restated the CAMFT position that while the AAMFT correspondence refers to differences in the professions, the law refers to differences in the practices. He further restated Mr. Segal's earlier position that it is already established that there are differences in the professions. He alluded to what he noted as being Dr. Montez' perspective that the two words are treated the same; Mr. Leslie offered the differing

perspective that they are not to be treated the same. Again, it was noted that the pertinent section does not contain the word professions, but rather refers to practice.

Mr. Leslie commented again about the use of words in the AAMFT letter being seven failed attempts to quote the law correctly. Mr. Leslie expressed concern with the misunderstanding and noted his interest in learning how and why the misunderstanding occurred. Mr. Leslie again made reference to Ms. Rhine's memo of August 30, again noting the use of the word professions.

Mr. Leslie then made reference to two meetings conducted between AAMFT and Board staff that CAMFT did not know about and which he stated, to his knowledge, no member of the public was aware of. Ms. Madsen asked if Mr. Leslie was referring to CAMFT's allegations of violations to the Bagley-Keene Open Meeting Act, and emphasized that such was not the issue before the Board at the current meeting. She stated that the group was discussing whether a Gap Examination for MFTs and LCSWs is necessary; whether differences are found to exist and, if so, does the Board need to offer an examination. She added that if he wished to discuss the Bagley-Keene Open Meeting Act, such discussion could be held in another forum. She again emphasized that such discussion could not occur under the agenda item at hand. Mr. Leslie asserted he was not speaking about the Bagley-Keene Open Meeting Act. Ms. Madsen asked that he then cease making reference to that issue.

Ms. Riemersma commented to Ms. Madsen that Mr. Leslie was not discussing the Bagley-Keene Open Meeting Act. Ms. Riemersma stated that the point being raised by Mr. Leslie is that there were meetings with AAMFT-CA. Mr. Walker commented that that was not an issue and the day's proceedings were not the forum to raise that issue. Ms. Riemersma responded that she was talking about a statement of work that was provided to Dr. Montez, which called for obtaining public input. Ms. Madsen responded that the Board had obtained public input as was known to Ms. Riemersma. It was established that Ms. Riemersma had attended all of the public meetings held to discuss the subject of a Gap Examination. Ms. Riemersma responded that while the various meetings that had occurred were all conducted lawfully, there were some meetings that did not occur at a time when CAMFT had the ability to provide input. She asserted the comments made by CAMFT representatives had nothing to do with the issue related to the Bagley-Keene Open Meeting Act. Mr. Leslie again revisited the issues he had raised earlier.

Mr. Walker commented to Ms. Lonner that Dr. Montez had previously indicated she used the words "profession" and "practice" interchangeably. He stated there was no reason to continue to have public comment on that issue, which he asserted was occurring at the current meeting. Mr. Walker stated that if there were others who wanted to provide different comments, they should be allowed to speak, but that it was unnecessary to further belabor the meaning or use of the two words in question.

Ms. Lonner commented that the Board has been addressing practice throughout. Mr. Leslie again asked what a counselor could do in practice that an MFT or LCSW cannot do. Ms. Lonner offered career counseling as a response. Mr. Leslie responded that career counseling is not a regulated activity. Mr. Walker again reminded meeting participants that the meeting was at the point where public comment was being taken and there was no reason for the Board to answer questions.

Ms. Johnson noted to Ms. Lonner that an answer to Mr. Leslie's question would best be provided by Dr. Montez. Mr. Leslie again asked the question about what an LPCC can do that an MFT or LCSW cannot. Mr. Walker stated it was up to the Board Chair whether or not to permit Dr. Montez to respond to the question. He again reminded Mr. Leslie that the public comment period on a particular issue was not the appropriate forum for the public to make a comment and have another member of the public answer the question. Mr. Leslie responded that CAMFT would like to have a forum to discuss the issue. Mr. Walker again stated that it was up to the Board Chair whether to allow response from Dr. Montez to Mr. Leslie's question; absent such permission the meeting needed to move on. Ms. Lonner expressed the belief that Dr. Montez had already addressed the issue, and therefore Ms. Lonner preferred to not permit Dr. Montez to respond. Mr. Walker confirmed that Dr. Montez had in fact previously addressed the issue. Ms. Lonner expressed the position that there was no point in having Dr. Montez repeat herself, and the meeting should move on.

