

**BOARD MEETING NOTICE
February 27-28, 2013**

**Department of Consumer Affairs
Hearing Room
1625 North Market Blvd, 1st Floor
Sacramento, CA 95834**

***Wednesday, February 27
8:30 a.m.***

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

- I. Introductions*
- II. Petition for Early Termination of Probation for Anthony Edell, MFC 32926
- III. Petition for Early Termination of Probation for Gabriela Galindo, MFC 40229
- IV. Petition for Early Termination of Probation for Elena Labastida, IMF 66102
- V. Petition for Modification of Probation for James McLindon, MFC 50610
- VI. Suggestions for Future Agenda Items
- VII. Public Comment for Items Not on the Agenda

Note: The Board may not discuss or take action on any matter raised during this public comment session that is not included on this agenda, except to decide to place the matter on the agenda for a future meeting. [Government Code Sections 11125, 11125.7(a)]

FULL BOARD CLOSED SESSION

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

FULL BOARD OPEN SESSION

- VIII. Adjournment

* *Introductions are voluntary for members of the public*



Thursday, February 27
9:00 a.m.

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

- IX. Approval of the November 28-29, 2012 Board Meeting Minutes
- X. Executive Officer's Report
 - a. Budget Report
 - b. Operations Report
 - c. Personnel Update
- XI. BreEZe Update
- XII. Budget Presentation - Analysis of the Board of Behavioral Sciences Fund Condition – Brian Skewis, Budget Analyst
- XIII. Update on the Licensed Professional Clinical Counselor Program
- XIV. Policy and Advocacy Committee Report
 - a. Recommendation #1 – Possible Action Regarding Proposed Omnibus Bill Amending Business and Professions Code Sections 4980.36, 4999.33, 4980.43(b), 4996.9, 4996.23, 4999.47(a), 4980.54, 4980.72, 4999.60, 4989.68, 4996.3, 4996.18, and 4999.46
 - b. Recommendation #2 – Possible Rulemaking Action to Implement Senate Bill 704, Statutes of 2011, Chapter 387 – Examination Restructure
 - c. Recommendation #3 – Possible Rulemaking Action Regarding Proposed Revisions to California Code of Regulations, Title 16, Division 18, Article 8 Board of Behavioral Sciences Continuing Education Requirements
 - d. Legislation Update
 - e. Rulemaking Update

FULL BOARD CLOSED SESSION

- XV. Pursuant to section 11126(c)(1) of the Government Code, the Board Will Meet in Closed Session Regarding the Possible Use of the Association of Marital and Family Regulatory Board Examination for Licensure in California

FULL BOARD OPEN SESSION

- XVI. Update on the California Marriage and Family Therapy Occupational Analysis and Collaboration with the Association of Marital and Family Therapy Regulatory Boards
- XVII. Discussion Regarding Therapist Mandated Reporting of Sexual Activity of Minors
- XVIII. Suggestions for Future Agenda Items
- XIX. Public Comment for Items Not on the Agenda

Note: The Board may not discuss or take action on any matter raised during this public comment session that is not included on this agenda, except to decide to place the matter on the agenda for a future meeting. [Government Code Sections 11125, 11125.7(a)]

XX. Adjournment

** Introductions are voluntary for members of the public*

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

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

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

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BOARD MEETING MINUTES - *DRAFT* **November 28-29, 2012**

DoubleTree Hotel by Hilton
555 W. Foothill Blvd.
Claremont, CA 91711

Wednesday, November 28th

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Linda Forster, Public Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Christina Wong, LCSW Member

Members Absent

Samara Ashley, Public Member
Eileen Colapinto, Public Member
Karen Pines, Vice Chair, LMFT Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Rosanne Helms, Legislative Analyst
Christina Kitamura, Administrative Analyst
Dianne Dobbs, Legal Counsel

Guest List

On file

FULL BOARD OPEN SESSION

I. Introductions

Dr. Christine Wietlisbach, Board of Behavioral Sciences' (Board) Chair, opened the meeting at 9:45 a.m. Christina Kitamura called roll. A quorum was established.

Board members, Board staff, and public attendees introduced themselves.

II. Approval of the August 22-23, 2012 Board Meeting Minutes

Kim Madsen requested the following changes:

- Page 4, Personnel Update: the minutes should reflect that Terri Maloy was promoted to a Staff Services Analyst to evaluate Licensed Professional Clinical Counselor (LPCC) applications.
- Page 5, item VII: *the task force has been meeting* should be corrected to *the task force began meeting*.

- Page 7, 6th paragraph: *Of the MFC/LCS Grandparent applications, 30% of the 2,196 applications received should be corrected to Of the MFC/LCS Grandparent applications received, 30% of the 2,196 applications have been processed.*
- Page 7, 8th paragraph: *Staff ensured should be corrected to Staff assured.*
- Page 9, 5th paragraph: *This would give the Board an additional tool to assist in meeting its mandate should be corrected to This would give the Board an additional tool to assist the Board in meeting its mandate.*
- Page 9, 6th paragraph: *This would cost the Board \$9.50 per applicant should be corrected to This would cost the applicant \$9.50.*

Renee Lonner requested a correction on page 7, 5th paragraph: *The LPCC Grandparent period ended on December 31, 2012.* The date should be corrected to *December 31, 2011.*

Dianne Dobbs listed the following corrections:

- Page 5, 4th paragraph under item VII: *the task force has convened should be corrected to the task force convened.*
- Page 5, 6th paragraph under item VII: *Board staff has provided comment should be corrected to Board staff has provided comments.*
- Page 6, 2nd paragraph: *One level is the “front line” individual, which has should be corrected to One level is the “front line” individual, who has. Another level is the mid-level practitioner that has should be Another level is the mid-level practitioner who has.*
- Page 6, 3rd paragraph: *testimony was heard from individuals in the field and providing should be corrected to testimony was heard from individuals in the field who are providing.*
- Page 7, 6th paragraph: *MFC/LCS should be corrected to MFC/LCSW.*

Dean Porter, California Association for Licensed Professional Clinical Counselors (CALPCC), requested a spelling correction on page 13, 6th paragraph: *occassions should be occasions.*

Patricia Lock-Dawson moved to adopt the Board meeting minutes as amended. Christina Wong seconded. The Board voted (10-0) to pass the motion.

III. Approval of the November 8, 2012 Board Meeting Minutes

Patricia Lock-Dawson moved to adopt the Board meeting minutes. Linda Forster seconded. The Board voted (10-0) to pass the motion.

IV. Executive Officer’s Report

a. Budget Report

Ms. Madsen provided a brief overview of the budget process.

The 2012/2013 budget for the Board is \$8,153,000. As of September 30, 2012, the Board has spent \$ 2,038,779 reflecting 25% of the total budget. Total revenues collected to date are \$2,601,394.23.

The Board’s fund condition reflects a five-month reserve. This figure assumes a General Fund loan repayment of \$2 million dollars. Without the General Fund loan repayment the Board’s reserve decreases to 1.9 months.

Currently, the Board has a total of \$12.3 million dollars in loans to the General Fund. The Board was informed last spring that it may receive some monies towards this loan in 2012/2013. Although the Board has not received the monies to date, any repayment the Board receives will be reported at a subsequent meeting.

b. Operations Report

Ms. Madsen presented the Operations Report.

The Board was recently permitted to recruit for the 1.5 positions previously eliminated under Budget Letter BL12-03. The full time position will be utilized in the Enforcement Unit and the half time position will assist the License Clinical Social Worker (LCSW) unit.

The Department of Consumer Affairs (DCA) and Board staff discussed options to assist the Board with the Licensed Professional Clinical Counselor (LPCC) Grandparenting Application backlog. As a result of these discussions, a Memo of Understanding (MOU) was initiated. The MOU permits the temporary transfer of an employee from a DCA unit to the Board. This employee will assist the LPCC unit for one year.

The third quarter statistics continue to reflect an overall increase in application volume. The Board's current processing times have increased. Board staff is exploring options in an effort to reduce the Marriage and Family Therapy (MFT) exam application processing time.

The increased processing times reflect Board staff's efforts to assist with the BreEZe testing and a decrease in staff within the LCSW unit.

A total of 2,125 examinations were administered in the second quarter. Two examination development workshops were conducted in July through September. Six examination workshops were canceled and rescheduled due to staff vacancies at Office of Professional Examination Services (OPES). OPES reported that these vacancies are now filled.

The cashiering unit is currently processing renewal applications within 7 days of receipt. All other applications are processed within 5 days of receipt.

The Enforcement staff received 274 consumer complaints and 330 criminal convictions representing an 8% and 2% increase respectively from the previous quarter. During the third quarter 574 cases were closed and 23 cases were referred to the Attorney General's office for formal discipline.

Enforcement staff continues to meet or exceed the established performance measures (PM) with the exception of PM 4, Formal Discipline. DCA established the performance target for PM 4 at 540 days (18 months). The Board's current quarterly average is 760 days, which represents a reduction of 98 days from the previous quarter report. This performance target is dependent upon the staffing and workload of outside agencies, such as the Attorney General's (AG) Office and the Office of Administrative Hearings.

The third quarter reflects an increase in overall satisfaction, accessibility, and courtesy. Successful service decreased slightly. However, all the ratings reflect an increase since last year's third quarter ratings. Board staff also observed that the number of respondents to the survey in third quarter decreased by 26%.

Dr. Harry Douglas asked how the Customer Satisfaction Survey was developed, and who took part in developing the survey. He expressed that the categories were too general. He also asked if providers assisted in developing the survey. Ms. Madsen

responded that she will research the methodology of the survey and provide that information.

Jill Epstein, California Association of Marriage and Family Therapists (CAMFT), expressed disappointment regarding the increase in processing times for MFT exam applications, especially since the volume of applications has dropped by 11%. Ms. Epstein asked what options are left to be explored when Board staff has been denied additional staffing to address the increase in processing times.

Ms. Madsen responded that depending on existing staff workload, staff could be redirected. Another option is to pursue an MOU with DCA.

Ms. Epstein commented on the regulations being proposed to address enforcement issues, specifically performance targets established by DCA. She stated that enforcement issues are being mitigated without those regulations in place. CAMFT is not supportive of those regulations that are being promulgated.

c. Personnel Update

Ms. Madsen presented the Personnel Update.

Gena Beaver was promoted to an Associate Governmental Program Analyst (AGPA) within the Enforcement Unit on October 31, 2012. Gena will function as the Lead Enforcement Analyst over three Staff Services Analysts (SSA), one Management Services Technician (MST), and one Office Technician (OT).

As discussed in the Operations Report, DCA and Board staff initiated an MOU to assist the Board with the LPCC Grandparenting Application backlog. The MOU permits the temporary transfer of an employee from a DCA unit to the Board.

The Board has begun recruitment for the following vacancies:

- Management Services Technician (part-time) in the Licensing Unit to perform the duties of an LCSW and Associate Social Worker (ASW) evaluator.
- Staff Services Analyst (full-time) in the Enforcement Unit to fill behind Gena Beaver.

There were no departures last quarter.

d. BreEZe Update

Ms. Madsen presented the BreEZe Update.

As of November 13, 2012, a firm go-live date has not been announced. The BreEZe team continues to work with the vendor to resolve issues identified during data validation and preliminary system testing. The resolution of these issues is critical to ensure system stability and ultimate performance of the new data system. A firm date will not be announced until the BreEZe team is confident that the new date is attainable.

Despite these challenges, staff continues to prepare for formal User Acceptance Testing (UAT). Thirteen staff members are participating in weekly data verification and preliminary system testing. The time commitment for these tasks has impacted their daily workload. However, the time investment is vital to the ultimate success of the new data system for the Board. As a result of their collective efforts, numerous issues were identified.

One benefit of the Board's significant participation prior to the "go-live" date is that nearly one-third of the staff will be familiar with the BreZE system once it is released. This will decrease the number of staff requiring training. Additionally, the Board will have a large number of "experts" to provide assistance to staff.

V. Update on the Continuing Education Committee

Steve Sodergren gave a brief overview of the current continuing education provider approval process.

Since its creation in November 2011, the Continuing Education Provider Review Committee (Committee) has been meeting in order to address concerns related to the Board's Continuing Education Provider requirements. Professional organizations that represent the Board's licensees have been actively participating in the discussions. The Committee reviewed the draft language presented by Board staff at its October 2012 meeting.

The draft language removes the Board's authority to directly approve and license providers, but establishes the authority of the Board to accept continuing education (CE) credits from providers who have been approved or registered by a Board-recognized approval agency. It also establishes the authority of the Board to accept CE credits from organizations, institutions, associations or entities that have been recognized by the Board as continuing education providers. This change in the regulation will entrust the review and approval of continuing education providers, coursework and instructors to professional associations and other entities recognized by the Board.

Board-recognized "approval agencies" named in the suggested language have established stringent requirements for CE provider applicants, including administrative and financial accountability, program development and implementation criteria, and established performance measures for determining program effectiveness. Many of these accrediting entities also perform periodic reviews of approved sponsors or providers. By accepting CE from approval agencies and accrediting entities, the Board will not be involved in the approval or maintenance of the CE providers. Rather, the Board will rely on accrediting entities' standards to ensure the quality of CE provided to licensees.

While the Board will not directly approve CE providers, it will have the authority to audit coursework providers and coursework. The approving agency and the provider must be able to deliver the specific coursework and provider material when requested by the Board. This language will also give the Board authority to revoke the approving agencies Board recognition if they fail to ensure that the providers that they approve meet the Board's requirements.

Some of the concerns expressed at the last Committee meeting were:

- How will agencies or entities not listed in the language be granted status as an approval agency?
- How will the Board ensure that the content of courses is valid?
- The term "best practices" is not a current term. Terms that should possibly be considered are "professionally accepted", "evidence based", "evidence-based practices" or "generally accepted standard of practice."

Board staff is revising the draft language to address these concerns that were raised at the last Committee meeting.

Mr. Sodergren pointed out that the draft language included in the Board meeting packet was the language reviewed at the last Committee meeting. Staff is revising the draft language, which will be very different from the version provided to the Board.

Mr. Sodergren noted that the American Counseling Association will be added to the list of continuing education providers outlined in the language.

Ms. Forster requested more clear language regarding audits. Ms. Madsen stated that staff will work with counsel on the language.

Ms. Wong asked what will happen with the existing CE provider population. Ms. Madsen responded that the existing CE provider population will be required to obtain approval from one of the entities named in the draft language.

Dr. Betty Connolly asked if it would be appropriate to add the California Association of School Psychologists (CASP) to the list of CE providers recognized by the Board, since they are a professional association and meet the standards of a CE provider. Ms. Madsen responded that it would be appropriate to add CASP to the list.

Ms. Wong asked if the Committee will consider how to monitor or accept the applications from out-of-state providers or from online CEU providers. Ms. Madsen responded that those providers will have to be associated through the approval agencies or one of the entities already identified as a provider. The Board is moving away from approving individuals and entities as CE providers.

Dr. Douglas stated that these organizations were very involved in this process. The Committee is concerned that there are other organizations that may qualify; there needs to be a pathway so that those organizations can demonstrate the ability to meet the criteria and also be recognized. This is an open-ended process, and other organizations are welcomed to participate.

Sarita Kohli noted that NASW is listed as an approval agency, but NASW is also a CE provider. Ms. Madsen stated that the language should be updated to list NASW California Chapter as an approved CE provider. Ms. Madsen also noted that there should be a correction made to NASW listed as an approval agency; it should be listed as NASW California Chapter.

Ms. Lonner commended the Committee, stating that this is a vast improvement over the process that is currently in place. This is quality control, which is what is needed.

Dr. Wietlisbach also commended the Committee and the stakeholders on their work.

Betty Connolly stated that she is hearing concerns from Licensed Education Psychologists (LEP) that specific content areas of the required CE courses (courses mandated by the Board) do not necessarily relate to the scope of practice. She asked if mandated CE coursework will still be determined by the Board. Ms. Madsen replied yes.

Dr. Brew stated that there are many organizations that are not listed in the draft language as CE providers. NBCC is the certifying agency for CE in the field of counseling. ACA does not need to be listed because they have NBCC approval. LPCCs have to go through NBCC for their CE. Listing every organization that is a recognized CE provider may get risky, and the list may be quite long. She suggested looking at each profession and determining if there is a central organization that is the approving agency so that the Board does not have to list each approved CE provider.

Ms. Epstein responded that there is not a nationwide MFT-equivalent. AAMFT (National) does not certify other CE providers. This is why there is a list of Board-approved CE providers for LMFTs. CAMFT is approved through the APA, but CAMFT can only offer courses that within the scope of practice of a psychologist. CAMFT cannot offer MFT

courses for credit through the APA. Listing Board-approved CE providers is necessary for this reason.

Ms. Epstein stated that the definition of self-study is an issue that is still unresolved.

Ms. Epstein also noted that the California Psychological Association (CPA) was not listed in the draft language and if the CPA would be added as either an approval agency or a CE provider, or both. Mr. Sodergren responded that the California Psychological Association was recently added to the draft language.

Ms. Epstein asked if more Board staff would be available for other duties once the Board gets out of the CE provider approval business. Ms. Madsen responded the Board's CE audits will increase, however, this may potentially free up some staff time to perform other duties.

Olivia Loewy, American Association for Marriage and Family Therapy California Division (AAMFT-CA), asked how the term "evidence-based practices" is being used in relation to CE. Mr. Sodergren responded that it is one of the criteria for course content. He noted that the application of that term must be discussed more at the Committee level.

Dr. Brew explained that "evidence-based" means that there is some research to support the practice and show that it is effective.

Ms. Loewy stated that the term "evidence-based practices" needs to be well defined. Although Dr. Brew's explanation makes sense, the term is taking on a whole different meaning in regards to specific ways of treatment, which can be limiting for potential providers.

Mr. Wong, NASW-CA, stated that an entity with approval from a national continuing education provider agency will have approval in most states, which is not the case now. This will be a tremendous improvement.

Ms. Kohli suggested adding language clarifying where licensees can obtain their CE credit.

The Board took a break at 11:17 a.m. and reconvened at 11:35 p.m.

VI. Update on the Department of Managed Health Care Autism Task Force Meetings

Ms. Madsen provided an update on the Autism Task Force meetings.

Senate Bill 946 required the Department of Managed Health Care (DMH) in conjunction with the Department of Insurance, to convene an Autism Advisory Task Force. The purpose of the task force is to provide assistance to the DMH on topics related to behavioral health treatment and to develop recommendations relating to the education, training, and experience requirements to secure licensure from the State of California. The task force must submit a report to the Governor and specified members of the Legislature by December 31, 2012.

The task force has been holding meetings since February 2012. The Board has been in attendance at these meetings since March 2012.

The task force held its final public meeting on October 5, 2012. The purpose of this meeting was to discuss the draft report, which reflected the task force's recommendations specific to the treatment of autism. The draft report provided guidelines for treatment, interventions, care coordination, and qualifications, education, training and supervision of individuals providing treatment.

The draft report included recommendations for licensure and suggested an agency, such as the Board, to provide the regulatory oversight. In the event regulatory oversight could not be provided by an entity such as the Board, the task force suggested an “interim entity” with similar functionality be considered. Finally, the report included guidelines for unlicensed individuals who provide autism treatment.

Public comments were made at the October task force meeting. The public expressed concern regarding the “interim entity” and that the report seemed to only address one treatment modality – behavior analysis. The final report is due to the legislature December 2012.

The Board anticipates that a bill based upon the task force recommendations will be introduced in the upcoming legislative session. The specifics of this bill are unknown at this time. During recent discussions with legislative staff, Board staff raised concerns regarding the challenges it will face if a new licensure category is placed within its jurisdiction.

The new legislation session will begin after January 1, 2013. Bill introductions will conclude late February 2013.

Ms. Epstein asked if Board staff made any public comments at these meetings. Ms. Madsen confirmed that staff made public comments. Ms. Epstein asked if written comments were submitted. Ms. Madsen replied that written comments were not submitted.

Ms. Porter stated that CALPCC made comments at the meetings and provided written comments as well. Ms. Porter expressed CALPCC’s concern that the requirements do not meet the rigor of licensure.

Dr. Douglas asked why profession wants to create a new practitioner-level license. Ms. Madsen responded that she believes it is because there is a desire to professionalize this practice as well as to ensure third party reimbursement.

Ms. Madsen noted that the Board has the support of the associations; they share the same concerns as the Board. Board staff is waiting to see what the legislation will look like.

VII. Update on the Licensed Professional Clinical Counselor Program

Ms. Madsen provided an update on the LPCC program. When the Board last met, Ms. Madsen reported that it would take the Board about two years to process all of the LPCC Grandparent applications received by December 31, 2011. As discussed earlier, a new staff person came to the Board to assist in the workload. Ms. Madsen reported that the estimated timeline to process those applications is now 12 months.

Ms. Madsen also noted that a new Subject Matter Expert has been hired to look at the coursework and curriculum from some of the schools. That individual will start sometime between December and the beginning of 2013.

VIII. Update on the California Marriage and Family Therapy Occupational Analysis and Collaboration with the Association of Marital and Family Therapy Regulatory Boards

Ms. Madsen reported briefly on the joint MFT Occupational Analysis with the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) in an effort to assess the viability of the AMFTRB exam for licensure in California. Dr. Tracy Montez is conducting the assessment. Dr. Montez recently received the AMFTRB’s Practice Analysis. The Office of Professional Examination Services is concluding their survey of the California licensees for the Board’s examination development. Dr. Montez will compare the two documents and provide an update at the February 2013 meeting. This effort is moving forward.

The Board took a break for lunch at 11:54 a.m. and reconvened at 1:10 p.m.

IX. Policy and Advocacy Committee Report

a. Recommendation #1 – Possible Rulemaking Action Regarding the Implementation of SB 1441, Chapter 548, Statutes of 2008

Rosanne Helms presented the proposed regulations regarding uniform standards for discipline in cases of substance abuse by licensees or registrants.

This is a regulatory proposal that the DCA and the Legislature is asking all healing arts licensing boards to run. It creates uniform standards for discipline that the boards must abide by in cases of licensee or registrant substance abuse.

This proposal was prompted by a concern at the Legislature that there is a lack of a consistent policy across DCA's healing arts boards for dealing with licensees or registrants who abuse drugs and alcohol.

SB 1441 was signed in September 2008. The bill required DCA to establish the Substance Abuse Coordination Committee (SACC). The SACC, comprised of the executive officers of the DCA's healing arts boards, was tasked with formulating, by January 1, 2010, uniform and specific standards in specified areas that each board would be required to use in dealing with substance abusing licensees.

The goal of this process was to create consistent and uniform standards which healing arts boards would adopt through regulation, allowing consumers better and more consistent protection from substance abusing licensees.

SB 1441 outlined 16 separate topic areas for which the SACC formulated uniform standards.

Based on the standards created by the SACC, Board staff drafted amendments which incorporated the uniform standards into the Disciplinary Guidelines, as appropriate. Standards 13 through 16 were not incorporated. These standards involve either diversion programs, which the Board does not have, or data collection, which is an internal Board function not appropriately addressed through regulations.