Ms. Lonner asked that further public comment on this issue be conducted in a courteous and respectful manner.

Ben Caldwell, AAMFT-CA, noted that there had been quite a bit of discussion about the intent of the legislation. He stated that there is specific intent language contained in BPC Section 4999.11; he read a portion of that section. Dr. Caldwell expressed the position that it is a leap of language and logic to say that there are differences in the professions but doing those professions is the exactly same. He stated that it has been AAMFT's contention from the beginning that there are meaningful differences between the practices, and a test should be administered addressing those differences. He added the position that such action is consistent with the language in the legislation.

Janlee Wong, National Association of Social Workers (NASW) California Chapter, expressed his appreciation to the Board and all involved parties for their efforts in working on the issue of a Gap Exam. He voiced his agreement with Ms. Riemersma, Mr. Leslie, and Mr. Segal. He noted that his interpretation of the statute is that the Board has discretion to decide whether or not to require a Gap Exam. He expressed his agreement with the findings in Dr. Montez' report and her recommendation to the Board. Mr. Wong commented that the Board needs to consider other input as well, such as public comment, as well as from board members who are practitioners. He added that he did not agree that the decision had been made for the Board, but that the Board has the authority to decide what to do.

Mr. Wong also commented that it is important to consider how people practice. He noted that an occupational analysis is a very scientific manner of obtaining such information, but added that another way to do so is by gaining input from practitioners who are practicing in the professions of marriage and family therapy, clinical social work and professional clinical counseling, and evaluating that information.

No further public comment was presented.

Renee Lonner moved that the Board find that a Gap examination is necessary and staff of the Board is directed to develop that examination. Judy Johnson seconded.

Mona Foster, Board Member, noted that the statute states that the Board and the Office of Professional Examination Services (OPES) shall develop the exam. She asked if the

earlier motion was all inclusive. Mr. Walker responded affirmatively, because the Board is part of the Department of Consumer Affairs. However, for purposes of clarification, he recommended that Ms. Lonner to withdraw her motion, and have the second agree to that withdrawal.

Ms. Lonner withdrew her earlier motion; Ms. Johnson agreed. Mr. Walker then suggested that the motion be made to require a Gap Examination and have the examination developed.

Renee Lonner moved that the Board find that a Gap Examination is necessary and direct staff to have an examination developed. Judy Johnson seconded. The Board, via roll-call vote, voted five to three (5-3) to require the Gap Examination. The motion passed.

It was noted that two of the board members who had previously been involved in the meeting were not available at the time the roll call vote was taken. A quorum was nonetheless maintained. Mr. Walker confirmed that the vote was based on the number of members present at the time of the vote.

III. Public Comment for Items Not on the Agenda

No public comment was offered.

Ms. Froistad asked permission to make a comment. She expressed her disappointment over the threatening of legal action and the questioning of the Board staff and the Board's integrity by CAMFT. She stated her position that the Board and staff has always behaved honestly and followed the law. She expressed frustration over the need to conduct the day's meeting under the circumstances it was called.

Ms. Lonner voiced her agreement with Ms. Froistad's comments. She expressed her dismay stating that differences of opinion are to be expected. She added that those differences in perspective should be aired in a manner that is not perceived as an attack on character. Ms. Lonner voiced her respect for all of the stakeholders who attend and participate in the meetings and commented that she expected the same respect be shown to the Board. She encouraged any stakeholders who continue to be upset to sit down with a member of the Board and discuss their concerns.

Mr. Webb added his agreement with the other board members' comments noting his disappointment as an MFT. He also corrected those meeting participants who had previously referred to him as doctor, noting that the title was not appropriate for him.

IV. Suggestions for Future Agenda Items

No suggestions were offered.

The opened meeting session adjourned at 11:45 a.m. The Board moved into closed session.

Blank Page



MEMORANDUM

DATE	February 11, 2011
TO	Kim Madsen, Executive Officer, Board of Behavioral Sciences
FROM	 Sonja Merold, Chief, Office of Professional Examination Services
SUBJECT	Comments on Applied Measurement Services' Licensed Professional Clinical Counselor Gap Analysis

Thank you for extending the time-frame for our response from February 7 to February 11, 2011 to allow us time to meet with Dr. Tracy Montez from Applied Measurement Services.