The resulting "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" consists of four parts:

1. **Uniform Standards Related to Substance Abuse:** This is a new section and would apply to licensees or registrants who test positive for a controlled substance, or whose license or registration is on probation due to a substance abuse problem.
2. **Penalty Guidelines:** This section was already part of the Disciplinary Guidelines; it lists types of violations and the range of penalties that may be imposed.
3. **Disciplinary Orders:** This section was already part of the Disciplinary Guidelines. It contains language for proposed optional and standard terms and conditions of probation. It has been modified, where appropriate, to include the new uniform standards related to substance abuse.
4. **Board Policies and Guidelines:** Already part of the Disciplinary Guidelines, this section explains the policies and guidelines for various enforcement actions.

An earlier draft of these proposed regulations was presented to the Board at its November 2011 meeting. Due to legal questions that were raised about whether the

SACC or the DCA boards should be the ones to implement these regulations, the Board directed staff to seek further guidance from DCA before considering the regulations.

In April 2012, the Board received a memo from DCA Legal Affairs office addressed to all healing arts boards regarding the rulemaking process to implement the Uniform Standards. DCA acknowledged that questions have been raised concerning the Board's discretion to implement the Uniform Standards, and concerning whether or not the SACC was the entity with the rulemaking authority over the Uniform Standards to be used by the healing arts boards. These questions emerged following receipt of a Legislative Counsel Bureau's opinion on the matter.

DCA requested the Office of the Attorney General review the Legislative Counsel's opinion. An informal legal opinion was rendered by the Government Law Section of the Office of the Attorney General which addresses the discretion of the boards in adopting the Uniform Standards. DCA indicated that both the Legislative Counsel and the Attorney General concluded that the healing arts boards do not have the discretion to modify the content of the specific terms or conditions that make up the Uniform Standards. Nor do the healing arts boards have the discretion to determine which of the Uniform Standards apply in a particular case. DCA concurs with these opinions.

The Legislative Counsel and the Attorney General offer differing opinions as to whether or not the SACC, or the individual boards, have the authority to promulgate regulations to implement the Uniform Standards. The Legislative Counsel concluded the SACC has the authority to promulgate regulations mandating that the boards implement the Uniform Standards.

However, the Attorney General disagreed with the Legislative Counsel, stating that the SACC was not vested with the authority to implement the Uniform Standards. This authority lies with the individual boards. DCA shares the opinion of the Attorney General.

DCA recommends that healing arts boards move forward as soon as possible to implement the Uniform Standards. DCA suggested that the boards work with their assigned legal counsel to determine how best to implement the Uniform Standards. Each Board should determine the following:

1. If the Uniform Standards should be placed in a regulation separate from the disciplinary guidelines; and
2. A definition or criteria to determine what constitutes a "substance-abusing licensee".

Staff has made modifications to the previous version of the regulations, and asked DCA Legal to review them in order to verify compliance.

- As the Uniform Standards directly affect the Disciplinary Guidelines, staff recommends that they remain one document.
- Rather than specifically defining a "substance-abusing licensee," which can be difficult to define, staff recommends defining a substance abuse violation for which the Uniform Standards would apply. This is defined as the following circumstances:
 - The Board finds conduct which is a violation that involves drugs and/or alcohol; and
 - The licensee or registrant does not rebut that the violation is a substance abuse violation; and

- The licensee, registrant, or the Board does not establish that appropriate public protection can be provided with modification or omission of any of the Uniform Standards.

At its meeting in November 2012, the Policy and Advocacy Committee (Committee) directed staff to bring the proposed regulations to the Board for consideration as a regulatory proposal.

Ms. Epstein pointed out that the Uniform Standards only refer to licensees, yet the version presented to the Board includes licensees and registrants. She stated that it is her understanding that no modifications could be made to the Uniforms Standards as they were drafted by the SACC.

Ms. Helms responded that the definition of “licensee” in the Business and Professions Code includes “registrant” in that definition; however, she was unsure of the exact code section.

Ms. Forster stated that there must be language in existence that describes one who substance abuse. She asked why would there need to be a different definition. Ms. Madsen stated that there is a variation of definitions, including a medical component. Now the Board is being asked to make that judgment, and there is concern that the Board does not have the skills and knowledge to make that judgment.

Ms. Kohli commented on the staff recommendation to define a substance abuse violation for which the Uniform Standards would apply. She indicated that the term “substance abuse violation” should not be used because “substance abuse” is a diagnosis.

Ms. Madsen referred to the California Code of Regulations Section 1888(a) and stated that the language does not indicate that the Board is making a diagnosis. Dianne Dobbs, the Board’s Legal Counsel, agreed. Ms. Dobbs explained if the violation involves the abuse of these substances, then that is the first criteria for determining whether or not it is a substance abuse violation.

Renee Lonner moved to direct staff to make any discussed or any non-substantive changes and to pursue as a regulatory proposal. Sarita Kohli seconded. The Board voted unanimously (10-0) to pass the motion.

b. Recommendation #2 – Possible Action Regarding Proposed Omnibus Bill Amending Business and Professions Code Sections 4980.36, 4999.33, 4980.43(b), 4996.9, 4996.23, 4999.47(a), 4980.54, 4980.72, 4999.60, 4989.68, 4996.3, 4996.18, and 4999.46

Upon review, staff has determined that several sections of the Business and Professions Code (BPC) pertaining to the Board of Behavioral Sciences require amendments. Ms. Helms reported on the following:

1. Amend BPC Sections 4980.36 and 4999.33 – Instruction in Severe Mental Illness

Sections 4980.36(e) and 4999.33(d)(6) state that coursework addressing severe mental illness is required for licensure. The law specifies that this coursework may be provided either as credit-level coursework, or through extension programs offered by the degree-granting institution.

At its November 2012 meeting, the Committee, staff suggested an amendment to use the term “an accredited or approved degree granting institution.” This would

allow an applicant to take this course from the extension program of a degree granting institution other than the degree-granting school.

However, at the meeting, a question was raised about the original intent of the law in allowing an extension program offered by the degree granting institution. Was the intent to ensure that coursework addressing severe mental illness was taken at the same time the degree was being earned, but for some reason the schools were better able to offer this coursework through extension?

The Committee chose to accept the amendment, and staff agreed to look further into this matter.

After looking at meeting minutes from 2006 when this language was formulated, it is apparent that the intent was to have the coursework taken at the same time as the degree program. It was noted in the minutes that sometimes courses are offered through extension for financial aid reasons. Increasing the number of required units by adding new course requirements increases student costs, and financial aid is not necessarily enough to cover the increased costs. Therefore, the schools can offer extension courses to students, at a lower student rate, which they can take while obtaining their degree.

Given this new information, staff no longer recommends the suggested amendment.

2. Amend BPC Section 4996.9 – Practice of Clinical Social Work

This item resulted from an issue that was raised recently and not discussed at the Policy and Advocacy Meeting on November 1, 2012. NASW-CA requested this amendment to clear up some confusion about the scope of practice of LCSWs.

Section 4996.9 defines the practice of clinical social work. A few years back, language was inserted into LMFT law stating that the practice of marriage and family therapy includes the use, application, and integration of the coursework and experience required by law for licensure.

This language makes it clear that LMFTs are able to practice what they are taught. NASW-CA would like to have this clarification for LCSWs as well.

Staff recommends amending BPC Section 4996.9 to specify that the practice of clinical social work includes the use, application, and integration of the coursework and experience required by Sections 4996.2 and 4996.23.

At its November 2012 meeting, the Policy and Advocacy Committee recommended that the Board sponsor legislation to make the proposed changes to the omnibus bill.

Patricia Lock-Dawson expressed concern regarding experience gained as an independent contractor. She stated that in the current economy, many people are not being employed; and many people are going towards the independent contractor status. This doesn't seem current with the economic reality.

Mr. Wong, NASW-CA, explained that one can become a W-2 employee and scale down the exemptions so that there is no withholding, which could be a way to address the 1099 issue. The employer can do that; it's up to the employee to pay taxes.

Mr. Wong explained that there are two tax consequences: the tax that the employee pays and the tax that the employer pays. Employers can be subject to employment taxes depending on how much money the employee earns. He explained that

employers use the 1099 as a way to avoid paying employment taxes; however, an independent contractor by definition is not subject to supervision or direction by their employer. If the employer is providing supervision to a 1099 employee, the employer is in violation of the employment law and could be subject to fines and penalties. If this law were to change, registrants could provide therapy without supervision.

Ms. Lock-Dawson stated that there must be some way to address this somehow. Perhaps the Board can track this and determine if there is an increase in employers hiring independent contractors; and if that is the case, the Board could address the supervision requirements.

Ms. Kohli stated that an independent contractor by definition is capable of providing a service. She does not believe that was the intent for registrants. If a person is a registrant, not licensed, they are not capable of providing the service without supervision. To imply that a registrant is independently able to practice would put the consumer at risk.

Ms. Lonner agreed with Ms. Kohli.

Ms. Dobbs reminded the Board that this is not a proposed change to the law; this is to clarify that hours cannot be gained as an independent contractor.

Ms. Madsen stated that it is rare that staff will receive a 1099 for a registrant. In most cases, the employer received a stipend for that employee but there is no way to track that stipend to the employee; therefore, a 1099 is used for that purpose. In those cases, staff discovers that the employee is a volunteer.

Christina Wong moved to direct staff to make any non-substantive changes to the proposed language and sponsor legislation to make the proposed amendments. Renee Lonner seconded. The Board voted unanimously (10-0) to pass the motion.

c. Recommendation #3 – Possible Rulemaking Action to Require All Applicants to Submit a National Data Bank Inquiry Result

Mr. Sodergren presented the proposal to require applicants to submit a National Data Bank Inquiry result.

The data bank, consisting of the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank (HIPDB), is a confidential clearinghouse created by Congress to improve health care quality. The Board has been considering utilizing the data bank to perform background checks on licensees coming from out of state.

During the November Policy and Advocacy Committee meeting, the proposal to require all out-of-state licensees to provide the Board with a self-query when applying of licensure was met with concern. It was expressed that limiting the submittal of a self-query to out-of-state applicants would be inequitable. The possibility of requiring all applicants to submit a self-query in addition to licensees at their renewal period was discussed.

Mr. Sodergren stated that Board staff is currently conducting further research to determine how many state applicants apply for licensure in California each year, the cost to licensees, and the effectiveness of the tools currently being used, such as fingerprinting.

Dr. Wietlisbach recalled that this issue came up at the Sunset Review Hearing. The Board was asked why it was not using the data bank. The Committee has been trying to decide if the Board should participate in the data bank query. Since this was a concern

at the Sunset Review Hearing, the Committee feels that it needs to respond to this. Dr. Wietlisbach asked who should be subjected to the query.

Ms. Lonner responded that everybody should be subjected to the query. The Board does not know which licensees began their business in another state, and that information will not be provided through fingerprinting.

Dr. Wietlisbach asked how many people are coming from other states and how many came from another state in the past years. It's possible that it is a very low number.

Ms. Madsen stated that staff has no way of verifying prior practice. Asking the applicant to provide a self-query would be one more verification and confirmation of the information they are providing to the Board. With a new licensing program, it is highly probably that the Board will see more portability into California. Ms. Madsen advised the Board to consider requiring out-of-state applicants to submit a self-query.

Ms. Wong suggested "test driving" the self-query for out-of-state applicants for a period of time.

Ms. Lock-Dawson stated that a statistical analysis could be performed to determine if the amount of information received is enough to justify utilizing the data bank.

Ms. Madsen offered to bring back more information to the February Board meeting, specifically the number of out-of-state applicants the Board received over the last couple of years. She also offered conducting random queries.

Dr. Brew suggested looking at licensees that were adjudicated over the past 2-5 years, and how many of those licensees held out-of-state licenses. If none of them were out-of-state, it probably wouldn't be prudent to add the additional work.

Ms. Connolly asked how many states are reporting to the National Data Bank; she requested that this information be brought back to the February Board meeting.

Ms. Madsen stated that there is a requirement for all states to report to the National Data Bank.

d. Recommendation #4 – Possible Rulemaking Action Regarding Revisions to California Code of Regulations, Title 16, Section 1820.5, Licensed Professional Clinical Counselors: Requirements to Work with Couples and Families

Under current law, LPCCs, professional clinical counselor interns (PCC interns), and trainees may not treat couples or families unless they complete certain specified additional training and education. Ms. Helms presented the additional training and education as follows:

1. Either six semester or nine quarter units specifically focused on theory and application of marriage and family therapy, or a named specialization or emphasis area of the qualifying degree in marriage and family therapy, marital and family therapy, marriage, family, and child counseling, or couple and family therapy;
2. At least 500 hours of documented supervised experience working directly with couples, families or children; and
3. In each renewal cycle, completion of at least six hours of continuing education specific to marriage and family therapy.

In addition, Section 1820.5 of the CCR outlines exemptions for LPCC licensees, interns and trainees to allow them to treat couples or families if they are in the process of gaining their required 500 hours of supervised experience or if they are gaining these hours as part of their practicum requirement.

The Board is now in the process of issuing its first LPCC licenses and PCC intern registrations. As these new practitioners attempt to gain the experience and education necessary to treat couples or families, the following questions have been frequently posed to staff:

1. What documentation of the additional education and experience is needed?
2. Does an LPCC licensee need to meet the additional education and experience requirements in a particular order?
3. Must the supervised experience be obtained from an approved supervisor?

Documentation of the additional education and experience

There is no procedure outlined in statute for a licensee or registrant to apply to be able to treat couples or families based on their completion of the requirements in 4999.20. A licensee or registrant may decide at any time that they would like to pursue the additional education and experience. Once they are finished, there is no form that they need to send to the Board; they may simply begin treating couples or families.

Currently, the Board may choose to audit a licensee or registrant who is treating couples or families in certain cases to see if they meet the requirements.

In order to provide a clear process for consumers, licensees and registrants to know for sure which licensees and registrants meet the requirements to treat couples and families, staff recommends a process through which the Board would verify that the requirements have been met. Under this proposal, CCR Section 1820.5 would expand into three separate sections:

- a) Section 1820.5, Experience Working Directly with Couples, Families or Children–Clinical Counselor Trainees: This new section would state that trainees are only exempt from the requirements to treat couples and families if they are gaining their practicum hours which require them to counsel individuals, families, or groups.
- b) Section 1820.6, Experience Working Directly with Couples, Families or Children–PCC Interns and LPCCs: This new section outlines the requirements PCC interns and LPCCs must meet while gaining their experience to treat couples and families. It is very similar from the current Section 1820.5; however, references to trainees have been removed for clarity.
- c) Section 1820.7, Treatment of Couples and Families: This section outlines a process by which LPCCs and PCC interns receive Board confirmation that they have met the requirements to treat couples and families. Staff proposes the following:
 - LPCCs and PCC interns who have met the requirements must maintain records of completion, and submit them to the Board on a designated form.
 - Beginning January 1, 2014, before treatment of couples or families, the LPCC or PCC intern must receive written confirmation from the Board that he or she meets the requirements.

- The licensee or intern must then provide a copy of this written confirmation to the clients prior to beginning any couple or family treatment.
- Beginning January 1, 2014, an LPCC who is supervising an MFT intern or an LPCC or PCC intern gaining experience hours to treat couples or families, must obtain this written confirmation from the Board, and provide it to the supervisee prior to the commencement of supervision.

Does an LPCC licensee need to meet the additional education and experience requirements in a particular order?

Currently, CCR §1820.5 states that an LPCC is exempt from the additional requirements to treat couples or families if certain criteria is met. One of those requirements is:

“He or she has completed the required six semester/nine quarter units focused on the theory and application of marriage and family therapy or a named specialization or emphasis area in marriage and family therapy, marital and family therapy, marriage, family and child counseling, or couple and family therapy;...”

The term “has completed” implies that an LPCC licensee gaining the supervised experience required to treat couples or families must first complete the additional required education specific to marriage and family therapy. However, CCR §1820.5 makes no specification of the order of this requirement for PCC interns; the requirement is only for licensees.

It seems inequitable to allow a PCC intern to gain experience working with couples or families either before or while he or she is obtaining the required additional education, but require a licensed LPCC to wait until completing the education before beginning to gain the experience. In addition, it may create a hardship for LPCCs who had earned the supervised experience in the past, if they had not first completed the required MFT coursework. In such a case, the LPCC would technically meet the requirements, but would need to re-do the supervised experience because it was not completed in the “correct” order.

If it is not the intent of the Board that LPCCs must gain supervised experience to treat couples or families after completing the required education, staff suggests that the phrase currently in CCR §1820.5(b)(3)(A) be amended from “has completed” to “completes.”

Supervised experience obtained from an approved supervisor

CCR Section 1820.5 currently states that the supervised experience that is required for an LPCC, PCC intern, or trainee to treat couples or families must be gained under the supervision of either a marriage and family therapist, or under a licensee who meets all of the requirements to treat couples or families specified in BPC §4999.20.

Comments were made that it was not clear what type of supervisor could provide supervision. The law defines a “supervisor;” however, the regulation does not specify whether this supervisor must be a Board-approved supervisor. The Committee suggested that the supervisor should be a Board-approved supervisor.

Ms. Forster asked what the impact will be on the Board in terms of volume and resources. Ms. Madsen replied that the applicants will provide the letters from the supervisors, and the evaluators would verify the information. This would be another step in the evaluation process.

Christina Wong moved to direct staff to make any discussed changes and any non-substantive changes to the proposed amendments, and run the amendments as a regulatory proposal. Dr. Leah Brew seconded. The Board voted unanimously (10-0) to pass the motion.

The Board took a break at 2:42 p.m. and reconvened at 2:57 p.m.

e. Recommendation #5 – Possible Action to Sponsor Legislation to Allow Licensed Marriage and Family Therapist Applicants to Remediate Specific Coursework

Ms. Helms presented this proposal that would allow an LMFT applicant to remediate certain coursework deficiencies, and would clarify that LCSWs are also allowed to remediate certain coursework deficiencies.

Under current law, an LMFT applicant who applies for licensure with a degree earned in the State of California must demonstrate that the degree covers specific topic areas.

Similar requirements are in place for LPCC and LCSW applicants. However, the law makes it more difficult for LMFT applicants to remediate deficiencies in the degree. Therefore, staff is proposing amendments to make the law for remediation of deficient coursework more equitable across the Board's license types.

Current law for degree content can be summarized, by license type, as follows:

1. Existing Law for LMFT Applicants – Graduate Study Begun After August 1, 2012
This subgroup of LMFT applicants must obtain a degree that meets certain specified content area requirements. This is called a “single integrated degree program.” The Board will verify that degree programs in California meet the integrated degree requirements. Under this system, because the Board will be working with the school to ensure the degree includes the appropriate content, no remediation option is needed.
2. Existing Law for LMFT Applicants – Graduate Study Begun Before August 1, 2012
This subgroup of LMFT applicants must obtain a degree that meets certain specified content area requirements. In addition, there are coursework requirements, some of which must be completed within the degree and some of which may be remediated outside of the degree either through graduate-level work or from a CE provider. However, the areas of alcoholism and other chemical substance dependency, and spousal or partner abuse, must be obtained within the degree program. Although an out-of-state MFT applicant may remediate this coursework, an in-state applicant cannot. Therefore, an in-state applicant missing one of these areas must return to graduate study and obtain an entirely new degree.
3. Existing Law for LCSW Applicants
LCSW applicants must obtain a degree from an accredited school of social work. Because the accreditation standards specify standard coursework, LCSW law does not list as many specific coursework requirements as the LMFT and LPCC laws. LCSW law does state that the applicants must have coursework in alcoholism and chemical substance dependency, spousal or partner abuse, human sexuality, and child abuse assessment and reporting. All of this coursework may be completed through graduate-level work or from a CE provider. Recently questions have been raised regarding remediation of the spousal and partner abuse coursework through CE providers.
4. Existing Law for LPCC Applicants – Graduate Study Begun After August 1, 2012
This subgroup of LPCC applicants must obtain a degree that contains a specified number of units in each of several core content areas. Up to three of these core

content areas may be remediated with post-master's level coursework if missing from the degree. In addition, several other areas of instruction are required that will be integrated into the degree program.

5. Existing Law for LPCC Applicants – Graduate Study Begun Before August 1, 2012
This subgroup of LPCC applicants must obtain a degree that contains a specified number of units in each of several core content areas. Up to two of these core content areas may be remediated with post-master's level coursework if missing from the degree. In addition, several other areas of instruction are required that can be remediated either through post-master's level coursework or from a CE provider.

The proposed amendments fall into two categories:

LMFT Applicant Remediation of a Deficient Degree – Graduate Study Begun Before August 1, 2012: Amend Sections 4980.41 to allow an LMFT applicant whose degree is deficient in alcoholism and other chemical substance dependency, or spousal or partner abuse assessment, to remediate those deficiencies. Remediation may be from a Board-accepted continuing education provider, or an accredited or approved institution as defined in law.

Spousal or Partner Abuse Coursework Requirements for LCSW Applicants, and for LPCC and LMFT Applicants who Began Graduate Study Before August 1, 2012

LMFT law states that the qualifying degree shall include at least 15 contact hours of coursework, and that the applicant must provide a certification from the chief academic officer of their school that the required coursework is included within the institution's required curriculum for graduation.

LPCC law requires 15 contact hours of coursework, but this coursework does not have to be part of the degree program. The Board has historically interpreted the law to allow the course be taken from either an accredited or approved educational institution, or from a Board accepted continuing education provider.

LCSW applicants must also complete instruction and training in spousal or partner abuse assessment. However, the law is less clear about whether the instruction and training must be part of the degree program. Although the law does not specifically state that the required 15 contact hours of coursework must be part of the degree program as LMFT law, it states that required coursework may be taken either in fulfillment of other educational requirements for licensure or in a separate course. It also states that the chief academic officer of the school must certify that such coursework is in the curriculum required for graduation.

Because the law does not specifically state that the qualifying degree must contain this coursework, the Board has historically interpreted the LCSW law to allow the applicant to remediate any deficiency in this requirement by completing coursework either from an accredited or approved educational institution or from a Board-approved continuing education provider.

Staff recommends that the language requiring certification from the chief academic officer of the school that the required coursework is included within the institution's required curriculum for graduation, be removed from both LMFT and LCSW law. Removal of this sentence will allow both LMFT and LCSW applicants to remediate this coursework. Remediation may be either from an accredited or approved educational institution, or from a Board accepted continuing education provider.

Patricia Lock-Dawson moved to direct staff to make any discussed changes and any non-substantive changes and sponsor urgency legislation to make the

suggested amendments. Sarita Kohli seconded. The Board voted unanimously (10-0) to pass the motion.

f. Recommendation #6 – Possible Action to Sponsor Legislation to Revise Licensure Requirements for Out-of-State Licensed Marriage and Family Therapists and Licensed Professional Clinical Counselor Applicants

Ms. Helms presented proposed amendments to revise licensure requirements for out-of-state applicants.

Licensing requirements for out-of-state LMFT and LPCC applicants are set to change on January 1, 2014. Recently, concerns have been raised that the manner in which the coursework must be remediated is so strict that it creates a barrier to licensure for out-of-state applicants. This proposal makes amendments that provide additional remediation options for out-of-state applicants.

SB 33 became law on January 1, 2010. This bill made a number of changes to the required curriculum to become licensed as a LMFT for persons who begin graduate study on or after August 1, 2012. Major changes made by this bill were as follows:

- Increases the degree's total unit requirement from 48 to 60 semester units (72 to 90 quarter units).
- Provides more flexibility in the curriculum requirements, such as fewer requirements for specific hours or units for particular coursework, to allow for innovation in curriculum design.
- Infuses the culture and norms of public mental health work and principles of the Mental Health Services Act throughout the curriculum
- Changes the requirements for LMFT applicants who earned a degree outside of California effective January 1, 2014. The out-of-state applicant will be required to complete all units and coursework listed under BPC Section 4980.36(d). This subsection consists of an extensive list of requirements for a degree begun after August 1, 2012, all of which must be graduate level coursework and must consist of at least 60 semester or 90 quarter units.

SB 33 was the result of an extensive committee process and public discussion by the Board and its stakeholders. As the implementation date draws closer, however, concerns are being raised about how the changes will affect the portability of licenses for out-of-state applicants.

LPCC out-of-state applicant requirements were mirrored after LMFT law, and therefore contain similar changes in the out-of-state applicant requirements effective January 1, 2014.

Staff is concerned that requiring out-of-state applicants to complete such a large number of additional graduate level units, much of which consists of coursework specifically addressing California cultures, will create such a barrier to out-of-state licensees that they won't be able to obtain a license without significant additional cost.

At the time that the Board considered changing the out-of-state requirements for LMFT applicants, there was discussion that schools would be able to adjust to offer programs of coursework specifically aimed at out-of-state applicants. However, the economic climate was different during that time. Today, many of the public-run colleges and universities are overcrowded and facing strict budgetary constraints. They are not able to offer coursework to students who have not been accepted as part of their master's degree programs.

Without having the option to make up coursework from CE providers, the only option for out-of-state applicants would be to turn to private colleges and universities, which may offer graduate level coursework to individuals not enrolled in their master's degree program, but at a very high price-per-unit.

Staff is proposing two separate Board actions:

1. Pursue legislation to extend the effective date of the new education requirements for out-of-state applicants for licensure from January 1, 2014 to January 1, 2015.

Pursuing this legislative proposal this year would push the implementation date of the new out-of-state requirements out one year. This would allow the Board time to carefully consider how to best address the problems posed by the new out-of-state requirements.

2. Pursue legislation to change the education requirements for out-of-state applicants for licensure, effective January 1, 2015.

This proposal could either be pursued this year, as an amendment to the bill mentioned above, or the following year, if more time is needed to address various issues. The proposed amendments do the following:

- a. Extends the implementation date of the new out-of-state requirements until January 1, 2015.
- b. Continues to require that unlicensed out of state applicants for licensure or registration have a degree that contains at least 48 semester/72 quarter units and the 6 semester/9 quarter units of practicum. They would still need to make up any deficiencies in the 60 semester/90 quarter units required by LMFT law and LPCC law.

For LMFTs, the law has been amended to allow them to remediate any missing course content requirements from either an accredited or approved school, or from a CE provider that is approved by the Board.

The amendments would allow LPCCs to remediate up to three of the core content areas from an accredited or approved school. They could also remediate any missing course content requirements from either an accredited or approved school, or from an approved CE provider.

- c. Allows an applicant for registration to complete any deficient units and course content requirements while registered as an intern.
- d. Continues to require that out-of-state applicants who are licensed in another state have a degree that contains at least 48 semester/72 quarter units and the 6 semester/9 quarter units of practicum. They would not make up any deficiencies in the 60 semester/90 quarter units; instead, their 48 semester/72 quarter unit degree would be sufficient.

Ms. Madsen stated that this is an unintended consequence. If the Board does not act before 2014, out-of-state applicants, who are licensed in other states, will be required to get another master's degree. That is cost-prohibitive and a barrier to licensure in California. Extending the effective date allows time to form a committee to address these issues.

Patricia Lock-Dawson moved to sponsor legislation to extend the effective date of the new education requirements for out-of-state applicants to January 1, 2015, and to direct staff to conduct research to address this matter. Christina Wong seconded.

Ms. Porter stated that she approves of the staff's suggestion.

Ms. Loewy commented that she agrees with the proposal to delay implementation. She expressed concern regarding the anticipated provider shortage, which will be increasing. She added that the new curriculum was "innovative, cutting-edge, and outstanding." This is not just about the Mental Health Services Act (MHSA), but this is also about national health care reform. California is leading the nation in health care reform and new treatments.

The Board voted (9-1) to pass the motion.

g. Recommendation #7 – Possible Action to Sponsor Legislation to Review the California Family Code to Allow the Board to Receive Confidential Child Custody Reports for Investigative Purposes

Ms. Madsen presented the background and proposed legislation to amend Family Code Sections 3111 and 3025.5

For many years, Board licensees have assisted California Family Courts in resolving issues or concerns related to matters of child custody. In this role, a Board licensee may serve as a child custody recommending counselor, formerly known as mediators, as a court connected child custody evaluator or as a private child custody evaluator. Each role has specific qualifications and requirements established through the Rules of the Court and the California Family Code.

A child custody recommending counselor may be a member of the professional staff of the family court, probation department, or mental health services agency or any other person or agency designated by the court. The child custody recommending counselor is not required to possess a license with the Board. However, they must meet specific educational and training requirements set forth in Family Code.

The role of the child custody recommending counselor is to assist parents in resolving their differences and to develop a plan agreeable to both parties. In situations in which the parties cannot agree, the child custody recommending counselor prepares a recommendation to the court. The time appropriated for this service is not extensive and does not require an in depth assessment of the situation.

A court connected child custody evaluator or a private child custody evaluator has a more extensive role and must be an LMFT, LCSW, a licensed Psychologist, or a licensed Physician that is either a Board certified Psychiatrist or has completed a residency in psychiatry. The evaluator has the task of conducting a comprehensive assessment, also referred to as an evaluation, to determine the best interest of the child in disputed custody or visitation rights.

Conducting an evaluation (report) requires a significant amount of time. The Rules of the Court specify the content each evaluation must include as well as a description of the work completed by the evaluator. The evaluation is submitted to the court, and the court bases their decision on the evaluation.

Pursuant to Family Code Section 3025.5, the report submitted by the evaluator is considered confidential. The report may only be disclosed to the following persons:

- A party to the proceeding and his or her attorney;
- A federal or state law enforcement officer, judicial officer, court employee, or family court facilitator for the county in which the action was filed, or an employee or agent of that facilitator;

- Counsel appointed for the child pursuant to Family Code Section 3150;
- Any other person upon order of the court for good cause.

An individual releasing this report may be subject to sanctions by the court.

Family Code section 3110.5(e) states *a child custody evaluator who is licensed by the Medical Board of California, the Board of Psychology, or the Board of Behavioral Sciences shall be subject to disciplinary action by that board for unprofessional conduct, as defined in the licensing law applicable to that license.*

The court advises individuals that if they have a complaint against a mediator or evaluator, to file a complaint with the court. Each court has its own procedures for filing a complaint. Further, the individual may express their complaint to the judge at the time of their hearing.

The individuals are also advised that if their complaint is about ethical conduct or licensing issues, they may contact the appropriate state licensing board.

The Board receives numerous complaints against licensees who provide evaluations or recommendations to the courts. The Board does not investigate complaints that involve a mediator, due their limited role. The Board will investigate complaints involving evaluators.

In all complaints, the source of the complaint alleges the licensee's conduct/recommendation is unprofessional or is unethical. As in all complaint investigations, the Board must obtain the relevant information to determine if a violation of the Board's statutes and regulations has occurred.

Since the nature of the complaint directly references the evaluator's report to the court, to fully investigate the allegations, the report is a critical piece of information. Often the Board will receive this report from the source of the complaint. In cases where the Board has received this report, the Board has proceeded with an investigation. These investigations are time intensive and involve the use of a Subject Matter Expert (SME) and at times, assistance from the Division of Investigation.

Board staff observes significant challenges associated with these cases. The inability to obtain all of the relevant documentation requires the Board to close an investigation. These complaints make up 30% of the complaints received by the Board.

The Board has learned that its investigation of these cases is a concern for the courts in that licensees were alarmed that their reports may be subject to a Board investigation. Many licensees expressed an unwillingness to continue their role as an evaluator. Consequently, the courts became concerned about decreasing resources to perform this service.

In the summer of 2011, Board staff initiated discussions with the Administrative Office of the Courts (AOC) to exchange information on each entity's process, and to explore possible solutions to resolve the current issues. During the initial meeting, the Board was informed that current law did not allow the Board access to the evaluator's report. The AOC explained that the report is confidential and could only be released to the Board by the court. To obtain the report, the Board is required to file a petition or subpoena with the court.

At subsequent meetings, the Board was provided with contact information for each court to provide to individuals who had a complaint about an evaluator and their report.

Ms. Madsen cited examples of two separate cases in which the Board received the confidential reports and ultimately had to close the cases.

In the first case, allegations were made against a licensee engaging in unethical conduct. The Board moved forward in its investigations after it received the evaluator's report. The Board's investigation revealed potential violations of the Board's statutes and regulations. The investigation was forwarded to an SME for review and opinion. The SME opined that the licensee provided inaccurate and incomplete information to the court.

The Board referred the case to the Attorney General for disciplinary action. The Deputy Attorney General assigned to the case determined it was in the Board's best interest to seek formal release of this document from the court to the Board. Therefore, a motion was filed in Superior Court seeking the release of this document to the Board for the upcoming administrative hearing. The judge denied the Board's request.

As a result, the document that served as the basis for the Board's action against the licensee would be inadmissible in the upcoming administrative hearing. The Board had no other alternative than to withdraw its action against the licensee.

In the second case, the Board received complaints regarding a licensee who conducted custody evaluations for two separate families. In the first complaint, it was alleged that the licensee entered into a dual relationship, in addition to preparing the custody evaluation, the licensee also provided supervision during parental visitation. Furthermore, the licensee overcharged the parent for the evaluation in addition to charging the parent for supervision.

The second complaint alleged the licensee provided a biased custody evaluation report to the court. The licensee did not review all the documents obtained during the evaluation. Rather, the licensee randomly selected the documents to review and based the custody evaluation on these limited documents. Moreover, the licensee omitted positive statements regarding one parent as well as misrepresented the comments of interviewees in the report. As a result, an unbalanced and subjective evaluation of one parent was submitted to the court.

The Board received sufficient documentation to investigate both cases. In the second complaint, the Board also received the custody evaluation. The Board's investigation revealed several potential violations of law. Although some of the violations were based on the custody evaluation report, clear and convincing evidence existed to proceed with the remaining violations. The Board proceeded with formal disciplinary action and the matter was referred to the Attorney General's office.

An administrative hearing was conducted in which testimony and evidence was submitted. During the hearing, the confidential custody evaluation was provided to the court by the licensee. The Administrative Law Judge reviewed this report and concluded that the report demonstrated bias. A proposed decision for discipline was issued for all of the alleged violations.

In February 2012, the Board met with the AOC to discuss the inability to fully investigate allegations of licensee misconduct if the Board cannot obtain the relevant documentation to use in an administrative hearing. Both the Board and the AOC agree that it is essential that the courts receive accurate information from the child custody evaluator in order to determine the best interest of the child. Further, the AOC and the Board agree that a solution to this issue requires a legislative proposal to revise existing law.

At its meeting in April 2012, the Committee and stakeholders discussed whether or not to pursue a legislative change to allow the Board access to this confidential report for investigative purposes. The Committee directed staff to draft language to allow the Board access to the confidential report for investigative purposes.

Following the April 2012 meeting, Board staff met with the AOC to develop language that allows the Board access to the report. Specifically, the AOC suggested language that would allow any of the parties to provide the report to the Board for investigative purposes.

Release of the report under this circumstance would not be considered an unwarranted disclosure. Thus, the party who released the report would not be subject to sanctions from the court. In the event the Board believed it was not provided the full report, the Board may then submit a written request to the Court for the report.

Dr. Ian Russ, LMFT and custody evaluator, wrote a letter to the Board regarding his concerns and professional opinion in support of the proposed legislation. Ms. Madsen read the letter aloud to the Board members and audience. This letter was submitted to the Board members and made available to the audience.

Ms. Epstein expressed that there is a reason for this report to remain confidential. The Board may get the confidential report by petitioning to the court and showing good cause.

Ms. Epstein stated that the courts can take action on these evaluators. She asked if the only recourse is removing the evaluators from the court system, could the Board use that as grounds to initiate an investigation. The courts do not have a lot of resources, and the solution is not to compromise these confidential reports.

Ms. Madsen stated that if the Board could get the report on the onset of the investigation, staff could determine if there is merit to the allegations. Currently, the Board cannot do anything with these complaints because they are related to the report.

Ms. Lonner recalled addressing this issue over 3 years ago. The Board began meeting with the AOC, and it was the Board's hope that the court would take on this responsibility. The Board felt that the AOC, a panel, was "taking care of its own." Furthermore, each county in California is autonomous and has their own methods of addressing complaints. Most of the counties do not deal with the complaints because they do not have enough staff.

Ms. Madsen added that she appreciates the concern regarding confidentiality of the reports. However, the Board always receives confidential information. Staff treats it respectfully and protects identities.

Dr. Leah Brew moved to direct staff to pursue legislation to revise Family Code section 3111 and 3025.5. Renee Lonner seconded. The Board voted unanimously (10-0) to pass the motion.

h. Legislative Update

Ms. Helms reported that all of the bills sponsored by the Board were signed into law and will be effective January 2, 2013, with the exception of the urgency measure that became effective in July 2013.

i. Rulemaking Update

Ms. Helms reported that the regulation package for Title 16, CCR Sections 1811, 1870, 1887.3: Revision of Advertising Regulations, Two-Year Practice Requirement for Supervisors of Associate Social Workers (ASWs), and HIV/AIDS Continuing Education Course for LPCCs was submitted to the Office of Administrative Law for final approval.

X. Discussion and Possible Rulemaking Action Regarding Revision of Disciplinary Guidelines

Ms. Helms presented the proposed regulations to revise the Disciplinary Guidelines.

The Board approved this regulatory proposal at its meetings on November 9, 2011 and May 16, 2012. The proposal was then submitted to the Office of Administrative Law (OAL), and opened to public comment for a 45-day period. A public hearing was held on October 16, 2012.

This regulatory proposal amends the Disciplinary Guidelines. These changes are based on suggested adjustments from the Board's enforcement unit for clarity. One of the items that staff is requesting clarity on is the Rehabilitation Program: The Board may require a respondent to participate in a rehabilitation program as one of the terms of his or her probation. These regulations propose an amendment requiring a rehabilitation program to submit to the Board quarterly written reports addressing the respondent's progress in the program.

Although this requirement is currently written in the instructions and the approval letter of the rehabilitation program, staff requested its addition to the Disciplinary Guidelines for further clarity.

The Board received a public comment letter from the CAMFT. After reviewing the letter, staff is proposing a modification to the language in the Disciplinary Guidelines on page 19. The proposed change affects Optional Term and Condition of Probation #7: Rehabilitation Program.

CAMFT asked that the following sentence of this optional term be changed:

"The respondent shall ensure that the Board receives quarterly written reports from the rehabilitation program addressing the respondent's progress in the program"

CAMFT is concerned that the use of the term "ensure" implies that the respondent is able to control the rehabilitation program and its staff.

In response, staff proposes modifications to this sentence to increase clarity and to make the language consistent with Optional Term and Condition of Probation #3. The above sentence was deleted and replaced with the following sentence:

"The respondent shall take all necessary steps to ensure that the rehabilitation program submits quarterly written reports to the Board addressing the respondent's treatment and progress in the program."

It is ultimately the responsibility of the respondent to make sure that the rehabilitation program sends the report to the Board. The Board currently requests this report and has not encountered a situation where the rehabilitation program refused to send reports, as long as they have the signed released form authorizing them to do so.

Sarita Kohli moved to direct staff to take all steps necessary to finalize the rulemaking process, including modifying the text as approved, submitting modified text for a 15-day public comment period, making any non-substantive changes to the rulemaking

package, and submitting the final package to OAL to promulgate the regulations. Christina Wong seconded. The Board voted unanimously (10-0) to pass the motion.

XI. Suggestions for Future Agenda Items

Dr. Brew made the following suggestions:

- MFTs can double count family and couple hours. However, there is nothing in legislation to allow LPCCs to do the same. Dr. Brew would like to see this changed.
- Dr. Brew asked if licensees who are teaching courses, as opposed to taking courses, can count that as credit.

XII. Public Comment for Items Not on the Agenda

There were no public comments.

XIII. Adjournment

The Board moved to closed session at 4:25 p.m. for discussion and possible action on disciplinary matters. The meeting was adjourned at the end of closed session at 5:42 p.m.

Thursday, November 29th

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Linda Forster, Public Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Christina Wong, LCSW Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Rosanne Helms, Legislative Analyst
Julie McAuliffe, Probation Monitor
Christina Kitamura, Administrative Analyst
Dianne Dobbs, Legal Counsel

Members Absent

Samara Ashley, Public Member
Eileen Colapinto, Public Member
Karen Pines, Vice Chair, LMFT Member

Guest List

On file

FULL BOARD OPEN SESSION

XIV. Introductions

Dr. Christine Wietlisbach, Board Chair, called the meeting to order at 8:45 a.m. Christina Kitamura called roll, and a quorum was established.

Board members and Board staff introduced themselves.

XVI. Petition for Early Termination of Probation for James Pannell, Jr., MFC 40612

Christopher Ruiz, Administrative Law Judge (ALJ), presided over the hearing. Christina Thomas, Deputy Attorney General (DAG), and Zackary Fanselow, DAG, represented the Board of Behavioral Sciences. James Pannell was not represented by an attorney.

Judge Ruiz opened the hearing. Mr. Pannell was sworn in. DAG Thomas presented the background of Mr. Pannell's probation. Mr. Pannell presented his request for early termination of probation and information to support the request. DAG Thomas cross-examined Mr. Pannell. Board members also posed questions to Mr. Pannell.

After Mr. Pannell answered all questions, Judge Ruiz closed the hearing at approximately 9:46 a.m. and called for a short break. The Board reconvened at approximately 9:58 a.m.

Renee Lonner excused herself from the remainder of the meeting. A quorum of the Board remained.

XVII. Petition for Early Termination of Probation for Jordan Perzik, IMF 67104

Christopher Ruiz, ALJ, presided over the hearing. Christina Thomas, DAG, and Zackary Fanselow, DAG, represented the Board of Behavioral Sciences. Jordan Perzik was represented by his attorney, David Manning Chodos.

Judge Ruiz opened the hearing. Mr. Perzik was sworn in. DAG Thomas presented the background of Mr. Perzik's probation. Mr. Perzik presented his request for early termination of probation and information to support the request. DAG Thomas cross-examined Mr. Perzik. Board members also posed questions to Mr. Perzik.

After Mr. Pannell answered all questions, Judge Ruiz closed the hearing at approximately 10:21 a.m. and called for a short break. The Board reconvened at approximately 10:26 a.m.

XVIII. Petition for Early Termination of Probation for Rachel Sherwyn, IMF 56287

Christopher Ruiz, ALJ, presided over the hearing. Christina Thomas, DAG, and Zackary Fanselow, DAG, represented the Board of Behavioral Sciences. Rachel Sherwyn was not represented by an attorney.

Judge Ruiz opened the hearing. Ms. Sherwyn was sworn in. DAG Thomas presented the background of Ms. Sherwyn's probation. Ms. Sherwyn presented her request for early termination of probation and information to support the request. DAG Fanselow cross-examined Ms. Sherwyn. Board members also posed questions to Ms. Sherwyn.

After Ms. Sherwyn answered all questions, Judge Ruiz closed the hearing at approximately 10:44 a.m.

XIX. Petition for Early Termination of Probation for Edward Tovar, MFC 48554

Christopher Ruiz, ALJ, presided over the hearing. Christina Thomas, DAG, and Zackary Fanselow, DAG, represented the Board of Behavioral Sciences. Edward Tovar was not represented by an attorney.

Judge Ruiz opened the hearing. Mr. Tovar was sworn in. DAG Thomas presented the background of Mr. Tovar's probation. Mr. Tovar presented her request for early termination of probation and information to support the request. DAG Fanselow cross-examined Mr. Tovar. Board members also posed questions to Mr. Tovar.

After Mr. Tovar answered all questions, Judge Ruiz closed the hearing at approximately 11:18 a.m. and called for a short break. The Board reconvened at approximately 11:30 a.m.

The Board moved to closed session.

FULL BOARD CLOSED SESSION

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

The Board returned to open session at 1:33 p.m.

FULL BOARD OPEN SESSION

XV. Ethical Decision Making – Dianne Dobbs, DCA Senior Legal Counsel

Dianne Dobbs, DCA Senior Legal Counsel, presented Ethical Decision Making to the Board. Ms. Dobbs discussed the Bagley-Keene Open Meeting Act and explained the responsibilities of the Board and its members.

XX. Suggestions for Future Agenda Items

There were no suggestions for future agenda items.

XXI. Public Comment for Items Not on the Agenda

There were no public comments.

XXIII. Adjournment

The meeting was adjourned at 2:23 p.m.

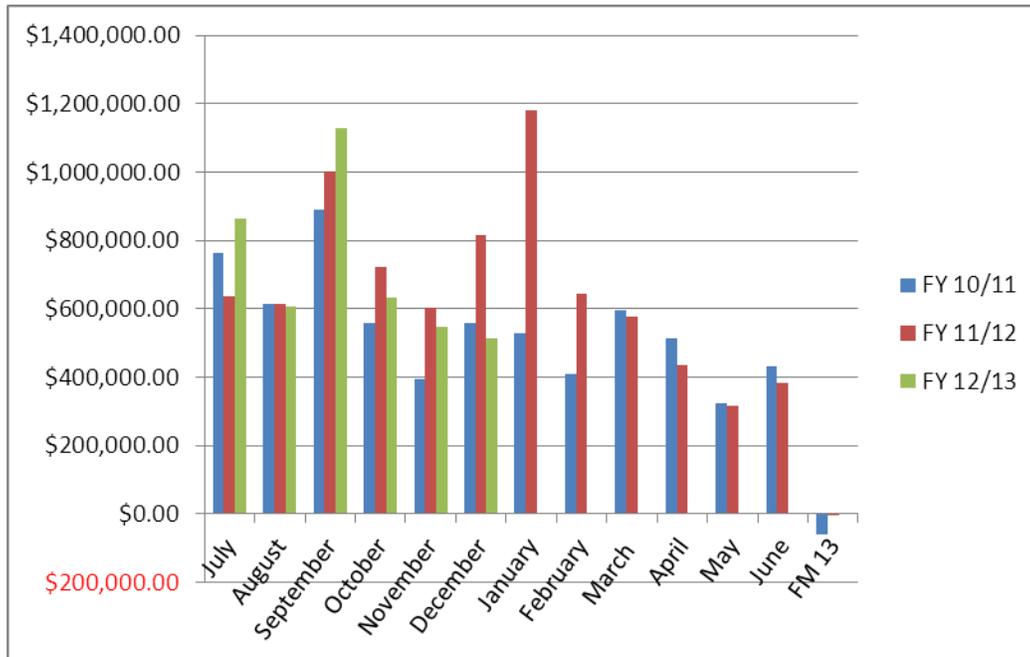


2012/2013 Budget

The 2012/2013 budget for the Board is \$8,077,669. As of December 31, 2012, the Board has spent \$3,407,838 reflecting 42% of the total budget. The chart below provides a breakdown of expense categories and percentages.