On Tuesday, February 8, 2011, Amy Welch Gandy, Personnel Selection Consultant II, Supervisory and Bob Holmgren, Ph.D., Supervising Personnel Selection Consultant met with Dr. Montez to review Dr. Montez' files concerning her work on the Licensed Professional Clinical Counselor (LPCC) "gap" analysis. The goal of the meeting was to review Dr. Montez' files, discuss her procedures for conducting the gap analysis, and listen to her reasons for making her recommendations.

Dr. Montez reviewed with Bob and Amy the procedures she followed in conducting the LPCC gap analysis. Procedures included:

- Conducting six, one-on-one interviews of current LPCCs. (Two live in California; all are licensed in other states);
- Conducting interviews with Paul Riches, former BBS Executive Officer and Tracy Rhine, BBS Assistant Executive Officer;
- Conducting interviews with Linda Hooper, former OPES Supervisor and Karen Okicich, former OPES Personnel Selection Consultant;
- Reviewing several documents, including secure documents related to the detailed test plans for the National Counselors Examination (NCE) and the National Clinical Mental Health Counselors Examination (NCMHCE) published by National Board for Certified Counselors (NBCC);
- Conducting a workshop on April 8, 2010 at the OPES offices with seven California Licensed Clinical Social Workers (LCSWs) and one out-of-state (Texas licensed) LPCC subject matter experts (SMEs). This workshop was documented in confidential meeting notes entitled, "April 8, 2010 Licensed Clinical Social Worker Workshop"; and

- Conducting a workshop on April 22, 2010 at the OPES offices with six Marriage and Family Therapists (MFTs) and two out-of-state (Texas licensed) LPCC SMEs. This workshop was documented in confidential meeting notes entitled, "April 22, 2010 Marriage and Family Therapist Workshop."

According to Dr. Montez' information, the two workshops compared the California MFT or LCSW examination plans with the examination plans for the LPCC; identified a number of topics covered in the LPCC exam plan that are not covered in the California LCSW licensure examination or the California MFT licensure examination; reviewed the requirements for LCSW, MFT, and LPCC licensure; and concluded that any need for a gap examination for grand parented LCSWs or MFTs is not required, provided that each to-be-grand parented counselor:

- (1) Meet the educational, training, and certification requirements for licensure as an LPCC; and
- (2) Adhere to the Board statutes requiring the licensee to practice within one's scope of competence.

The procedures followed by Dr. Montez appear to be psychometrically sound and similar in practice to those that would have been followed by OPES staff had we conducted the study.

Dr. Montez stated in her April 29, 2010 cover letter to the Public Progress Report directed to your attention, that "BBS *not* adopt a separate examination requirement for Licensed Clinical Social Workers and Marriage and Family Therapists seeking to be grandparented as Licensed Professional Clinical Counselors." (emphasis in original). Dr. Montez explained that the reasoning behind the recommendation not to require a gap examination for to-be-grand parented MFTs and LCSWs related to cost efficiency.

While the procedures followed by Dr. Montez are sound, the conclusion drawn appears to depend on trusting in the professionalism of the currently licensed MFTs and LCSWs not to practice outside the scope of one's professional competence. However, given that some currently licensed MFTs and/or LCSWs will require remedial coursework in areas critical for minimum acceptable competence as LPCCs, OPES, based on Dr. Holmgren's analysis, would draw a different conclusion from these data based on his understanding of the relevant portions of the ***Standards for Educational and Psychological Testing*** (AERA, APA, NCME 1999).

According to the ***Standards***, "Licensing requirements are imposed by state and local governments **to ensure** that those licensed possess knowledge and skills in sufficient degree to perform important occupational activities safely and effectively" (AERA, APA, NCME *Standards*, p.156, emphasis added). From his perspective, licensure examinations are used to verify ("ensure") that potential licensees have the minimum acceptable competence needed to practice safely and competently. The remedial training received by LCSWs and MFTs would be the mechanism for gaining the

required knowledge and skills. A "gap" licensure examination would be the mechanism used to ensure or verify that this knowledge and skill was gained at least to the level of minimum acceptable competence.

Based on the information presented by Dr. Montez' on the gap analysis and the related professional standards, OPES supports the psychometric soundness of the project completed by Dr. Montez, but nonetheless recommends a gap examination in this situation.

Please contact me at (916) 575-7265 if you have any questions or need further information.

Blank Page