Expense Category	Amount	Percentage
Personnel	\$ 1,406,116.00	7%
OE&E	\$ 1,455,279.32	18%
Enforcement	\$ 545,152.70	7%
Minor Equipment	\$ 1,290	0%
Total	\$3,407,838	42%

Revenues collected as of December 31, 2012 total \$4,293,745.99.



2013/2014 Budget

As a result of spending cuts and the passage of Proposition 30, which provides new temporary revenues, the Governor’s 2013/2014 budget is projected to remain balanced for the foreseeable future. Although this is good news for California, the Governor’s primary budget priority continues to be maintaining structurally balanced budget.

The expectation is that departments will continue to control costs, increase efficiencies, and refrain from creating new or expanding existing programs. Therefore, any changes to the Board's budget must meet the criteria set forth in Budget Letter 12-15. Specifically, the Board may submit Budget Change Requests (BCPS) under the following circumstances.

- A statutory change necessary to manage its budget.
- Existing or ongoing Information Technology (IT) Projects

Approval of BCPs that request additional staff resources will be a challenge in this current climate. Therefore, the Board continues to evaluate all of its programs to seek efficiencies or creative solutions to its increasing workload.

New to the Governor's budget is the inclusion of performance based budgeting. Executive Order B-13-11 directed the Department of Finance (DOF) to work with various departments to utilize performance based budgeting to increase efficiency and focus on accomplishing program goals. The Department of Consumer Affairs (DCA) is one the entities selected for this project.

Several years ago, DCA developed performance measures for the Boards and Bureaus' enforcement program. The measures were developed in response to reports that the enforcement process often exceeded 3 years. The goal of these measures is to reduce the overall enforcement process to 18 months. This information is reported quarterly and posted on the DCA website.

Currently, only the enforcement performance measures are reported. It is anticipated that following the implementation of BreEZe, DCA will be able to provide licensing and examination data.

Attached is a copy of DCAs performance based budgetiing as reported in the Governor's 2013/2014 budget.

BBS EXPENDITURE REPORT FY 2012/13

OBJECT DESCRIPTION	11/12	FY 2012/13			
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT AS OF 12/31/2012	PROJECTIONS	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	1,728,520	1,990,849	888,782	2,044,000	(53,151)
Salary & Wages (Stat Exempt)	89,748	86,904	43,470	87,000	(96)
Temp Help (907)(Seasonals)	0	7,105	0	0	7,105
Temp Help (915)(Proctors)	0	444	0	0	444
Board Memb (Per Diem)	13,700	12,900	6,800	14,000	(1,100)
Overtime	0	14,533	377	1,500	13,033
Totals Staff Benefits	865,004	1,002,306	466,687	1,062,000	(59,694)
Salary Savings					0
TOTALS, PERSONAL SERVICES	2,696,972	3,115,041	1,406,116	3,208,500	(93,459)
OPERATING EXP & EQUIP					
Fingerprint Reports	15,897	19,827	5,765	18,000	1,827
General Expense	44,833	47,720	39,101	80,000	(32,280)
Printing	43,882	53,000	26,729	45,000	8,000
Communication	7,992	11,513	5,482	11,000	513
Insurance	0	325	0	0	325
Postage	79,993	108,009	53,440	100,000	8,009
Travel, In State	88,948	55,684	24,956	100,000	(44,316)
Travel, Out-of-State	28,319	72,000	4,692	35,000	37,000
Training	7,745	20,463	1,990	5,000	15,463
Facilities Operations	267,195	227,925	122,916	243,000	(15,075)
Utilities	280	4,330	0	0	4,330
C&P Services - Interdept.	0	14,939	0	34,232	(19,293)
C&P Services-External Contracts	33,942	234,978	6,300	145,000	89,978
DEPARTMENTAL PRORATA					
DP Billing (424.03)	516,006	803,418	407,416	803,418	0
Indirect Distribution Costs (427)	389,640	393,793	202,000	393,793	0
Public Affairs (427.34)	26,284	22,459	11,388	22,459	0
D of I Prorata (427.30)	13,058	15,946	8,076	15,946	0
Consumer Relations Division (427.35)	26,881	27,311	13,814	27,311	0
OPP Support Services (427.01)	0	490	0	490	0
Interagency Services (OER IACs)	243,757	325,065	21,628	239,000	86,065
Consolidated Data Services (428)	2,252	24,096	1,154	5,000	19,096
Data Proc (Maint,Supplies,Cont) (432)	17,255	10,448	20,080	50,000	(39,552)
Statewide Pro Rata (438)	322,127	434,800	217,440	434,800	0
EXAM EXPENSES					
Exam Site Rental	34,953	99,630	8,781	99,630	0
Exam Contract (PSI) (404.00)	334,567	358,659	216,209	360,000	(1,341)
C/P Svs - Expert Examiners (404.01)	0	45,000	0	0	45,000
C/P Svs - External Subj Matter (404.03)	212,020	365,260	35,923	215,000	150,260
ENFORCEMENT					
Attorney General	991,570	801,588	428,418	1,000,000	(198,412)
Office of Admin. Hearing	139,768	154,926	52,972	140,000	14,926
Court Reporters	6,516	0	3,921	9,000	(9,000)
Evidence/Witness Fees	34,283	94,955	15,772	39,000	55,955
Division of Investigation	239,510	86,771	44,070	86,771	0
LPCC	398,076				
Minor Equipment (226)	25,896	8,300	1,290	5,000	3,300
Equipment, Replacement (452)	24,162	0	0	35,000	(35,000)
Equipment, Additional (472)	0	0	0	0	0
Vehicle Operations	0	19,000	0	0	19,000
TOTAL, OE&E	4,617,607	4,962,628	2,001,722	4,797,850	164,778
TOTAL EXPENDITURES	\$7,314,579	\$8,077,669	\$3,407,838	\$8,006,350	\$71,319

Reimbursements	FY 11/12 Actuals	Current	
		Budget Alotment	as of 11/30/2012
Fingerprints	(13,301)	(24,000)	(6,314)
Other Reimbursements	(11,215)	(26,000)	(3,135)
Unscheduled Reimbursements	(120,609)		(60,735)
Total Reimbursements	(145,125)	(50,000)	(70,184)

BLUE PRINT INDICATES THE ITEMS ARE SOMEWHAT DISCRETIONARY.

0773 - Behavioral Science Analysis of Fund Condition

Prepared 1/29/2013

(Dollars in Thousands)

Governor's Budget

NOTE: \$6.0 M GF Loan (2002/03) \$3.0M (2008/09)
\$3.3M (2011/12)

NOTE: \$8.1M GF Loan Repayments Deferred to After 2016-17

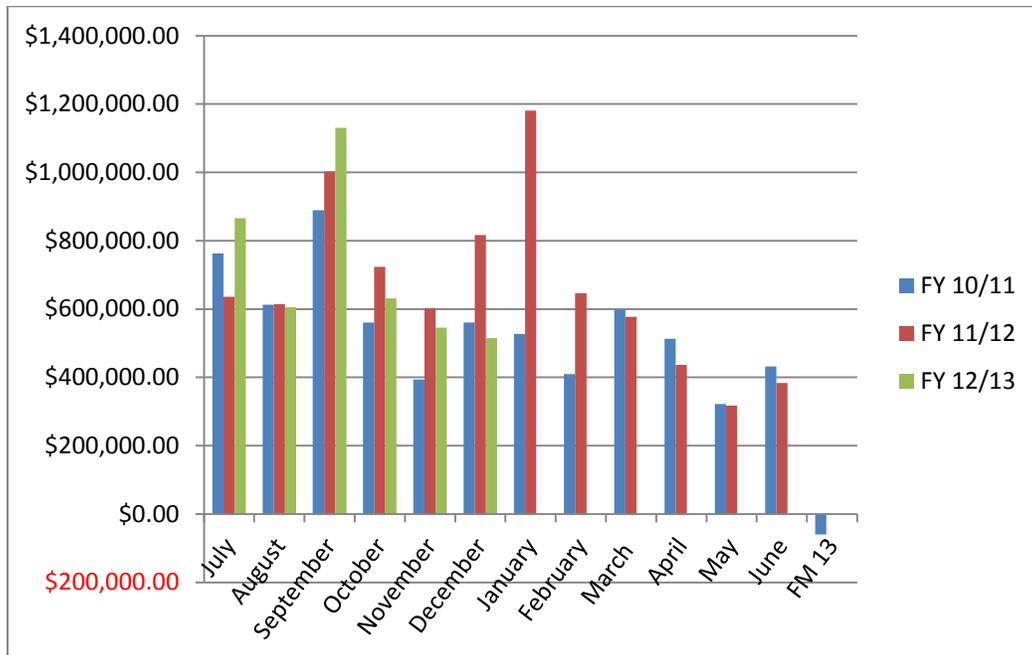
	ACTUAL 2011-12	CY 2012-13	Governor's Budget BY 2013-14	BY +1 2014-15	BY +2 2015-16	BY +3 2016-17	BY +4 2016-17
BEGINNING BALANCE	\$ 4,528	\$ 1,798	\$ 1,290	\$ 2,231	\$ 2,445	\$ 2,596	\$ 2,780
Prior Year Adjustment	\$ 99	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 4,627	\$ 1,798	\$ 1,290	\$ 2,231	\$ 2,445	\$ 2,596	\$ 2,780
REVENUES AND TRANSFERS							
Revenues:							
125600 Other regulatory fees	\$ 83	\$ 70	\$ 76	\$ 76	\$ 76	\$ 76	\$ 76
125700 Other regulatory licenses and permits	\$ 3,142	\$ 2,818	\$ 2,698	\$ 2,698	\$ 2,698	\$ 2,698	\$ 2,698
125800 Renewal fees	\$ 4,478	\$ 4,608	\$ 4,734	\$ 4,734	\$ 4,734	\$ 4,734	\$ 4,734
125900 Delinquent fees	\$ 68	\$ 62	\$ 65	\$ 65	\$ 65	\$ 65	\$ 65
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ 2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 10	\$ 4	\$ 9	\$ 5	\$ 5	\$ 5	\$ 5
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
161400 Miscellaneous revenues	\$ 6	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7
Totals, Revenues	\$ 7,791	\$ 7,571	\$ 7,591	\$ 7,587	\$ 7,587	\$ 7,587	\$ 7,587
Transfers from Other Funds							
F00683 Teale Data Center (CS 15.00, Bud Act of 2005)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
F00001 GF loan repayment per item 1170-011-0773 BA of 2002	\$ -	\$ -	\$ 1,400	\$ 800	\$ 900	\$ 1,100	\$ -
F00001 GF loan repayment per item 1110-011-0773 BA of 2008							
Transfers to Other Funds							
T00001 GF loan per item 1170-011-0773 BA of 2002	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
T00001 GF loan per item 1110-011-0773 BA of 2008	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
T00001 GF loan per item 1110-011-0773 BA of 2011	\$ -3,300	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 4,491	\$ 7,571	\$ 8,991	\$ 8,387	\$ 8,487	\$ 8,687	\$ 7,587
Totals, Resources	\$ 9,118	\$ 9,369	\$ 10,281	\$ 10,618	\$ 10,932	\$ 11,283	\$ 10,367
EXPENDITURES							
Disbursements:							
8860 FSCU (State Operations)	\$ 9	\$ 9	\$ -	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for California	\$ 21	\$ 43	\$ 37	\$ -	\$ -	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 7,290	\$ 8,027	\$ 8,013	\$ 8,173	\$ 8,336	\$ 8,503	\$ 8,673
Total Disbursements	\$ 7,320	\$ 8,079	\$ 8,050	\$ 8,173	\$ 8,336	\$ 8,503	\$ 8,673
FUND BALANCE							
Reserve for economic uncertainties	\$ 1,798	\$ 1,290	\$ 2,231	\$ 2,445	\$ 2,596	\$ 2,780	\$ 1,694
Months in Reserve	2.7	1.9	3.3	3.5	3.7	3.8	#DIV/0!

NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2014-15 AND ON-GOING.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR IN 2014-15 AND ON-GOING.
- ASSUMES INTEREST RATE AT 0.3%.

BBS Revenue Analysis

Month	FY 09/10	FY 10/11	FY 11/12	FY 12/13
July	\$443,240.40	\$762,284.90	\$636,305.00	\$865,553.99
August	\$882,032.22	\$612,879.75	\$614,882.97	\$605,609.87
September	\$866,668.07	\$888,896.00	\$1,002,602.57	\$1,130,230.37
October	\$560,398.81	\$560,370.10	\$723,621.83	\$631,685.86
November	\$423,006.21	\$393,690.35	\$601,895.03	\$545,880.97
December	\$503,837.85	\$560,118.27	\$816,772.93	\$514,784.93
January	\$431,585.53	\$527,079.68	\$1,180,871.34	
February	\$430,200.00	\$409,637.17	\$646,040.15	
March	\$569,946.20	\$597,687.20	\$576,972.25	
April	\$411,491.57	\$512,561.91	\$437,016.67	
May	\$338,009.28	\$322,487.96	\$317,204.07	
June	\$378,260.00	\$432,003.03	\$383,326.67	
FM 13	\$6,175.21	(\$59,968.77)	(\$1,375.78)	



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1110 Department of Consumer Affairs Regulatory Boards - Continued

Department of Consumer Affairs Performance Based Budgeting

The Department of Consumer Affairs (DCA) oversees a wide variety of autonomous Boards and Bureaus that certify, register, and license individuals and entities that provide goods and/or services in the state. The overall purpose of the DCA is to promote a fair and competitive marketplace in which consumers are protected. The DCA provides consumers and licensees with valuable information and training and processes and mediates complaints. When appropriate, cases are referred to the Attorney General's office or law enforcement authorities for administrative action, civil and/or criminal prosecution.

Background

Executive Order B-13-11 requires the Department of Finance (DOF) to work in conjunction with various departments to utilize performance-based budgeting to increase efficiency and focus on accomplishing program goals. As a result, the DCA has identified a variety of ways to measure enforcement efforts for all Boards and Bureaus. Performance-based budgeting provides the DCA the flexibility to manage its resources based on fluctuating program demand.

Performance Measures

To ensure stakeholders can review the progress of DCA's Boards and Bureaus in meeting their enforcement goals and targets, DCA has developed a transparent system of performance measurements. These measures are critical, particularly during the current climate of budget constraints, for demonstrating that DCA is making and will continue to make the most efficient and effective use possible of its resources. These measures are posted publicly to the Department website on a quarterly basis.

The DCA will assess enforcement needs based on the following criteria:

- Intake Cycle Time - *Average number of days from receipt of the complaint to the date the complaint was assigned for investigation.*
- Investigation Cases - *Average number of days from receipt of the complaint to closure of the investigation process. Does not include cases resulting in formal discipline.*
- Formal Discipline Cases - *Average cycle time to complete the entire enforcement process for those cases closed by the Attorney General's office after referral by the program. This measure does not include declined, withdrawn or dismissed cases.*

Information for this special display was compiled using a variety of sources. The Consumer Affairs System (CAS) was the primary source for collecting program data, however some Boards and Bureaus do not utilize CAS because of their size or reporting requirements, so data for these programs was obtained through non-standardized reporting systems. Further, target numbers shown in this display are based on the Quarterly Performance Measures Report and each Board and Bureau has mandates and functions which can be significantly different. Using this data to compare the cycle time of Boards and Bureaus may not accurately capture unique aspects of individual programs. Additionally, the data identified in this display may not match the performance data in the DCA Annual Report or the Quarterly Performance Measures Report based on the method in which the data was collected.

1110 Department of Consumer Affairs Regulatory Boards - Continued

Department of Consumer Affairs Performance Based Budgeting

The following budget display represents a snapshot of existing enforcement efforts of the Boards and Bureaus within the DCA. This information will act as a baseline of enforcement performance and will allow for the tracking of future performance.

1. Intake Cycle Time

The following represents the total number of cases assigned for investigation and the average number of days (cycle time) from receipt of a complaint to the date the complaint was assigned for investigation. This data assists DCA and the program in measuring the efficiency of the program's internal complaint intake process.

1110 – Department of Consumer Affairs Regulatory Boards						
Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
3	California Board of Accountancy	10	836	5	1,920	4
6	California Architects Board	7	285	2	211	3
	Landscape Architects Technical Committee	7	43	112	28	2
9	State Athletic Commission	NA	NA	NA	NA	NA
18	Board of Behavioral Sciences	5	1,981	4	1,915	4
22	Board of Barbering and Cosmetology	10	5,150	4	5,470	3
30	Contractors' State License Board	3	22,483	2	20,365	2
36	Dental Board of California	10	3,725	13	3,550	9
47	Dental Hygiene Committee	30	126	26	221	4
54	State Board of Guide Dogs for the Blind	NA	0	NA	0	NA
55	Medical Board of California	9	7,251	10	7,042	12
56	Acupuncture Board	10	225	9	107	8
58	Physical Therapy Board	5	1,806	6	1,819	5
59	Physician Assistant Board	10	268	8	276	12
61	California Board of Podiatric Medicine	9	91	10	135	12
62	Board of Psychology	9	790	6	743	5
64	Respiratory Care Board	7	835	3	875	2
65	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	5	239	1	197	5
67	California Board of Occupational Therapy	2	683	1	541	3
69	State Board of Optometry	7	260	5	351	75
70	Osteopathic Medical Board of California	30	413	28	362	9
71	Naturopathic Medicine Committee	10	51	1	88	1
72	California State Board of Pharmacy	20	3,906	23	3,963	25
75	Board for Professional Engineers, Land Surveyors, and Geologists	10	418	10	334	10
78	Board of Registered Nursing	15	8,063	16	8,084	15

* Dollars in thousands, except in Salary Range.

1110 Department of Consumer Affairs Regulatory Boards - Continued

Department of Consumer Affairs Performance Based Budgeting

1110 - Department of Consumer Affairs Regulatory Boards						
Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
81	Court Reporters Board of California	5	142	1	119	1
90	Veterinary Medical Board	10	733	33	732	26
91	Board of Vocational Nursing and Psychiatric Technicians of the State of California	30	5,163	26	5,561	16

1111 - Department of Consumer Affairs Bureaus, Programs, and Divisions						
Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
25	Bureau of Security and Investigative Services	10	35,995	6	22,560	5
27	Bureau for Private Postsecondary Education	3	575	3	980	3
28	Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation	10	2,161	6	1,912	8
31	Bureau of Automotive Repair	7	18,527	4	19,083	4
37	Telephone Medical Advice Services Bureau	10	32	38	25	9
38	Cemetery and Funeral Bureau	7	769	2	738	3
89	Professional Fiduciaries Bureau	5	89	35	102	12

2. Intake and Investigation Cycle Time

The following represents the total number of cases investigated and the average number of days (cycle time) from receipt of a complaint to the closure of the investigation. This data assists DCA and the program in measuring how efficient a program is in addressing a violation of the Board's statutes and regulations. This measure does not include cases referred to the Attorney General's office.

1110 - Department of Consumer Affairs Regulatory Boards						
Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
3	California Board of Accountancy	180	438	114	1,473	73
6	California Architects Board	270	288	216	278	148
	Landscape Architects Technical Committee	270	62	352	59	516
9	State Athletic Commission	NA	NA	NA	NA	NA
18	Board of Behavioral Sciences	180	1,972	141	1,967	142
22	Board of Barbering and Cosmetology	120	4,888	75	5,598	71
30	Contractors' State License Board	180	22,483	133	20,365	138

1110 Department of Consumer Affairs Regulatory Boards - Continued**Department of Consumer Affairs Performance Based Budgeting**

1110 – Department of Consumer Affairs Regulatory Boards						
Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
36	Dental Board of California	270	3,833	167	3,291	156
47	Dental Hygiene Committee	120	118	108	218	45
54	State Board of Guide Dogs for the Blind	125	1	388	0	NA
55	Medical Board of California	125	6,542	119	6,665	126
56	Acupuncture Board	200	180	155	131	164
58	Physical Therapy Board	90	1,555	70	1,638	55
59	Physician Assistant Board	150	233	74	226	100
61	California Board of Podiatric Medicine	125	97	145	114	142
62	Board of Psychology	80	591	64	590	71
64	Respiratory Care Board	210	793	116	753	90
65	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	90	247	233	147	277
67	California Board of Occupational Therapy	270	716	135	554	79
69	State Board of Optometry	90	174	89	233	184
70	Osteopathic Medical Board of California	360	258	245	403	234
71	Naturopathic Medicine Committee	90	45	1	84	1
72	California State Board of Pharmacy	210	3,330	229	2,964	222
75	Board for Professional Engineers, Land Surveyors, and Geologists	360	418	340	334	337
78	Board of Registered Nursing	100	5,340	113	4,946	122
81	Court Reporters Board of California	60	141	71	121	74
90	Veterinary Medical Board	365	417	264	566	311
91	Board of Vocational Nursing and Psychiatric Technicians of the State of California	360	5,315	288	5,202	275

1111 - Department of Consumer Affairs Bureaus, Programs, and Divisions						
Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
25	Bureau of Security and Investigative Services	200	13,549	144	18,150	103
27	Bureau for Private Postsecondary Education	180	430	241	510	122
28	Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation	180	2,290	66	1,870	67
31	Bureau of Automotive Repair	60	17,869	46	17,797	45
37	Telephone Medical Advice Services Bureau	NA	NA	NA	NA	NA
38	Cemetery and Funeral Bureau	120	737	41	727	46
89	Professional Fiduciaries Bureau	365	90	225	92	126

* Dollars in thousands, except in Salary Range.

1110 Department of Consumer Affairs Regulatory Boards - Continued

Department of Consumer Affairs Performance Based Budgeting

3. Formal Discipline Cycle Time

The following represents the formal discipline cases closed by the Attorney General's office after referral by the program. The cycle time in this measure includes intake and investigation by the program, and review and possible prosecution by the Attorney General's office. This measure does not include declined, withdrawn or dismissed cases. This data assists DCA in measuring the efficiency of the program's investigation process, and the effectiveness of their partnership with the AG's office.

1110 – Department of Consumer Affairs Regulatory Boards						
Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
3	California Board of Accountancy	540	27	782	28	787
6	California Architects Board	540	4	688	2	514
	Landscape Architects Technical Committee	540	0	NA	0	NA
9	State Athletic Commission	NA	NA	NA	NA	NA
18	Board of Behavioral Sciences	540	91	793	84	872
22	Board of Barbering and Cosmetology	540	96	481	109	469
30	Contractors' State License Board	540	1,862	747	1,744	786
36	Dental Board of California	540	117	929	124	928
47	Dental Hygiene Committee	540	5	776	3	576
54	State Board of Guide Dogs for the Blind	540	0	NA	0	NA
55	Medical Board of California	540	245	795	315	853
56	Acupuncture Board	540	21	654	20	582
58	Physical Therapy Board	540	56	720	44	654
59	Physician Assistant Board	540	23	614	21	524
61	California Board of Podiatric Medicine	540	3	660	7	1,065
62	Board of Psychology	540	19	895	29	894
64	Respiratory Care Board	540	65	593	77	625
65	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	540	9	657	16	1,055
67	California Board of Occupational Therapy	540	12	742	20	594
69	State Board of Optometry	365	7	698	7	879
70	Osteopathic Medical Board of California	540	14	1,095	17	884
71	Naturopathic Medicine Committee	540	0	NA	0	NA
72	California State Board of Pharmacy	540	257	875	264	932
75	Board for Professional Engineers, Land Surveyors, and Geologists	540	54	1,846	42	1,607
78	Board of Registered Nursing	540	766	722	728	677
81	Court Reporters Board of California	540	10	353	5	499
1110 - Department of Consumer Affairs Regulatory Boards						

1110 Department of Consumer Affairs Regulatory Boards - Continued**Department of Consumer Affairs Performance Based Budgeting**

Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
90	Veterinary Medical Board	740	29	972	28	978
91	Board of Vocational Nursing and Psychiatric Technicians of the State of California	540	192	1,083	250	1,107

1111 - Department of Consumer Affairs Bureaus, Programs, and Divisions						
Program		Target	FY 2010-11		FY 2011-12	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
25	Bureau of Security and Investigative Services	360	766	417	1,081	397
27	Bureau for Private Postsecondary Education	360	0	NA	2	268
28	Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation	270	14	711	8	1,076
31	Bureau of Automotive Repair	540	789	637	714	680
37	Telephone Medical Advice Services Bureau	NA	NA	NA	NA	NA
38	Cemetery and Funeral Bureau	540	18	587	17	544
89	Professional Fiduciaries Bureau	540	1	1,128	3	606

* Dollars in thousands, except in Salary Range.



Memo

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 8, 2013

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Operations Report

The Operations report will be provided under separate cover.

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1625 North Market Blvd., Suite S-200
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To: Board Members

Date: February 6, 2013

From: Laurie Williams
Personnel Liaison

Telephone: (916) 574-7850

Subject: Personnel Update

New Employees

Michelle Eernisse-Villanueva was promoted to a Staff Services Analyst (SSA) within the Enforcement Unit effective, January 1, 2013. Michelle is an Enforcement Analyst responsible for the Subsequent Arrest Notification Review and Disciplinary Case Management.

Patricia (Trish) Winkler joined the Board as a Management Services Technician (part-time) in the Licensing Unit. She will perform the duties of a Licensed Clinical Social Worker and Associate Social Worker Evaluator. Trish transferred from the Medical Board of California Licensing Unit where she was an Office Technician who prepared the initial physician application packets for evaluation by the Licensing Analysts.

Departures

No departures to report at this time.

Vacancies

Office Technician (OT) (full-time) in the Enforcement Unit: This vacancy is to fill behind Michelle Eernisse-Villanueva. The Board has decided to downgrade this vacancy from a Management Services Technician to an Office Technician to better suit the current business needs of the Board. This Office Technician will provide enforcement support to the Enforcement Analysts.

The recruitment paperwork for this vacancy will be submitted to HR this week for advertisement. The Board anticipates the hiring interviews for the above noted vacancy will be scheduled for the latter part of February 2013.

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To: Board Members

Date: February 11, 2013

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: BreEZe Update

Since the November Board meeting, a “Go-Live” date of February 19, 2013 was announced. However, this date is no longer viable. As of February 8, 2013, a new “Go-Live” has not been announced. The Department of Consumer Affairs (DCA) is firm in its resolve that BreEZe will not be released until a quality BreEZe product is acceptable to DCA.

Board Participation

Board staff remains actively engaged in the project. On November 27, 2012, formal User Acceptance Testing (UAT) began. Another component of the transition to BreEZe is Data Verification (DV), which began prior to UAT and is continuing. Between these two phases thirteen to fifteen board staff members are participating at a minimum of two to three days a week. A few staff members are virtually dedicated to BreEZe full time.

UAT is the process by which staff follows a script using the BreEZe system to evaluate functionality and identify any errors. Scripts with errors are returned to the vendor to correct. Once corrected, these scripts are returned for the tester to verify the correction was done and the script performs correctly. The list of scripts for Board staff to test/retest is fluid and changes weekly, at minimum. Therefore, the testers are expected to review the script test logs on a daily basis.

Data verification is the process of confirming that information in our current data fields are transferring accurately to the new data fields. Both UAT and DV are time consuming. The alternative to staff participating in both UAT and DV is to allow others not familiar with our program and business processes to approve the functionality in the BreEZe system. The risk associated with this alternative is that BreEZe will not meet our business needs. Therefore, we continue to dedicate board staff to both UAT and DV.

BreEZe Training

Beginning January 7, 2013, Board staff attended a series of training sessions designed to introduce staff the BreEZe system. This training did not include business processes specific to the Board. The training sessions concluded on February 6, 2013.

Since the training management is strongly encouraging board staff to continue to work in the BreEZe training environment (aka “sandbox”). Management is requesting that each staff member perform the duties/tasks associated with their work in the “sandbox”. These independent sessions will assist staff and management in identifying any concerns and differences in our current processes that must be addressed prior to the “Go-live” date. Additionally, working in the “sandbox” will increase staff’s comfort level with the BreEZe system.

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To: Board Members

Date: February 8, 2013

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: LPCC Program Update

The LPCC Program Update will be provided under separate cover.

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1625 North Market Blvd., Suite S-200
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To: Board Members **Date:** February 6, 2013
From: Rosanne Helms **Telephone:** (916) 574-7897
Legislative Analyst
Subject: Proposed 2013 Omnibus Legislation – Additional Item

At its November 28, 2012 meeting, the Board of Behavioral Sciences (Board) approved several technical and non-substantive amendments to the Business and Professions Code (BPC), and directed staff to sponsor legislation to make the proposed amendments. This legislation will be included in the Senate Business, Professions, and Economic Development Committee's annual omnibus bill, which is typically used for these types of technical and non-controversial changes.

Additional Amendment Requested

At the November 28, 2012 meeting, there was a request for Board consideration of an additional omnibus bill amendment.

Amend BPC Section 4999.20 – Scope of Practice for Licensed Professional Clinical Counselors (LPCCs)

Background: The requested change would make the law regarding scope of practice for LPCCs more consistent with the scope of practice law for the Board's other license types.

A few years back, language was inserted into licensed marriage and family therapist (LMFT) law stating that the practice of marriage and family therapy includes the use, application, and integration of the coursework and experience required by law for licensure. This language makes it clear that LMFTs are able to practice what they are taught.

This year, the National Association of Social Workers – California Chapter (NASW-CA) requested a similar amendment to clarify that the scope of practice of licensed clinical social workers (LCSWs) also includes the coursework and experience required of them by law.

The Board approved this proposed amendment to the social work licensing law at the November 28, 2012 meeting. Therefore, the proposal will be sponsored by the Board and included in this year's omnibus bill.

At that Board meeting, the California Association for Licensed Professional Clinical Counselors (CALPCC) requested a similar amendment to the licensing law for clinical counselors. This change could be amended into Section 4999.20, which defines the practice of professional clinical counseling.

Recommendation: Amend BPC Section 4999.20 to specify that the practice of professional clinical counseling includes the use, application, and integration of the coursework and training required by Sections 4999.32 (which describes exam eligibility and registration requirements for applicants beginning graduate study before August 1, 2012) and 4999.33 (which describes exam eligibility and registration requirements for applicants beginning graduate study after August 1, 2012). The content of these sections is provided for reference in **Attachment B**.

Recommendation

At its January 31, 2013 meeting, the Policy and Advocacy Committee recommended that the Board sponsor legislation to make the proposed change.

Conduct an open discussion regarding the proposed amendment. Direct staff to make any non-substantive changes to the proposed language and submit to the Legislature for inclusion in the 2013 omnibus bill.

Attachments

A: Proposed Amendment

B: BPC Sections 4999.32 and 4999.33

ATTACHMENT A
PROPOSED AMENDMENT

LICENSED PROFESSIONAL CLINICAL COUNSELORS

Amend Business and Professions Code (BPC) §4999.20

(a) (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, [and the use, application, and integration of the coursework and training required by Sections 4999.32 and 4999.33](#). “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 the 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.

(4) “Professional counseling” does not include the provision of clinical social work services.

(b) “Counseling interventions and psychotherapeutic techniques” means the application of cognitive, affective, verbal or nonverbal, systemic or holistic counseling strategies that include principles of development, wellness, and maladjustment that reflect a pluralistic society. These interventions and techniques are specifically implemented in the context of a professional clinical counseling relationship and use of a variety of counseling theories and approaches.

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

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

ATTACHMENT B
RELATED SECTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) Professional orientation, ethics, and law in counseling, including professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship

between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

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

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

(A) Applied psychotherapeutic techniques.

(B) Assessment.

(C) Diagnosis.

(D) Prognosis.

(E) Treatment.

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

(G) Health and wellness promotion.

(H) Other recognized counseling interventions.

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

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

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

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

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

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

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

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

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

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

(6) A minimum of 18 contact hours of instruction in California law and professional ethics for professional clinical counselors that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to clients, and state and federal laws related to confidentiality of patient health information. When coursework in a master's or doctoral degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester unit or 72 quarter unit requirement in subdivision (c).

(7) A minimum of 10 contact hours of instruction in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging. On and after January 1, 2012, this coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

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

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

§4999.33. QUALIFICATIONS FOR REGISTRATION AND EXAMINATION ELIGIBILITY; GRADUATE COURSEWORK BEGINNING AFTER AUGUST 1, 2012 OR COMPLETED AFTER DECEMBER 31, 2018

(a) This section shall apply to the following:

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

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

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

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

subdivision (c).

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

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

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

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

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

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

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

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

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

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

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

(J) Psychopharmacology, including the biological bases of behavior, basic classifications, indications, and contraindications of commonly prescribed psychopharmacological medications so that appropriate referrals can be made for medication evaluations and so that the side effects of those medications can be identified.

(K) Addictions counseling, including substance abuse, co-occurring disorders, and addiction, major approaches to identification, evaluation, treatment, and prevention of substance abuse

and addiction, legal and medical aspects of substance abuse, populations at risk, the role of support persons, support systems, and community resources.

(L) Crisis or trauma counseling, including crisis theory; multidisciplinary responses to crises, emergencies, or disasters; cognitive, affective, behavioral, and neurological effects associated with trauma; brief, intermediate, and long-term approaches; and assessment strategies for clients in crisis and principles of intervention for individuals with mental or emotional disorders during times of crisis, emergency, or disaster.

(M) Advanced counseling and psychotherapeutic theories and techniques, including the application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(2) In addition to the course requirements described in paragraph (1), 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations.

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

(A) Applied psychotherapeutic techniques.

(B) Assessment.

(C) Diagnosis.

(D) Prognosis.

(E) Treatment.

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

(G) Health and wellness promotion.

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

(I) How to find and use resources.

(J) Other recognized counseling interventions.

(K) A minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(d) The 60 graduate semester units or 90 graduate quarter units of instruction required pursuant to subdivision (c) shall, in addition to meeting the requirements of subdivision (c), include instruction

in all of the following:

(1) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

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

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

(4) An understanding of the effects of socioeconomic status on treatment and available resources.

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

(6) Case management, systems of care for the severely mentally ill, public and private services for the severely mentally ill, community resources for victims of abuse, disaster and

trauma response, advocacy for the severely mentally ill, and collaborative treatment. The instruction required in this paragraph may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(7) Human sexuality, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

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

(9) Child abuse assessment and reporting.

(10) Aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(e) A degree program that qualifies for licensure under this section shall do all of the following:

(1) Integrate the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments.

(2) Integrate an understanding of various cultures and the social and psychological implications of socioeconomic position.

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

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

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

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

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To: Board Members

Date: February 6, 2013

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Proposed Regulations to Incorporate Examination Restructure

SB 704 (Chapter 387, Statutes of 2011), sponsored by the Board of Behavioral Sciences (Board), restructured the examination process for applicants who are seeking Marriage and Family Therapist (LMFT), Clinical Social Worker (LCSW), and Professional Clinical Counselor (LPCC) licensure. The restructure becomes effective on January 1, 2014.

The Board now needs to revise its regulations so that when the examination restructure goes into effect, the exam process described in regulations is consistent with the examination process authorized by the law.

History

An earlier version of the exam restructure regulations was approved by the Board at its November 9, 2011 meeting. However, since that time, the examination restructure's effective date was delayed from January 1, 2013 to January 1, 2014, due to conflicts with implementing the Department of Consumer Affairs' BreEZe Database System (SB 1575, Chapter 799, Statutes of 2012). Due to this change, as well as other technical changes that are now needed, staff is requesting reconsideration of this proposal.

Background

SB 704 was sponsored by the Board as a result of extensive analysis of the examination process. The Board's Examination Program Review Committee (EPRC) was appointed in February 2008. The purpose of the EPRC was to conduct a review of the Board's examination programs and to evaluate associated issues.

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

On December 7, 2009, the EPRC made several recommendations relating to modifications of the current licensure exam process for LMFTs and LCSWs. The language in SB 704 was written based on the recommendations of the EPRC. The Board allowed for extensive public input and feedback of the exam framework proposed in SB 704, at both committee and board meetings.

Several regulatory amendments are needed so that the Boards regulations are consistent with the changes in law made by SB 704.

How SB 704 Affects LMFTs, LPCCs, and LCSWs

Effective January 1, 2014, applicants for LMFT, LPCC, and LCSW licensure shall pass two exams: a California law and ethics examination (law and ethics exam) and a clinical examination (clinical exam). These new exams replace the standard written and the clinical vignette exams currently in place for MFTs and LCSWs, and change the exam structure for LPCCs as described in the next section.

Law and Ethics Exam

- A new registrant with the Board would be required to take the law and ethics exam. This exam must be taken within the first year of registration with the Board.
- If the law and ethics exam is not passed within the first renewal period, the registrant must complete a 12 hour law and ethics course in order to be eligible to take the exam in the next renewal cycle. The exam must be re-taken in each renewal cycle until passed. In addition, in each year the exam is not passed, the 12 hour law and ethics course must be taken to establish examination eligibility.
- A registration cannot be renewed after six years. If a registrant's registration expires, he or she must pass the law and ethics exam in order to obtain a subsequent registration number.

Clinical Exam

- Once a registrant has completed all supervised work experience, completed all education requirements, and passed the law and ethics exam, he or she may take the clinical exam. This exam must be passed within seven years of an individual's first attempt. If it is not passed within this timeframe, the individual's eligibility to further attempt the exam is placed on hold. He or she must then pass the current version of the law and ethics exam before re-establishing eligibility to take the clinical exam.

Examination Restructure Differences for LPCCs

Under SB 704, LPCCs will follow the same examination process as LMFTs and LCSWs for the law and ethics exam, however, the current exam structure for LPCCs differs from LMFTs and LCSWs.

Current law states that once an LPCC registrant has completed all supervised work experience, completed all education requirements, and passed the law and ethics exam, he or she may take a clinical exam administered by the Board, or the national examinations, if the Board finds that one of these examinations meet the prevailing standards for validation and use of the licensing and certification tests in California.

At its meeting on May 18, 2011, the Board accepted the National Clinical Mental Health Counselor Examination (NCMHCE) as meeting California testing standards. This proposed regulation establishes the NCMHCE as the designated examination for LPCCs.

The NCMHCE exam must be passed within seven years of an individual's first attempt. If it is not passed within this timeframe, the individual's eligibility to further attempt the exam is placed on hold. He or she must then pass the current version of the law and ethics exam before re-establishing eligibility to take the NCMHCE exam. This is consistent with the structure proposed for LMFTs and LCSWs taking the clinical exam.

Proposed Regulatory Changes

Several sections of the Board's regulations need to be revised in order to be consistent with the changes in SB 704. These changes are as follows:

- Revision of references to examination names in regulations in order to be consistent with the newly required examinations for registrants seeking an LMFT, LCSW, or LPCC license. For example, previously LMFT applicants took the standard written and clinical vignette exams; now they will take the California law and ethics exam and the clinical exam. The regulations need to reflect the correct exam names.
- Clarification of the waiting periods to take the new exams.
- Clarification of how to become eligible to take the California law and ethics exam.
- Clarification of the scenarios under which failure to take an exam can lead to abandonment of an application.
- Incorporation of language allowing the Board to accept the national examinations for LMFT and LCSW licensure, if the examinations are determined to be appropriate by the Board. The Board voted on November 4, 2010 to accept the Association of Social Work Boards (ASWB) Clinical Level Examination for those seeking licensure with the Board and is currently working on a contract with ASWB to offer its exam. The Board will continue working with the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) in 2013 to determine the viability of using its exam for LMFT licensure in California.
- Removal of the associate social worker extension fee in Section 1816, as the authority for the Board to issue extensions was removed from law as of 2008 (SB 1048, Chapter 588, Statutes of 2007).
- Other minor technical amendments such as deleting obsolete language, adding "licensed" to references to marriage and family therapists, and adding and deleting authority and reference citations as needed.

In addition, the passage of SB 274 (Wyland, Chapter 148, Statutes of 2011), deleted the annual renewal requirement for LPCCs who obtained a license through the grandparenting process. Grandparented LPCCs will now renew biennially, consistent with all other Board-issued licenses. The proposed regulations incorporate this change as well.

Recommendation

At its meeting on January 31, 2013, the Policy and Advocacy Committee directed staff to bring the proposed regulations to the Board for consideration as a regulatory proposal.

Conduct an open discussion of the proposed regulatory amendments. Direct staff to make any discussed changes, and any non-substantive changes, and to pursue a regulatory proposal.

Attachments

Attachment A: Proposed regulatory amendments

Attachment B: SB 704 text

Attachment C: SB 274 text

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Attachment A

Examination Re-Structure Regulations

(Effective 1/1/2014)

§1805. APPLICATIONS

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

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

Note: Authority Cited: Sections 4980.60, 4988.2, and 4990.20 (a), Business and Professions Code. Reference: Sections 4980.30, 4980.40, 4989.20, 4992, 4996.2, 4999.50 and 4999.54, Business and Professions Code.

§1805.01. REEXAMINATION

~~(a)~~ An applicant shall not take the same version of any board-administered exam.

~~(b)~~ Waiting periods for national examinations that are accepted by the board shall be determined by that national testing entity.

Note: Authority Cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4980.40, 4984.72, 4989.20, 4989.22, 4996.1, 4996.4, 4999.50, 4999.53, 4999.54, and 4999.64, Business and Professions Code.

§1806. ABANDONMENT OF APPLICATION

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

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

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

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

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

~~(c)~~ The applicant fails to sit for the California law and ethics examination within the first year of registration.

(d) The applicant sits for the California law and ethics examination within the first year of registration, fails the exam, and fails to sit for the exam each subsequent year until the examination is passed.

(e) An out-of-state applicant, who does not register as an intern or an associate, fails to sit for the California law and ethics exam within one (1) year of being notified of initial eligibility to take the examination.

(f) The applicant fails to sit for the licensed educational psychologist written examination within one (1) year after being notified of initial eligibility to take that examination.

(g) The applicant fails to sit for the clinical examination within one (1) year after being notified of initial eligibility to take that examination. The clinical examination may consist of a board administered examination or a national examination, as determined to be acceptable by the board.

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

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

~~(g) The applicant fails to sit for an examination required in 4999.52 (c) (5) of the Code within one (1) year after being notified of initial eligibility to take that examination.~~

~~(h)~~(j) An applicant fails to retake an the licensed educational psychologist written examination within one (1) year from the date the applicant was notified of failing anthe examination.

(k) An applicant fails to retake the clinical examination within one (1) year from the date the applicant was notified of failing the examination.

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

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

Note: Authority Cited: Sections 4980.60 and 4990.20 (a), Business and Professions Code. Reference: Sections 4980.30, 4980.35, 4980.397, 4980.399, 4980.72, 4984.01, 4984.7, 4989.20, 4989.68, 4992, 4992.05, 4992.09, 4996.1, 4996.17, 4996.28, 4996.3, 4999.50, 4999.52, 4999.53, 4999.54, 4999.55, 4999.60, 4999.100, and 4999.120, Business and Professions Code.

§1816. RENEWAL FEES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§1816.2. EXAMINATION FEES

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

~~(b)(a)~~ The licensed clinical social worker written clinical vignette California law and ethics examination fee shall be one hundred dollars (\$100.00).

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

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

(b) The licensed marriage and family therapist California law and ethics examination fee shall be one hundred dollars (\$100.00).

(c) The board administered licensed marriage and family therapist clinical examination fee shall be one hundred dollars (\$100.00).

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

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

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

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

Note: Authority Cited: 4980.60 and 4990.20 (a), Business and Professions Code. Reference: Sections 4984.7, 4989.68, 4996.3(a), ~~4996.4, 4999.54,~~ and 4999.120, Business and Professions Code.

§1816.3. EXAMINATION RESCORING FEES

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

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4984.7, 4989.68, ~~and~~ 4996.3, and 4999.120, Business and Professions Code.

§1816.4. EXAMINATION ELIGIBILITY APPLICATION FEES

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

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

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

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

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

§1816.5. REPLACEMENT AND CERTIFICATION FEES

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

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

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4984.7, 4989.68, and 4996.63, and 4999.120, Business and Professions Code.

§1816.6. INACTIVE LICENSE FEES

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

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

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

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

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

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

§1816.7. DELINQUENT FEES

(a) The delinquency fee for the licensed marriage and family therapist license shall be sixty-five dollars (\$65.00).

(b) The delinquency fee for the licensed clinical social worker license shall be fifty dollars (\$50.00).

(c) The delinquency fee for the licensed educational psychologist license shall be forty dollars (\$40.00).

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

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

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

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 163.5, 4984.7, ~~4999.60~~4989.68, ~~4996.6~~4996.3, and 4999.104, Business and Professions Code.

§1825. REQUIRED EXAMINATIONS

(a) The written examinations shall consist of the following:

(1) A written California law and ethics examination designed to assess the applicant's knowledge of the law and ability to practice in an ethical manner; and

(2) A clinical examination designed to determine an applicant's knowledge, familiarity with the field, and practical understanding of the principals, techniques, objectives, and theories under which he or she must operate.

(b) The clinical examination as described in subsection (a)(2) may be a board administered examination or a national examination determined by the board to be acceptable.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4999.50, 4999.53, 4999.55, and 4999.60, Business and Professions Code.

§1826. CALIFORNIA LAW AND ETHICS EXAMINATION

(a) An applicant must take the California law and ethics examination (also referred to as the jurisprudence and ethics examination) within the first year of registration, and each subsequent year until the examination is passed.

1. The examination may be taken upon submission of the examination application and payment of the required fee.
2. Eligibility to sit for the law and ethics examination in the first renewal period is valid for the duration of the registrant's renewal period.

(b) If the examination is not passed during a registration renewal period, the registrant must complete, at a minimum, a 12-hour course in California law and ethics in order to maintain examination eligibility.

1. To maintain eligibility to take the law and ethics examination in subsequent renewal periods, the applicant must do the following:
 - (i) Submit to the board an application to take the California law and ethics examination;
 - (ii) Pay the required fees; and
 - (iii) Show proof of completion of the required minimum 12-hour California law and ethics course.

- (iv) Eligibility to sit for the law and ethics examination in subsequent renewal periods is valid for the duration of each renewal period.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4999.50, 4999.53, 4999.55, and 4999.100, Business and Professions Code.

§1829. REQUIRED EXAMINATIONS

(a) The written examinations shall consist of the following:

(1) A written California law and ethics examination designed to assess the applicant's knowledge of the law and ability to practice in an ethical manner; and

~~(a)(2) A standard written clinical examination designed to determine an applicant's knowledge, familiarity with the field, and practical understanding of the principles, techniques, objectives, and theory/theories and laws under which he or she must operate; and~~

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

(b) The clinical examination as described in subsection (a)(2) may be a board administered examination or a national examination determined by the board to be acceptable.

Note: Authority cited: Sections 4980.40 and 4980.60, Business and Professions Code. Reference: Sections 4980.40, 4980.397, 4980.399, and 4980.72, Business and Professions Code.

§1830. CALIFORNIA LAW AND ETHICS EXAMINATION (a) An applicant must take the California law and ethics examination (also referred to as the jurisprudence and ethics examination) within the first year of registration, and each subsequent year until the examination is passed.

1. The examination may be taken upon submission of the examination application and payment of the required fee.
2. Eligibility to sit for the law and ethics examination in the first renewal period is valid for the duration of the registrant's renewal period.

(b) If the examination is not passed during a registration renewal period, the registrant must complete, at a minimum, a 12-hour course in California law and ethics in order to maintain examination eligibility.

1. To maintain eligibility to take the law and ethics examination in subsequent renewal periods, the applicant must do the following:

- (i) Submit to the board an application to take the California law and ethics examination;
- (ii) Pay the required fees; and
- (iii) Show proof of completion of the required minimum 12-hour California law and ethics course.
- (iv) Eligibility to sit for the law and ethics examination in subsequent renewal periods is valid for the duration of each renewal period.

Note: Authority cited: Sections 4980.40 and 4980.60, Business and Professions Code. Reference: Sections 4980.40, 4980.397, 4980.399, and 4984.01, Business and Professions Code.

§1877. REQUIRED EXAMINATIONS

(a) The written examinations shall consist of the following:

(1) A written California law and ethics examination designed to assess the applicant's knowledge of the law and ability to practice in an ethical manner; and

~~(a)(2) A standard written clinical examination designed to determine an applicant's knowledge, familiarity with the field, and practical understanding of the principles, techniques, objectives, and theory theories and laws under which he or she must operate; and~~

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

(b) The clinical examination as described in subsection (a)(2) may be a board administered examination or a national examination determined by the board to be acceptable.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections ~~4992.4~~ 4992.05, 4992.09 and 4996.1, Business and Professions Code.

§1878. CALIFORNIA LAW AND ETHICS EXAMINATION

(a) An applicant must take the California law and ethics examination (also referred to as the jurisprudence and ethics examination) within the first year of registration, and each subsequent year until the examination is passed.

1. The examination may be taken upon submission of the examination application and payment of the required fee.
2. Eligibility to sit for the law and ethics examination in the first renewal period is valid for the duration of the registrant's renewal period.

(b) If the examination is not passed during a registration renewal period, the registrant must complete, at a minimum, a 12-hour course in California law and ethics in order to maintain examination eligibility.

1. To maintain eligibility to take the law and ethics examination in subsequent renewal periods, the applicant must do the following:

(i) Submit to the board an application to take the California law and ethics examination;

(ii) Pay the required fees; and

(iii) Show proof of completion of the required minimum 12-hour California law and ethics course.

(iv) Eligibility to sit for the law and ethics examination in subsequent renewal periods is valid for the duration of each renewal period.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4992.05, 4992.09, 4996.1, and 4996.28, Business and Professions Code

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Senate Bill No. 704

CHAPTER 387

An act to amend Sections 4996.28 and 4999.120 of, to amend, add, and repeal Sections 4992.1, 4996.1, 4996.3, and 4996.4 of, to amend, repeal, and add Sections 4980.40, 4980.50, 4984.01, 4984.7, 4984.72, 4999.45, 4999.46, 4999.50, 4999.52, and 4999.100 of, and to add Sections 4980.397, 4980.398, 4980.399, 4992.05, 4992.07, 4992.09, 4999.53, 4999.55, 4999.63, and 4999.64 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 30, 2011. Filed with
Secretary of State September 30, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 704, Negrete McLeod. Healing arts: licensees: Board of Behavioral Sciences.

Existing law provides for the licensure and regulation of marriage and family therapists and marriage and family therapist interns and trainees by the Board of Behavioral Sciences. Existing law requires the issuance of a license to practice marriage and family therapy to qualified applicants, as defined, who pass a board-administered written or oral examination or, under specified circumstances, a clinical vignette written examination. Existing law provides for the licensure and regulation of social workers by the Board of Behavioral Sciences. Existing law requires each applicant to be examined by the board and, on and after January 1, 2014, upon a specified determination by the board, requires the issuance of a license to each applicant or registrant meeting specified requirements who successfully passes the Association of Social Work Boards Clinical Level Examination administered by the Association of Social Work Boards and a separate California jurisprudence and ethics examination incorporated or developed and administered by the board.

Existing law, the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of professional clinical counselors and interns by the Board of Behavioral Sciences. Existing law authorizes the board to issue a license to any person meeting specified educational requirements, satisfying the supervised experience requirement, and providing evidence of a passing score on a national licensing examination, as determined by the board.

This bill would repeal those provisions that would have become operative on January 1, 2014. The bill would instead, for the practice areas of marriage and family therapy, social work, and professional clinical counselors, revise and recast provisions related to examinations to require, on and after January 1, 2013, the passage of specified clinical examinations and a California law and ethics examination, subject to specified fees. The bill would require

applicants for licensure to retake the law and ethics examination under certain circumstances, as specified. The bill would, on and after January 1, 2013, require marriage and family therapist interns, associate clinical social workers, and professional clinical counselor interns to take the law and ethics examination, subject to specified fees. The bill would authorize the board to adopt the Association of Social Work Boards Clinical Level Examination as the clinical examination for social workers, upon a specified determination.

This bill would incorporate additional changes in Section 4999.120 of the Business and Professions Code proposed by SB 146, to be operative only if SB 146 and this bill are both chaptered and become effective on or before January 1, 2012, and this bill is chaptered last.

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

SECTION 1. (a) It is the intent of the Legislature that the Board of Behavioral Sciences expedite its efforts to evaluate the Association of Social Work Boards Clinical Level Examination administered by the Association of Social Work Boards as a requirement for licensure as a clinical social worker and, if the board finds that this examination meets the prevailing standards for validation and use of licensing and certification tests in California, establish by regulation that this examination is to be used as the clinical examination.

(b) It is the intent of the Legislature that the Board of Behavioral Sciences expedite its efforts to evaluate the Examination in Marital and Family Therapy administered by the Association of Marital and Family Therapy Regulatory Board as a requirement for licensure as a marriage and family therapist and, if the board finds that this examination meets the prevailing standards for validation and use of licensing and certification tests in California, establish by regulation that this examination is to be used as the clinical examination.

SEC. 2. Section 4980.397 is added to the Business and Professions Code, to read:

4980.397. (a) Effective January 1, 2013, an applicant for licensure as a marriage and family therapist shall pass the following two examinations as prescribed by the board:

- (1) A California law and ethics examination.
- (2) A clinical examination.

(b) Upon registration with the board, a marriage and family therapist intern shall, within the first year of registration, take an examination on California law and ethics.

(c) A registrant may take the clinical examination only upon meeting all of the following requirements:

- (1) Completion of all required supervised work experience.
- (2) Completion of all education requirements.
- (3) Passage of the California law and ethics examination.

(d) This section shall become operative on January 1, 2013.

SEC. 3. Section 4980.398 is added to the Business and Professions Code, to read:

4980.398. (a) Each applicant who had previously taken and passed the standard written examination shall also obtain a passing score on the clinical examination in order to be eligible for licensure.

(b) An applicant who had previously failed to obtain a passing score on the standard written examination shall obtain a passing score on the California law and ethics examination and the clinical examination.

(c) An applicant who had previously failed to obtain a passing score on the clinical vignette examination shall obtain a passing score on the clinical examination.

(d) An applicant who had obtained eligibility for the standard written examination shall take the California law and ethics examination and the clinical examination.

(e) This section shall become operative on January 1, 2013.

SEC. 4. Section 4980.399 is added to the Business and Professions Code, to read:

4980.399. (a) Each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except as provided in subdivision (d).

(d) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her first renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by the section shall be taken through a board-approved continuing education provider, a county, state or governmental entity, or a college or university.

(e) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(f) This section shall become operative on January 1, 2013.

SEC. 5. Section 4980.40 of the Business and Professions Code is amended to read:

4980.40. To qualify for a license, an applicant shall have all of the following qualifications:

(a) Meet the educational requirements of Section 4980.36 or both Sections 4980.37 and 4980.41, as applicable.

(b) Be at least 18 years of age.

(c) Have at least two years of experience that meet the requirements of Section 4980.43.

(d) Pass a board administered written or oral examination or both types of examinations, except that an applicant who passed a written examination and who has not taken and passed an oral examination shall instead be required to take and pass a clinical vignette written examination.

(e) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(f) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 6. Section 4980.40 is added to the Business and Professions Code, to read:

4980.40. To qualify for a license, an applicant shall have all of the following qualifications:

(a) Meet the educational requirements of Section 4980.36 or both Sections 4980.37 and 4980.41, as applicable.

(b) Be at least 18 years of age.

(c) Have at least two years of experience that meet the requirements of Section 4980.43.

(d) Effective January 1, 2013, successfully pass a California law and ethics examination and a clinical examination. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

(e) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(f) This section shall become operative on January 1, 2013.

SEC. 7. Section 4980.50 of the Business and Professions Code is amended to read:

4980.50. (a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and family therapist shall be examined by the board. The examinations shall be as set forth in subdivision (d) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The board shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required

by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(c) The board shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the board postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(d) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(e) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(f) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(g) On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than seven years before.

(h) An applicant who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the board may deem appropriate.

(i) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 8. Section 4980.50 is added to the Business and Professions Code, to read:

4980.50. Effective January 1, 2013, the following shall apply:

(a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and family therapist shall be examined by the board. The examinations shall be as set forth in subdivision (d) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine. The board shall examine the candidate with regard to his or her

knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The board shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(c) The board shall not deny any applicant, whose application for licensure is complete, admission to the clinical examination, nor shall the board postpone or delay any applicant's clinical examination or delay informing the candidate of the results of the clinical examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(d) If an applicant for examination who has passed the California law and ethics examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(e) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination or the clinical examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(f) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(g) Effective January 1, 2013, no applicant shall be eligible to participate in the clinical examination if he or she fails to obtain a passing score on the clinical examination within seven years from his or her initial attempt, unless he or she takes and obtains a passing score on the current version of the California law and ethics examination.

(h) An applicant who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the board may deem appropriate.

(i) This section shall become operative on January 1, 2013.

SEC. 9. Section 4984.01 of the Business and Professions Code is amended to read:

4984.01. (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

- (1) Apply for renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(d) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 10. Section 4984.01 is added to the Business and Professions Code, to read:

4984.01. (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

- (1) Apply for renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.

(3) Participate in the California law and ethics examination pursuant to Section 4980.399 each year until successful completion of this examination.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration and has passed the California law and ethics examination described in Section 4980.399. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(d) This section shall become operative on January 1, 2013.

SEC. 11. Section 4984.7 of the Business and Professions Code is amended to read:

4984.7. (a) The board shall assess the following fees relating to the licensure of marriage and family therapists:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 12. Section 4984.7 is added to the Business and Professions Code, to read:

4984.7. (a) The board shall assess the following fees relating to the licensure of marriage and family therapists:

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

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

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

(4) The fee for the clinical examination shall be one hundred dollars (\$100). The fee for the California law and ethics examination shall be one hundred dollars (\$100).

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

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

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

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

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

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

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

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

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

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

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

(c) This section shall become operative on January 1, 2013.

SEC. 13. Section 4984.72 of the Business and Professions Code is amended to read:

4984.72. (a) An applicant who fails a standard or clinical vignette written examination may, within one year from the notification date of that failure, retake the examination as regularly scheduled without further application upon payment of the fee for the examination. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all requirements in effect on the date of application, and pays all required fees.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 14. Section 4984.72 is added to the Business and Professions Code, to read:

4984.72. (a) Effective January 1, 2013, an applicant who fails the clinical examination may, within one year from the notification date of that failure,

retake the examination as regularly scheduled without further application upon payment of the fee for the examination. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all requirements in effect on the date of application, and pays all required fees.

(b) This section shall become operative on January 1, 2013.

SEC. 15. Section 4992.05 is added to the Business and Professions Code, to read:

4992.05. (a) Effective January 1, 2013, an applicant for licensure as a clinical social worker shall pass the following two examinations as prescribed by the board:

- (1) A California law and ethics examination.
- (2) A clinical examination.

(b) Upon registration with the board, an associate social worker registrant shall, within the first year of registration, take an examination on California law and ethics.

(c) A registrant may take the clinical examination only upon meeting all of the following requirements:

- (1) Completion of all education requirements.
 - (2) Passage of the California law and ethics examination.
 - (3) Completion of all required supervised work experience.
- (d) This section shall become operative on January 1, 2013.

SEC. 16. Section 4992.07 is added to the Business and Professions Code, to read:

4992.07. (a) An applicant who had previously taken and passed the standard written examination shall also obtain a passing score on the clinical examination in order to be eligible for licensure.

(b) An applicant who had previously failed to obtain a passing score on the standard written examination shall obtain a passing score on the California law and ethics examination and the clinical examination.

(c) An applicant who had previously failed to obtain a passing score on the clinical vignette examination shall obtain a passing score on the clinical examination.

(d) An applicant who had obtained eligibility for the standard written examination shall take the California law and ethics examination and the clinical examination.

(e) This section shall become operative on January 1, 2013.

SEC. 17. Section 4992.09 is added to the Business and Professions Code, to read:

4992.09. (a) An applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except for as provided in subdivision (d).

(d) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her first renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by the section shall be taken through a board-approved continuing education provider, a county, state or governmental entity, or a college or university.

(e) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(f) This section shall become operative on January 1, 2013.

SEC. 18. Section 4992.1 of the Business and Professions Code, as amended by Section 1 of Chapter 546 of the Statutes of 2010, is amended to read:

4992.1. (a) Only individuals who have the qualifications prescribed by the board under this chapter are eligible to take the examination.

(b) Every applicant who is issued a clinical social worker license shall be examined by the board.

(c) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(d) The board shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the board postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(e) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaint against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(g) On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than seven years before.

(h) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 19. Section 4992.1 is added to the Business and Professions Code, to read:

4992.1. (a) Only individuals who have the qualifications prescribed by the board under this chapter are eligible to take an examination under this chapter.

(b) Every applicant who is issued a clinical social worker license shall be examined by the board.

(c) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(d) The board shall not deny any applicant, whose application for licensure is complete, admission to the clinical examination, nor shall the board postpone or delay any applicant's clinical examination or delay informing the candidate of the results of the clinical examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(e) If an applicant for examination who has passed the California law and ethics examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination or the clinical examination permission to retake either examination pending completion of the investigation of any complaint against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(g) Effective January 1, 2013, no applicant shall be eligible to participate in the clinical examination if he or she fails to obtain a passing score on the clinical examination within seven years from his or her initial attempt, unless he or she takes and obtains a passing score on the current version of the California law and ethics examination.

(h) This section shall become operative on January 1, 2013.

SEC. 20. Section 4992.1 of the Business and Professions Code, as added by Section 2 of Chapter 546 of the Statutes of 2010, is repealed.

SEC. 21. Section 4996.1 of the Business and Professions Code, as amended by Section 3 of Chapter 546 of the Statutes of 2010, is amended to read:

4996.1. (a) The board shall issue a clinical social worker license to each applicant who qualifies pursuant to this article and successfully passes a board-administered written or oral examination or both examinations. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 22. Section 4996.1 is added to the Business and Professions Code, to read:

4996.1. (a) Effective January 1, 2013, the board shall issue a clinical social worker license to each applicant who qualifies pursuant to this article and who successfully passes a California law and ethics examination and a clinical examination. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

(b) This section shall become operative on January 1, 2013.

SEC. 23. Section 4996.1 of the Business and Professions Code, as added by Section 4 of Chapter 546 of the Statutes of 2010, is repealed.

SEC. 24. Section 4996.3 of the Business and Professions Code, as amended by Section 5.3 of Chapter 548 of the Statutes of 2010, is amended to read:

4996.3. (a) The board shall assess the following fees relating to the licensure of clinical social workers:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 25. Section 4996.3 is added to the Business and Professions Code, to read:

4996.3. (a) The board shall assess the following fees relating to the licensure of clinical social workers:

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

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

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

(4) The fee for the clinical examination shall be one hundred dollars (\$100). The fee for the California law and ethics examination shall be one hundred dollars (\$100).

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

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

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

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

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

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

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

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

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

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

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

(c) This section shall become operative on January 1, 2013.

SEC. 26. Section 4996.3 of the Business and Professions Code, as added by Section 6 of Chapter 546 of the Statutes of 2010, is repealed.

SEC. 27. Section 4996.3 of the Business and Professions Code, as added by Section 5.6 of Chapter 548 of the Statutes of 2010, is repealed.

SEC. 28. Section 4996.4 of the Business and Professions Code, as amended by Section 7 of Chapter 546 of the Statutes of 2010, is amended to read:

4996.4. (a) An applicant who fails a standard or clinical vignette written examination may, within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all required fees.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 29. Section 4996.4 is added to the Business and Professions Code, to read:

4996.4. (a) Effective January 1, 2013, an applicant who fails the clinical examination may, within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all required fees.

(b) This section shall become operative on January 1, 2013.

SEC. 30. Section 4996.4 of the Business and Professions Code, as added by Section 8 of Chapter 546 of the Statutes of 2010, is repealed.

SEC. 31. Section 4996.28 of the Business and Professions Code is amended to read:

4996.28. (a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

- (1) Apply for renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

(4) On and after January 1, 2013, obtain a passing score on the California law and ethics examination pursuant to Section 4992.09.

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. When no further renewals are possible, an applicant may apply for and obtain a new associate clinical social worker registration if the applicant meets all requirements for registration in effect at the time of his or her application for a new associate clinical social worker registration. An applicant issued a subsequent associate registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

SEC. 32. Section 4999.45 of the Business and Professions Code is amended to read:

4999.45. An intern employed under this chapter shall:

(a) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an intern.

(b) Not be employed or volunteer in a private practice until registered as an intern.

(c) Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.

(d) File for renewal annually for a maximum of five years after initial registration with the board.

(e) Cease continued employment as an intern after six years unless the requirements of subdivision (f) are met.

(f) When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 33. Section 4999.45 is added to the Business and Professions Code, to read:

4999.45. (a) An intern employed under this chapter shall:

(1) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an intern.

(2) Not be employed or volunteer in a private practice until registered as an intern.

(3) Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.

(4) File for renewal annually for a maximum of five years after initial registration with the board.

(5) Cease continued employment as an intern after six years unless the requirements of subdivision (b) are met.

(b) When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration and has passed the California law and ethics examination described in Section 4999.53. An applicant issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(c) This section shall become operative on January 1, 2013.

SEC. 34. Section 4999.46 of the Business and Professions Code is amended to read:

4999.46. (a) To qualify for the licensure examinations specified in subdivision (c) of Section 4999.52, applicants shall complete clinical mental health experience under the general supervision of an approved supervisor as defined in Section 4999.12.

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

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

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

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

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

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

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

(A) Direct supervisor contact.

(B) Client centered advocacy.

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

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

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

(d) An applicant shall register with the board as an intern in order to be credited for postdegree hours of experience toward licensure. Postdegree hours of experience shall be credited toward licensure, provided that the

applicant applies for intern registration within 90 days of the granting of the qualifying degree and is registered as an intern by the board.

(e) All applicants and interns shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of professional clinical counseling.

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

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

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

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

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

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

(h) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 35. Section 4999.46 is added to the Business and Professions Code, to read:

4999.46. (a) To qualify for the licensure examination specified by paragraph (2) of subdivision (a) of Section 4999.53, applicants shall complete clinical mental health experience under the general supervision of an approved supervisor as defined in Section 4999.12.

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

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

(2) Not less than 1,750 hours of direct counseling with individuals or groups in a setting described in Section 4999.44 using a variety of

psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

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

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

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

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

(A) Direct supervisor contact.

(B) Client centered advocacy.

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

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

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

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

(e) All applicants and interns shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of professional clinical counseling.

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

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

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

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

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

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

(h) This section shall become operative on January 1, 2013.

SEC. 36. Section 4999.50 of the Business and Professions Code is amended to read:

4999.50. (a) The board may issue a professional clinical counselor license to any person who meets all of the following requirements:

(1) He or she has received a master’s or doctoral degree described in Section 4999.32 or 4999.33, as applicable.

(2) He or she has completed at least 3,000 hours of supervised experience in the practice of professional clinical counseling as provided in Section 4999.46.

(3) He or she provides evidence of a passing score, as determined by the board, on examinations designated by the board pursuant to Section 4999.52.

(b) An applicant who has satisfied the requirements of this chapter shall be issued a license as a professional clinical counselor in the form that the board may deem appropriate.

(c) The board shall begin accepting applications for examination eligibility on January 1, 2012.

(d) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 37. Section 4999.50 is added to the Business and Professions Code, to read:

4999.50. (a) The board may issue a professional clinical counselor license to any person who meets all of the following requirements:

(1) He or she has received a master’s or doctoral degree described in Section 4999.32 or 4999.33, as applicable.

(2) He or she has completed at least 3,000 hours of supervised experience in the practice of professional clinical counseling as provided in Section 4999.46.

(3) He or she provides evidence of a passing score, as determined by the board, on the examinations designated in Section 4999.53.

(b) An applicant who has satisfied the requirements of this chapter shall be issued a license as a professional clinical counselor in the form that the board may deem appropriate.

(c) This section shall become operative on January 1, 2013.

SEC. 38. Section 4999.52 of the Business and Professions Code is amended to read:

4999.52. (a) Except as provided in Sections 4999.54 and 4999.56, every applicant for a license as a professional clinical counselor shall be examined by the board. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine.

(c) (1) It is the intent of the Legislature that national licensing examinations, such as the National Counselor Examination for Licensure and Certification (NCE) and the National Clinical Mental Health Counselor Examination (NCMHCE), be evaluated by the board as requirements for licensure as a professional clinical counselor.

(2) The board shall evaluate various national examinations in order to determine whether they meet the prevailing standards for the validation and use of licensing and certification tests in California.

(3) The Department of Consumer Affairs' Office of Professional Examination Services shall review the occupational analysis that was used for developing the national examinations in order to determine if it adequately describes the licensing group and adequately determines the tasks, knowledge, skills, and abilities the licensed professional clinical counselor would need to perform the functions under this chapter.

(4) Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.

(5) If national examinations do not meet the standards specified in paragraph (2), the board may require a passing score on either of the following:

(A) The national examinations plus one or more board-developed examinations.

(B) One or more board-developed examinations.

(6) The licensing examinations shall also incorporate a California law and ethics examination element that is acceptable to the board, or, as an alternative, the board may develop a separate California law and ethics examination.

(d) The board shall not deny any applicant who has submitted a complete application for examination admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(e) The board shall not deny any applicant whose application for licensure is complete admission to the examinations, nor shall the board postpone or delay any applicant's examinations or delay informing the candidate of the results of the examinations, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(f) If an applicant for examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit

the applicant to take the examinations, but may notify the applicant that licensure will not be granted pending completion of the investigation.

(g) Notwithstanding Section 135, the board may deny any applicant who has previously failed an examination permission to retake that examination pending completion of the investigation of any complaints against the applicant.

(h) Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, respectively, or the application has been denied in accordance with subdivision (b) of Section 485.

(i) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(j) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 39. Section 4999.52 is added to the Business and Professions Code, to read:

4999.52. (a) Except as provided in Sections 4999.54 and 4999.56, every applicant for a license as a professional clinical counselor shall be examined by the board. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine.

(c) The board shall not deny any applicant who has submitted a complete application for examination admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(d) The board shall not deny any applicant whose application for licensure is complete admission to the examinations specified by paragraph (2) of subdivision (a) of Section 4999.53, nor shall the board postpone or delay this examination for any applicant or delay informing the candidate of the results of this examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(e) If an applicant for the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, who has passed the California law and ethics examination, is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take this examination, but may notify the applicant that licensure will not be granted pending completion of the investigation.

(f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination, or

the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, permission to retake either examination pending completion of the investigation of any complaints against the applicant.

(g) Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, respectively, or the application has been denied in accordance with subdivision (b) of Section 485.

(h) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(i) On and after January 1, 2013, the examination specified by paragraph (2) of subdivision (a) of Section 4999.53 shall be passed within seven years of an applicant's initial attempt.

(j) No applicant shall be eligible to participate in the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, if he or she fails to obtain a passing score on this examination within seven years from his or her initial attempt. If the applicant fails to obtain a passing score within seven years of initial attempt, he or she shall obtain a passing score on the current version of the California law and ethics examination in order to be eligible to retake this examination.

(k) The provisions of this section shall become operative on January 1, 2013.

SEC. 40. Section 4999.53 is added to the Business and Professions Code, to read:

4999.53. (a) Effective January 1, 2013, a clinical counselor intern applying for licensure as a clinical counselor shall pass the following examinations as prescribed by the board:

(1) A California law and ethics examination.

(2) A clinical examination administered by the board, or the National Clinical Mental Health Counselor Examination if the board finds that this examination meets the prevailing standards for validation and use of the licensing and certification tests in California.

(b) Upon registration with the board, a clinical counselor intern shall, within the first year of registration, take an examination on California law and ethics.

(c) A registrant may take the clinical examination or the National Clinical Mental Health Counselor Examination, as established by the board through regulation, only upon meeting all of the following requirements:

(1) Completion of all required supervised work experience.

(2) Completion of all education requirements.

(3) Passage of the California law and ethics examination.

(d) This section shall become operative on January 1, 2013.

SEC. 41. Section 4999.55 is added to the Business and Professions Code, to read:

4999.55. (a) Each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) If an applicant fails the California law and ethics exam, he or she may retake the examination, upon payment of the required fees, without further application, except as provided in subdivision (d).

(d) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her first renewal period on or after the operative date of this section, he or she shall complete, at minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a board-approved continuing education provider, a county, state, or governmental entity, or a college or university.

(e) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(f) This section shall become operative January 1, 2013.

SEC. 42. Section 4999.63 is added to the Business and Professions Code, to read:

4999.63. (a) For applicants who submit an application for a license on or before January 1, 2013, a valid passing score on the examination referenced in subdivision (c) of Section 4999.52 shall have been obtained less than seven years prior to the application date.

(b) For applicants who submit an application for a license on and after January 1, 2013, a valid passing score on the examination referenced in paragraph (2) of subdivision (a) of Section 4999.53 shall have been obtained less than seven years prior to the application date.

SEC. 43. Section 4999.64 is added to the Business and Professions Code, to read:

4999.64. (a) Effective January 1, 2013, an applicant who fails the examination specified in paragraph (2) of subdivision (a) of Section 4999.53 may, within one year from the notification date of that failure, retake the examination as regularly scheduled without further application upon payment of the fee for the examination. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all requirements in effect on the date of application, and pays all required fees.

(b) This section shall become operative on January 1, 2013.

SEC. 44. Section 4999.100 of the Business and Professions Code is amended to read:

4999.100. (a) An intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant shall, on or before the expiration date of the registration, do the following:

- (1) Apply for a renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.
- (3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 45. Section 4999.100 is added to the Business and Professions Code, to read:

4999.100. (a) An intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant shall, on or before the expiration date of the registration, do the following:

- (1) Apply for a renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.
- (3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.

(c) The intern registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration and has passed the California law and ethics examination described in Section 4999.53. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(d) This section shall become operative on January 1, 2013.

SEC. 46. Section 4999.120 of the Business and Professions Code is amended to read:

4999.120. The board shall assess fees for the application for, and the issuance and renewal of licenses and for the registration of, interns to cover administrative and operating expenses of the board related to this chapter. Fees assessed pursuant to this section shall not exceed the following:

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

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

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

(d) The fee for the board-administered clinical examination, if the board chooses to adopt this examination in regulations, shall be up to two hundred fifty dollars (\$250).

(e) The fee for the law and ethics examination shall be up to one hundred fifty dollars (\$150).

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

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

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

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

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

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

SEC. 46.5. Section 4999.120 of the Business and Professions Code is amended to read:

4999.120. The board shall assess fees for the application for and the issuance and renewal of licenses and for the registration of interns to cover administrative and operating expenses of the board related to this chapter. Fees assessed pursuant to this section shall not exceed the following:

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

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

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

(d) The fee for the board-administered clinical examination, if the board chooses to adopt this examination in regulations, shall be up to two hundred fifty dollars (\$250).

(e) The fee for the law and ethics examination shall be up to one hundred fifty dollars (\$150).

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

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

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

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

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

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

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

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

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

SEC. 47. Section 46.5 of this bill incorporates amendments to Section 4999.120 of the Business and Professions Code proposed by both this bill and Senate Bill 146. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 4999.120 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 146, in which case Section 46 of this bill shall not become operative.

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Senate Bill No. 274

CHAPTER 148

An act to amend Sections 4980.10, 4999.47, 4999.54, 4999.102, and 4999.104 of, to add Sections 4989.13, 4991.1, and 4999.13 to, and to repeal Sections 4999.56 and 4999.101 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 2011. Filed with
Secretary of State August 1, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 274, Wyland. Healing arts.

Existing law, the Marriage and Family Therapist Act, provides for the licensure and regulation of marriage and family therapists by the Board of Behavioral Sciences. Existing law, the Educational Psychologist Practice Act, provides for the licensure and regulation of educational psychologists by the Board of Behavioral Sciences. Existing law, the Clinical Social Worker Practice Act, provides for the licensure and regulation of social workers by the Board of Behavioral Sciences. Existing law, the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of professional clinical counselors by the Board of Behavioral Sciences. Existing law authorizes the board to issue a professional clinical counselor license to any person submitting an application between January 1, 2011, and June 30, 2011, if that applicant meets specified requirements, including the requirement that the applicant have at least 2 years of postdegree counseling experience that includes specified hours of experience in a clinical setting supervised by a marriage and family therapist, clinical social worker, psychologist, physician and surgeon specializing in psychiatry, or master's level counselor or therapist, as specified. Existing law makes these licenses valid for 6 years, specifies that such a license expires one year from the date of issuance, and prescribes a specified renewal procedure. Existing law provides that other professional clinical licenses expire no more than 24 months after the date of issuance and may be renewed within 3 years of expiration. Existing law also governs the regulation of clinical counselor trainees and interns. Existing law allows clinical counselor trainees, interns, and applicants to perform services as an employee or as a volunteer, but not as an independent contractor.

This bill would set forth provisions that would provide that a person engages in the practice of marriage and family therapy, educational psychology, clinical social work, or professional clinical counseling when he or she performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including

donations. The bill would authorize the board to issue a professional clinical counselor license to any person submitting an application between January 1, 2011, and December 31, 2011, if that applicant meets specified requirements, and would add a professional clinical counselor and a person who is licensed out of state to independently practice professional clinical counseling to the list of persons who an applicant may have supervise his or her hours of experience in a clinical setting. The bill would provide that all licenses issued expire no more than 24 months after the issuance date and that all of these licenses would be eligible for renewal within 3 years of expiration. The bill would revise and recast the provision relating to clinical counselor trainees, interns, and applicants, and instead provide that experience shall not be gained by clinical counselor interns or trainees as an independent contractor. The bill would require a clinical counselor intern when applying for licensure as a professional clinical counselor to show proof of his or her employment as an employee or volunteer by providing to the board copies of his or her W-2 tax forms or a letter from an employer verifying employment as a volunteer for each year of experience claimed.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 4980.10 of the Business and Professions Code is amended to read:

4980.10. A person engages in the practice of marriage and family therapy when he or she performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including donations.

SEC. 2. Section 4989.13 is added to the Business and Professions Code, to read:

4989.13. A person engages in the practice of educational psychology when he or she performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including donations.

SEC. 3. Section 4991.1 is added to the Business and Professions Code, to read:

4991.1. A person engages in the practice of clinical social work when he or she performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including donations.

SEC. 4. Section 4999.13 is added to the Business and Professions Code, to read:

4999.13. A person engages in the practice of professional clinical counseling when he or she performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including donations.

SEC. 5. Section 4999.47 of the Business and Professions Code is amended to read:

4999.47. (a) Clinical counselor trainees, interns, and applicants shall perform services as an employee or as a volunteer.

The requirements of this chapter regarding gaining hours of clinical mental health experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by clinical counselor interns or trainees as an independent contractor.

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

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

(b) Clinical counselor trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

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

(d) Clinical counselor trainees, interns, and applicants who provide voluntary services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those clinical counselor trainees, interns, and applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor.

(e) The board may audit an intern or applicant who receives reimbursement for expenses and the intern or applicant shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(f) Clinical counselor trainees, interns, and applicants shall only perform services at the place where their employer regularly conducts business and services, which may include other locations, as long as the services are performed under the direction and control of the employer and supervisor in compliance with the laws and regulations pertaining to supervision. Clinical counselor trainees, interns, and applicants shall have no proprietary interest in the employer's business.

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

SEC. 6. Section 4999.54 of the Business and Professions Code is amended to read:

4999.54. (a) Notwithstanding Section 4999.50, the board may issue a license to any person who submits an application for a license between January 1, 2011, and December 31, 2011, provided that all documentation is submitted within 12 months of the board's evaluation of the application, and provided he or she meets one of the following sets of criteria:

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

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

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

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

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

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

(C) Has at least two years, full-time or the equivalent, of postdegree counseling experience, that includes at least 1,700 hours of experience in a clinical setting supervised by a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, a licensed physician and surgeon specializing in psychiatry, a professional clinical counselor or a person who is licensed in another state to independently practice professional clinical counseling, as defined in Section 4999.20, or a master's level counselor or therapist who is certified by a national certifying or registering organization, including, but not limited to, the National Board for Certified Counselors or the Commission on Rehabilitation Counselor Certification.

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

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

- (ii) The National Clinical Mental Health Counselor Examination.
- (iii) A California jurisprudence and ethics examination, when developed by the board.

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

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

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

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

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

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

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

SEC. 7. Section 4999.56 of the Business and Professions Code is repealed.

SEC. 8. Section 4999.101 of the Business and Professions Code is repealed.

SEC. 9. Section 4999.102 of the Business and Professions Code is amended to read:

4999.102. (a) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

(b) To renew an unexpired license described in subdivision (a), the licensee, on or before the expiration date of the license, shall do all of the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4999.76.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

SEC. 10. Section 4999.104 of the Business and Professions Code is amended to read:

4999.104. Licenses issued under this chapter that have expired may be renewed at any time within three years of expiration. To renew an expired license described in this section, the licensee shall do all of the following:

- (a) File an application for renewal on a form prescribed by the board.
- (b) Pay all fees that would have been paid if the license had not become delinquent.
- (c) Pay all delinquency fees.
- (d) Certify compliance with the continuing education requirements set forth in Section 4999.76.
- (e) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary changes to the practices of marriage and family therapy, educational psychology, clinical social work, and professional clinical counseling that are governed by the Board of Behavioral Sciences as soon as possible, including, to ensure that the grandparenting path is still an available option to licensed professional clinical counselor applicants for a six-month time period, and to preserve the intent of Senate Bill 788 (Chapter 619 of the Statutes of 2009) that authorized the licensure of licensed professional clinical counselors, it is necessary for this act to take effect immediately.

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To: Board Members **Date:** January 31, 2013
From: Steve Sodergren **Telephone:** (916) 574-7847
Assistant Executive Officer
Subject: Recommendation #3 – Possible Rulemaking Action Regarding Proposed Revisions to California Code of Regulations, Title 16, Division 18, Article 8 Board of Behavioral Sciences Continuing Education Requirements.

Background

The Board voted at its November 2011 meeting to create a two-member committee to review and discuss the Board's current CE provider requirements and other models of continuing education in response to a number of issues, identified by staff, related to CE Provider requirements. During 2012 the Continuing Education Provider Review Committee met to discuss the following concerns:

1. Current Scope of Approval Authority

The Board has no authority to *approve* individual CE courses. Language expressly permitting the review of course content and instructor qualification relates only to an initial approval application.

2. Review of Coursework/Content

Courses and content by a CE Provider are not Board approved; a provider is approved based on the content of courses and qualification of instructors presented in the initial application package. Providers are not required to inform the Board of any changes in courses offered or any new courses added. Providers are also not required to inform the Board of any new instructors.

3. Expired Provider Approval

16 CCR Section 1887.7(e) prohibits a provider whose approval has expired from presenting a course for CE credit to licensees of the Board. However, 16 CCR Section 1887.13 states that upon application for renewal of an expired approval, a provider must submit a letter stating that during the time of expiration no courses were presented *but* if courses *were* presented during the expired period the letter shall state "that all participants have been notified that the providers approval status at the time of completion of the continuing education was expired and that continuing education hours will not be disallowed by the Board if the provider renews within one year after the expiration." In addition to this being contradictory it seems to spawn unaccountability and shows a lack of standards for those licensees required to receive mandatory education in the pursuit of continued competent practice of a profession.

4. Self-Study Versus Online Learning

In 2003, the Board amended the definition of CE courses found in 16 CCR Section 1887 to include online education which was previously included in the definition of a “self-study course.” This change allowed licensees to effectively gain all CE hours through online means. In 2008, the Board proposed to delete the regulatory provision which allowed CE credit for courses obtained through self-study. However, through a number of public meetings on the proposed revisions and in response to public and stakeholder comments, the Board instead maintained the category of self-study courses but raised the limit of the amount of hours credited through the completion of self-study courses from 12 hours to 18 hours (half of the biennial CE hour requirement). There has been much confusion for staff and licensees taking online courses (unlimited amount of hours credited) and how they differ from self-study courses (18-hour limit).

5. Cite and Fine CE Providers

Currently, if the Board finds that a CE Provider applicant or current CE Provider is in violation of the law relating to the provision of CE, the Board has authority to either deny an application or revoke a provider’s approval; the Board does not have the authority to take less serious action, such as to cite and fine a provider and allow the provider to resolve any issues. In 2006, the Board began the regulatory process to allow the Board to cite and fine approved CE Providers; however, the rulemaking failed to move forward.

6. CE Credit for Examination Development

Examination development is an integral part of the licensure program and it is imperative that the Board continues to have a competent and committed pool of SMEs. In fiscal year 2011-12 the Board facilitated, with the Office of Professional Examination Services, approximately fifty-seven workshops. Each workshop has seven to nine licensees. SMEs are provided standard travel expense reimbursement and a payment for services rendered. Licensees that participate in item writing workshops are paid a rate of three-hundred dollars (\$300) a day and all other workshop participants are paid at a rate of two-hundred dollars (\$200) per day. Workshops are typically two to three consecutive days with the same participants. The rate of pay for SMEs has not been increased since 2004. The Board does not give CE credit for SME participation in examination development. Both the Dental Board and Psychology Board give CE credit for participation in examination development.

7. CE Provider Approval through an Accrediting Body

Many Boards within DCA accept courses provided through “sponsors” approved by specified accrediting entities. These accrediting entities establish stringent requirements for CE provider applicants, including administrative and financial accountability, program development and implementation criteria, and established performance measures for determining program effectiveness. Many of these accrediting entities also perform periodic reviews of approved “sponsors.”

By accepting CE from “sponsors” approved by an accrediting entity, boards are not involved in the approval or maintenance of the CE “sponsors.” Rather, the board relies on the accrediting entity’s standards to ensure the quality of CE provided to licensees.

8. Continuing Competency

In 2010, DCA began the discussion of transitioning healing arts boards from a continuing education model to a continuing competency model for licensure renewal. Continuing competency, at its most basic level, is a model that goes beyond imposing mandatory CE courses and requires that the licensee’s knowledge, skills and clinical performance be assessed to determine areas of needed improvement. Education under the continuing competency model may be gained through different paths beyond the traditional classroom or coursework structure, such as through an examination.

Committee Outcomes

Scope of Approval

The proposed amended language would remove the Board's authority to directly approve and license CE providers. This language will also establish the Board's authority to accept CE credits from providers who have been approved or registered by a Board recognized "approval agency" or by an organization, institution, association or entity that has been recognized by the Board as a continuing education provider. Essentially, this change in the regulation will entrust the review and approval of CE providers, coursework and instructors to professional associations and other entities recognized by the Board.

The Board recognized "approval agencies" named in the suggested language have established stringent requirements for CE provider applicants, including administrative and financial accountability, program development and implementation criteria, and performance measures for determining program effectiveness. Many of these accrediting entities also perform periodic reviews of approved "sponsors" or providers. By accepting CE from "approval agencies" and accrediting entities, the Board will not be involved in the approval of CE providers and coursework. Rather, the Board will rely on the accrediting entities standards to ensure quality of CE provided to licensees.

While the Board will not be directly approving CE providers, the suggested language will give the Board authority to audit coursework and providers. The approving agency and the provider must be able to deliver the specific coursework and provider material when requested by the Board. This language will also give the Board authority to revoke the approving agencies Board recognition if they fail to ensure that the providers that they approve meet the requirements of the Board.

Provider Approval through an Accrediting Body

If the proposed amended language is adopted a Board licensee would now be able to gain CE credit through one or more of the following entities:

- An accredited or approved postsecondary institution that meets the requirements set forth in Sections 4980.54(f)(1), 4989.34, 4996.22(d)(1), or 4999.76(d) of the Code.
- A Board recognized approval agency or a continuing education provider that has been approved or registered by a Board recognized approval agency. The following are the Board recognized approval agencies:

National Association of Social Workers (NASW)
Association of Social Work Boards (ASWB)
National Board of Certified Counselors (NBCC)
National Association of School Psychologists (NASP)
American Psychological Association (APA)

- One of the following organizations that are recognized by the board as continuing education providers:

American Association for Marriage and Family Therapy (AAMFT)
American Association for Marriage and Family Therapy-California Division (AAMFT-CA)
California Association for Licensed Professional Clinical Counselors (CALPCC)
California Association of Marriage and Family Therapists (CAMFT)
National Association of Social Workers (NASW)
California Society for Clinical Social Work (CSCSW)
California Association of School Psychologists (CASP)
California Psychological Association (CPA)
California Counseling Association (CCA)
American Counseling Association (ACA)

This amended language would also require entities currently licensed with the Board as CE providers to register and gain approval for CE programs through a Board approved entity. Because of the possible impact to the approximately 2,460 Board registered CE Provider, this final version of this language will include a transition period for those entities to obtain approval.

Self-Study and Online Learning

The committee conducted extensive discussions regarding the definition and applicability of self-study and online learning. It was decided that these requirements should be removed. The amended language would now allow a licensee to gain their required CE credits through any course format.

CE Credit for Examination Development

Under the amended language, licensee will now be able to obtain up to six hours of CE credits every renewal period for participating in a Board examination development workshop. They will also be allowed to gain up to six hours of CE credit every renewal period for attending board enforcement case review training, acting as a subject matter expert for board enforcement case reviews, and/or participating in a professional association's ethics review committee process.

Continued Competencies

The committee also conducted discussions concerning Continuing Competency, but because of the complexity and importance of this subject, it was decided that the Board would continue this discussion at a later date.

Recommendation

At its meeting on January 31, 2013, the Policy and Advocacy Committee directed staff to bring the proposed regulations to the Board for consideration as a regulatory proposal.

Conduct an open discussion of the proposed regulatory amendments. Direct staff to make any discussed changes, and any non-substantive changes, and to pursue a regulatory proposal.

Attachment

Attachment A: Amended Language for Continuing Education Requirements

ATTACHMENT A

Amended Language for Continuing Education Requirements

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

§1887. DEFINITIONS; INOPERATIVE JULY 1, 2014

As used in this article:

- (a) A continuing education "course" means a form of systematic learning at least one hour in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, viewing of videotapes or film instruction, viewing or participating in other audiovisual activities including interactive video instruction and activities electronically transmitted from another location which has been verified and approved by the continuing education provider, and self-study courses.
- (b) A "self-study course" means a form of systematic learning performed at a licensee's residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the member, submitted to the provider, graded, and returned to the member with correct answers and an explanation of why the answer chosen by the provider was the correct answer).
- (c) A continuing education "provider" means an accredited or approved school, or an association, health facility, governmental entity, educational institution, individual, or other organization that offers continuing education courses and meets the requirements contained in this article.
- (d) An "initial renewal period" means the period from issuance of an initial license to the license's first expiration date.
- (e) A "renewal period" means the two-year period which spans from a license's expiration date to the license's next expiration date.

Note: Authority Cited: Sections 4980.60, 4989.34, 4999.76 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, and 4999.76 Business and Professions Code.

§1887. DEFINITIONS; OPERATIVE JULY 1, 2014

As used in this article:

- (a) A continuing education "course" means a form of systematic learning at least one hour in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, viewing of videotapes or film instruction, viewing or participating in other audiovisual activities including interactive video instruction and activities electronically transmitted from another location which has been verified and approved by the continuing education provider.

(c) A “provider” means an organization, institution, association, university, or other person or entity assuming full responsibility for the course offered.

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

(e) A “renewal period” means the two-year period which spans from a license’s expiration date to the license’s next expiration date.

(f) An “approval agency” means an organization recognized by the board which evaluates and approves each provider of continuing education, evaluates and approves each course offering, and monitors the quality of the approved continuing education courses.

Note: Authority Cited: Sections 4980.60, 4989.34, 4999.76 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, and 4999.76 Business and Professions Code.

§1887.1. LICENSE RENEWAL REQUIREMENTS

(a) Except as provided in Section 1887.2, a licensee shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed thirty-six (36) hours of continuing education credit as set forth in Sections 4980.54, 4989.34, 4996.22, and 4999.76 of the Code.

(b) A licensee who falsifies or makes a material misrepresentation of fact when applying for license renewal or who cannot verify completion of continuing education by producing a record of course completion, upon request by the board, is subject to disciplinary action under Sections 4982(b), 4989.54 (b), 4992.3(b), and 4999.90(b) of the Code.

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

~~(1) Beginning January 1, 2012 and through December 31, 2012 licensees shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed eighteen (18) hours of continuing education.~~

~~(2) On and after January 1, 2013 licensees shall meet all of the requirements of subdivisions (a) and (b).~~

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20, and 4999.76 Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22 and 4999.90 Business and Professions Code.

§1887.2. EXCEPTIONS FROM CONTINUING EDUCATION REQUIREMENTS: INOPERATIVE JULY 1, 2014

(a) A licensee in his or her initial renewal period shall complete at least eighteen (18) hours of

continuing education, of which no more than nine (9) hours may be earned through self-study courses, prior to his or her first license renewal.

~~(b) A licensed educational psychologist that renews his or her license beginning January 1, 2012 and through December 31, 2012 shall complete at least eighteen (18) hours of continuing education prior to his or her license renewal.~~

(c) A licensee is exempt from the continuing education requirement if his or her license is inactive pursuant to Sections 4984.8, 4989.44, 4997 or 4999.112 of the Code.

(d) A licensee may submit a written request for exception from, or reasonable accommodation for, the continuing education requirement, on a form entitled "Request for Continuing Education Exception – Licensee Application," Form No. 1800 37A-635 (Rev 3/10), hereby incorporated by reference, for any of the reasons listed below. The request must be submitted to the board at least sixty (60) days prior to the expiration date of the license. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception or reasonable accommodation, whether the exception or accommodation was granted. If the request for exception or accommodation is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. If the request for exception or accommodation is approved, it shall be valid for one renewal period.

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

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

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

(2) The board may grant a reasonable accommodation if, for at least one year during the licensee's previous license renewal period, the licensee or an immediate family member, including a domestic partner, where the licensee is the primary caregiver for that family member, had a physical or mental disability or medical condition as defined in Section 12926 of the Government Code. The physical or mental disability or medical condition must be verified by a licensed physician or psychologist with expertise in the area of the physical or mental disability or medical condition. Verification of the physical or mental disability or medical condition must be submitted by the licensee on a form entitled "Request for Continuing Education Exception – Verification of Disability or Medical Condition," Form No. 1800 37A-636 (New 03/10), hereby incorporated by reference.

Note: Authority Cited: Sections 4980.54, 4980.60, 4989.34, 4990.20(a), 4996.22 and 4999.76, Business and Professions Code; Sections 12944 and 12926, Government Code. Reference: Sections 4980.54, 4989.34, 4996.22 4999.76, Business and Professions Code.

§1887.2. EXCEPTIONS FROM CONTINUING EDUCATION REQUIREMENTS; OPERATIVE JULY 1, 2014

(a) A licensee in his or her initial renewal period shall complete at least eighteen (18) hours of

continuing education prior to his or her first license renewal.

(c) A licensee is exempt from the continuing education requirement if his or her license is inactive pursuant to Sections 4984.8, 4989.44, 4997 or 4999.112 of the Code.

(d) A licensee may submit a written request for exception from, or reasonable accommodation for, the continuing education requirement, on a form entitled "Request for Continuing Education Exception – Licensee Application," Form No. 1800 37A-635 (Rev 3/10), hereby incorporated by reference, for any of the reasons listed below. The request must be submitted to the board at least sixty (60) days prior to the expiration date of the license. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception or reasonable accommodation, whether the exception or accommodation was granted. If the request for exception or accommodation is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. If the request for exception or accommodation is approved, it shall be valid for one renewal period.

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

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

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

(2) The board may grant a reasonable accommodation if, for at least one year during the licensee's previous license renewal period, the licensee or an immediate family member, including a domestic partner, where the licensee is the primary caregiver for that family member, had a physical or mental disability or medical condition as defined in Section 12926 of the Government Code. The physical or mental disability or medical condition must be verified by a licensed physician or psychologist with expertise in the area of the physical or mental disability or medical condition. Verification of the physical or mental disability or medical condition must be submitted by the licensee on a form entitled "Request for Continuing Education Exception – Verification of Disability or Medical Condition," Form No. 1800 37A-636 (New 03/10), hereby incorporated by reference.

Note: Authority Cited: Sections 4980.54, 4980.60, 4989.34, 4990.20(a), 4996.22 and 4999.76, Business and Professions Code; Sections 12944 and 12926, Government Code. Reference: Sections 4980.54, 4989.34, 4996.22 4999.76, Business and Professions Code.

§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS; INOPERATIVE JULY 1, 2014

(a) During each renewal period, a licensee shall accrue at least thirty-six (36) hours of continuing education coursework as defined in Section 1887.4. A licensee may accrue no more than eighteen (18) hours of continuing education earned through self-study courses during each renewal period.

(b) A marriage and family therapist and clinical social worker licensee who started graduate

study prior to January 1, 1986, shall take a continuing education course in the detection and treatment of alcohol and other chemical substance dependency during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 29 of the Code. This is a one-time requirement for those licensees specified above. Equivalent alcohol and other chemical substance dependency courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

- (c) Pursuant to Section 32 of the Code, a marriage and family therapist and clinical social worker licensee shall take a continuing education course in the characteristics and methods of assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 32 of the Code. This is a one-time requirement for all licensees. Equivalent HIV and AIDS courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.
- (d) Any person renewing his or her license on and after January 1, 2004 shall complete a minimum of six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing education requirement.
- (e) If a licensee teaches a course, the licensee may claim credit for the course only one time during a single renewal period, receiving the same amount of hours of continuing education credit as a licensee who attended the course.
- (f) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.
- (g) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing education requirement.
- (h) Provisions of this section shall apply to licensed educational psychologists as follows:
 - (1) Beginning January 1, 2012 and through December 31, 2012 licensees shall complete at least eighteen (18) hours of continuing education prior to his or her license renewal, in accordance with subdivision (d) through (g).
 - (2) On and after January 1, 2013, licensees shall meet the requirements of subdivision (a) through (g).

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 29, 32, 4980.54, 4989.34, 4996.22 and 4999.76 Business and Professions Code.

**§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS; OPERATIVE
JULY 1, 2014**

- (a) During each renewal period, a licensee shall accrue at least thirty-six (36) hours of continuing education coursework as defined in Section 1887.4.
- (b) A marriage and family therapist and clinical social worker licensee who started graduate study prior to January 1, 1986, shall take a continuing education course in the detection and treatment of alcohol and other chemical substance dependency during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 29 of the Code. This is a one-time requirement for those licensees specified above. Equivalent alcohol and other chemical substance dependency courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.
- (c) Pursuant to Section 32 of the Code, a marriage and family therapist and clinical social worker licensee shall take a continuing education course in the characteristics and methods of assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 32 of the Code. This is a one-time requirement for all licensees. Equivalent HIV and AIDS courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.
- (d) Any person renewing his or her license on and after January 1, 2004 shall complete a minimum of six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing education requirement.
- (e) If a licensee teaches a course, the licensee may claim credit for the course only one time during a single renewal period, receiving the same amount of hours of continuing education credit as a licensee who attended the course.
- (f) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.
- (g) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing education requirement.
- (h) A licensee who attends the board enforcement case review training may be awarded up to six hours of continuing education every renewal cycle. The continuing education hours earned by attending a board enforcement case review training may be used to satisfy the law and ethics requirement.
- (i) A licensee who acts as a board subject matter expert (SME) for an enforcement case review

may be awarded six hours of continuing education per renewal cycle. The continuing education hours earned by acting as a board enforcement case SME may be used to satisfy the law and ethics requirement.

(i) A licensee who participates in a board examination development workshop may be awarded six hours of continuing education every renewal period. The continuing education hours earned by participating in a board examination development may be used to satisfy the law and ethics requirement.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 29, 32, 4980.54, 4989.34, 4996.22 and 4999.76 Business and Professions Code.

§1887.4. CONTINUING EDUCATION COURSE CONTENT;
INOPERATIVE JULY 1, 2014

- (a) A provider shall ensure that the content of a course shall be relevant to the practice of marriage and family therapy, educational psychology, professional clinical counselor, or clinical social work and meet the requirements set forth in Sections 4980.54, 4989.34, 4996.22, and 4999.76 of the Code. The content of a course shall also be related to direct or indirect patient/client care.
 - (1) Direct patient/client care courses cover specialty areas of therapy (e.g., theoretical frameworks for clinical practice; intervention techniques with individuals, couples, or groups).
 - (2) Indirect patient/client care courses cover pragmatic aspects of clinical practice (e.g., legal or ethical issues, consultation, recordkeeping, office management, insurance risks and benefits, managed care issues, research obligations, supervision training).
- (b) A provider shall ensure that a course has specific objectives that are measurable.
- (c) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4996.22, 4989.34, and 4999.76, Business and Professions Code.

§1887.4. CONTINUING EDUCATION COURSE CONTENT; OPERATIVE JULY 1, 2014

- a) Courses shall meet the requirements, relevant to each practice, as set forth in Sections 4980.54, 4989.34, 4996.22 and 4999.76 of the Code.
- b) The content of the course shall be based upon methodological, theoretical, research, or practice knowledge base and;
- (1) Demonstrate credibility through the involvement of the broader mental health practices, education, and science communities in studying or applying the findings, procedures, practices or theoretical concepts; or
 - (2) Has been supported using established research procedures and scientific scrutiny; or
 - (3) Is related to ethical, legal, statutory or regulatory policies, guidelines, and standards that impact each respective practices.
- (c) Each continuing education course shall have:
- (1) written educational goals and specific learning objectives which are measurable and which serve as a basis for an evaluation of the effectiveness of the course;
 - (2) an evaluation mechanism that allows each participant to evaluate the continuing education course;
 - (3) a syllabus which provides a general outline of the course. The syllabus shall contain at a minimum, the learning objectives for each course and a summary containing the main points for each topic; and
 - (4) a mechanism that allows all participants to assess their achievement in accordance with the program's learning objectives.
- (d) Courses shall not predominately reflect the commercial views of the provider or any person giving financial assistance to the provider.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4996.22, 4989.34, and 4999.76, Business and Professions Code.

1887.41 BOARD RECOGNIZED APPROVAL AGENCIES; OPERATIVE JULY 1, 2014

- (a) The following are Board recognized approval agencies:
- (1) National Association of Social Workers (NASW)
 - (2) Association of Social Work Boards (ASWB)
 - (3) National Board of Certified Counselors (NBCC)
 - (4) National Association of School Psychologists (NASP)
 - (5) American Psychological Association (APA)

(b) The Board may recognize other entities as approval agencies if the entity can demonstrate in writing the following:

(1) The entity is an organization that represents a licensed health care profession; and

(2) Is an organization that has a documented Code of Ethics.

(3) The entity has documented procedures for maintaining a continuing education approval program, including, but not limited to:

a. Maintaining and managing records and data related to continuing education programs.

b. Monitoring and approving continuing education providers and courses.

(4) The entity has a means to avoid a conflict of interest between any provider and approval functions.

(5) The entity has the capacity to evaluate courses to ensure compliance with Section 1887.4

(6) Upon written confirmation from the board that the entity has been recognized, the entity may advertise that it has been recognized by the board.

(c) Failure of the entity to substantially comply with the provisions as set forth in Section 1887.42 shall constitute cause for revocation of recognition by the board. Recognition can be revoked only by a formal board action, after notice and hearing, and for good cause.

1887.42 APPROVAL AGENCIES RESPONSIBILTIES; OPERATIVE JULY 1, 2014

(a) Board recognized approval agencies shall:

(1) Evaluate each continuing education provider seeking approval in accordance with the provider's ability to comply with the requirements of section 1887.43 of this Section.

(2) Maintain a list of the name and addresses of persons responsible for the provider's continuing education program. The approval agency shall require that any change in the responsible person's identity shall be reported to the approval agency within 15 days of the effective date of the change.

(3) Provide the Board with the names, addresses and responsible party of each provider upon request.

(4) Respond to complaints from the Board, providers or from licensees concerning activities of any of its approved providers or their courses.

(5) Conduct periodic reviews of courses offered by providers approved by the agency to determine compliance with the agency's requirements and requirements of the Board and, upon request, report the findings of such reviews to the Board.

- (6) Take action as is necessary to assure that the continuing education coursework offered by its providers meets the continuing education requirements of the Board; and
- (7) Establish a procedure for reconsideration of its decision that a provider or a provider's course does not meet statutory or regulatory criteria.

**§1887.43 CONTINUING EDUCATION PROVIDER RESPONSIBILITIES:
OPERATIVE JULY 1, 2014**

(a) Persons or entities that provide continuing education shall be:

- (1) an accredited or approved postsecondary institution that meets the requirements set forth in Sections 4980.54(f)(1), 4989.34, 4996.22(d)(1), or 4999.76(d) of the Code; or
- (2) a board recognized approval agency or a continuing education provider that has been approved or registered by a board recognized approval agency for continuing education; or
- (3) an organization, institution, association, or other entity that is recognized by the board as a continuing education provider. The following organizations are recognized by the board as continuing education providers:

- a. American Association for Marriage and Family Therapy (AAMFT)
- b. American Association for Marriage and Family Therapy-California Division (AAMFT-CA)
- c. California Association for Licensed Professional Clinical Counselors (CALPCC)
- d. California Association of Marriage and Family Therapists (CAMFT)
- e. National Association of Social Workers-California Chapter (NASW-CA)
- f. California Society for Clinical Social Work (CSCSW)
- g. California Association of School Psychologists (CASP)
- h. California Psychological Association (CPA)
- i. California Counseling Association (CCA)
- j. American Counseling Association (ACA)

(b) Providers shall ensure that each continuing education course complies with the requirements of Section 1887.4

(c) Providers shall furnish each licensee a record of course completion as defined in Section 1887.11.

(d) Providers shall maintain records of completion of their continuing education courses for four (4) years as defined in Section 1887.12(b). Credit hours awarded shall be in compliance with 1887.5 of this Section.

(e) Providers shall have a methodology for determining the credit hours awarded for the completion of continuing education courses.

(f) Providers shall not discriminate against any individual or group with respect to any service, program or activity on the basis of gender, race, creed, national origin, sexual orientation,

religion, or age, or other prohibited basis.

- (g) The provider shall not promote or advocate for a single modality of treatment that is discriminatory or likely to harm clients based upon current accepted standards of practice.
- (h) Providers must be able to demonstrate that their programs train licensees to treat any client in an ethical and clinically sound manner consistent with the code of ethics of their accrediting agency, approval agency or professional association;
- (i) Providers must have written policies and procedures for grievance resolution and must respond to grievances from course attendees, regulatory boards, or their governing accreditation agency in a timely manner.
- (j) When an approved provider works with others on the development, distribution, and/or presentation of continuing education course (joint sponsorship), there shall be procedures to identify and document the functions of each participating party.
- (k) Providers are responsible for meeting all applicable local, state and federal standards which include, but are not limited to, the Americans with Disabilities Act.
- (l) Upon written request from the approval agency or the board, relating to an audit of course material, each approved provider shall submit such materials as are required by the approval agency or the board.

§1887.5. HOURS OF CONTINUING EDUCATION CREDIT

- (a) One hour of instruction is equal to one hour of continuing education credit.
- (b) One academic quarter unit is equal to ten (10) hours of continuing education credit.
- (c) One academic semester unit is equal to fifteen (15) hours of continuing education credit.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20, and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, and 4999.76, Business and Professions Code.

§1887.6. CONTINUING EDUCATION PROVIDERS; INOPERATIVE JULY 1, 2014

A continuing education course shall be taken from:

- (a) an accredited or approved postsecondary institution that meets the requirements set forth in Sections 4980.54(f)(1), 4989.34, 4996.22(d)(1), or 4999.76(d) of the Code; or
- (b) a board-approved provider with a valid, current approval as provided in Section 1887.7.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22 and 4999.76, Business and Professions Code.

§1887.7. BOARD-APPROVED PROVIDERS; INOPERATIVE JULY 1, 2104

- (a) A continuing education provider must meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.
- (b) A continuing education provider shall submit a completed Continuing Education Provider Application (Form no. 1800 37A-633, Rev. 03/10), hereby incorporated by reference, remit the appropriate fees, and obtain a continuing education provider number from the board to become a board-approved provider.
- (c) A provider may not apply for a new provider approval number within one year of an existing approval's expiration unless the provider has undergone a change of ownership.
- (d) A provider approval issued under this section shall expire on the last day of the twenty-fourth month after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the two-year renewal fee set forth in Section 1816 of these regulations.
- (e) When a provider's approval is expired, the provider may not present a course for continuing education credits for licensees of the Board of Behavioral Sciences.
- (f) Board-approved provider numbers are non-transferable.
- (g) The Board shall send a renewal notice, at least thirty (30) days prior to the expiration, to any continuing education provider approved by the Board, to the address of record for such provider.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34,-4996.22, and 4999.76, Business and Professions Code.

§1887.8. REVOCATION AND DENIAL OF BOARD-APPROVED PROVIDER STATUS; INOPERATIVE JULY 1, 2014

- (a) The board may revoke its approval of a provider or deny a provider application for good cause. Good cause includes, but is not limited to, the following:
 - (1) a provider is convicted of a felony or misdemeanor offense substantially related to the activities of a board-approved provider;
 - (2) a provider, who is a licensee of the board, fails to comply with any provisions of Chapters 13, 13.5, 14 and 16 of the Business and Professions Code or Title 16, Division 18 of the California Code of Regulations; or
 - (3) a provider makes a material misrepresentation of fact in information submitted to the board.

- (b) After a thorough case review, should the board decide to revoke or deny its approval of a provider, it shall give the provider written notice setting forth its reasons for revocation or denial. The provider may appeal the revocation or denial in writing, within fifteen (15) days after receipt of the revocation or denial notice, and request a hearing with the board's designee. The revocation is stayed at this point. Should the board's designee decide to uphold the revocation or denial, the provider may appeal the decision of the board's designee in writing, within seven (7) days after receipt of the decision of the board's designee, and request a hearing with a continuing education appeals committee appointed by the board chairperson. The hearing will take place at the next regularly scheduled board meeting, provided the appeal is received before the meeting is noticed to the public. It is at the discretion of the board's designee whether to stay the revocation further.

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

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, and 4999.76, Business and Professions Code.

§1887.9. COURSE ADVERTISEMENTS; INOPERATIVE JULY 1, 2014

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

- (a) the provider's name;
- (b) the provider number, if a board-approved provider;
- (c) the statement "Course meets the qualifications for _____ hours of continuing education credit for MFTs, LPCCs, LEPs and/or LCSWs as required by the California Board of Behavioral Sciences";
- (d) the provider's policy on refunds in cases of non-attendance by the registrant; and
- (e) a clear, concise description of the course content and objectives.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, and 4999.76, Business and Professions Code.

§1887.10. COURSE INSTRUCTOR QUALIFICATIONS; INOPERATIVE JULY 1, 2014

- (a) A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications:
- (1) a license, registration, or certificate in an area related to the subject matter of the course.

The license, registration, or certificate shall be current, valid, and free from restrictions due to disciplinary action by this board or any other health care regulatory agency;

(2) a master's or higher degree from an educational institution in an area related to the subject matter of the course;

(3) training, certification, or experience in teaching subject matter related to the subject matter of the course; or

(4) at least two years' experience in an area related to the subject matter of the course.

(b) During the period of time that any instructor has a healing arts license that is restricted pursuant to a disciplinary action in California or in any other state or territory, that instructor shall notify all approved continuing education providers for whom he or she provides instruction of such discipline before instruction begins or immediately upon notice of the decision, whichever occurs first.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4982.15, 4989.34, 4996.22 and 4999.76, Business and Professions Code.

§1887.11. RECORDS OF COURSE COMPLETION; INOPERATIVE JULY 1, 2014

Upon completion of a course, a provider shall issue a record of course completion to a licensee (e.g., letters of verification of attendance, certificates, gradeslips, transcripts) containing the following information:

(a) name of licensee and license number or other identification number;

(b) course title;

(c) provider name and address;

(d) provider number, if a board-approved provider;

(e) date of course;

(f) number of hours of continuing education credit; and

(g) signature of course instructor, provider, or provider designee.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, and 4999.76, Business and Professions Code.

§1887.11. RECORDS OF COURSE COMPLETION; OPERATIVE JULY 1, 2014

Upon completion of a course, a provider shall issue a record of course completion to a licensee (e.g., letters of verification of attendance, certificates, gradeslips, transcripts) containing the

following information:

(a) name of licensee and license number or other identification number;

(b) course title;

(c) provider name and address;

(d) approval agency provider identification, or name of the board recognized provider offering the course;

(e) date of course;

(f) number of hours of continuing education credit; and

(g) signature of course instructor, provider, or provider designee.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, and 4999.76, Business and Professions Code.

§1887.12. LICENSEE AND PROVIDER COURSE RECORDS

(a) A licensee shall maintain records of course completion for a period of at least two (2) years from the date of license renewal for which the course was completed.

(b) A provider shall maintain records related to continuing education courses for a period of at least four (4) years. Records shall include:

(1) syllabi for all courses;

(2) the time and location of all courses;

(3) course advertisements;

(4) course instructors' vitae or resumes;

(5) attendance rosters with the names and license numbers of licensees who attended the courses;

(6) sign-in sheets; and

(7) records of course completion issued to licensees who attended the courses.

(c) The board may audit the course records of a provider to ensure compliance with the board's continuing education requirements.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22 and 4999.76, Business and Professions Code.

1887.13 RENEWAL OF EXPIRED APPROVAL; INOPERATIVE JULY 1, 2014

A provider approval that has expired may be renewed at any time within one (1) year after its expiration upon all of the following:

- (a) Filing an application for renewal on a form prescribed by the board.
- (b) Payment of the renewal fee in effect on the last regular renewal date.
- (c) Payment of the delinquency fee in effect on the last regular renewal date.
- (d) Submission of a letter stating that no courses were presented while the provider's approval status was expired. If a course was presented during that time, the letter shall state that all participants have been notified that the provider's approval status at the time of completion of the continuing education was expired and that continuing education hours will not be disallowed by the Board if the provider renews within one (1) year after its expiration.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20, and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22, and 4999.76, Business and Professions Code.

1887.14 TIME LIMIT FOR RENEWAL OF APPROVAL AFTER EXPIRATION; NEW APPROVAL; INOPERATIVE JULY 1, 2014

A provider approval that is not renewed within one year of its expiration date may not be renewed, reinstated, or reissued thereafter, but the provider may apply for and obtain a new approval if:

- (a) No fact, circumstance, or condition exists that, if the approval were issued, would justify its revocation; and
- (b) The applicant pays the fees that would be required if applying for approval for the first time.

Note: Authority Cited: Sections 4980.60, 4989.34, 4990.20 and 4999.76, Business and Professions Code. Reference: Sections 4980.54, 4989.34, 4996.22 and 4999.76, Business and Professions Code.

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To: Board Members

Date: February 12, 2013

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Legislative Update

Board staff is currently pursuing the following legislative proposals:

LMFT and LCSW Applicant Remediation of Coursework

This bill proposal would amend LMFT licensing law to allow an LMFT applicant whose degree is deficient in the alcoholism and other chemical substance dependency requirement, or the spousal or partner abuse assessment requirement, to remediate those deficiencies. Current law does not allow remediation. It would also amend LCSW licensing law to clarify that LCSW applicants may also remediate a deficiency in the spousal or partner abuse assessment coursework.

LMFT and LPCC Out-of-State Applicant Requirements

Licensing requirements for out-of-state LMFT and LPCC applicants are set to change on January 1, 2014. However, the Board has concerns that the new out-of state requirements may be too stringent, restricting portability of these license types to California.

This bill proposal extends the effective date of the new education requirements for out-of-state licensees from January 1, 2014 to January 1, 2015. This allows the Board additional time to carefully consider solutions to this problem which would increase portability of licenses while maintaining public protection.

Retired Licenses

This bill proposal would clarify the law regarding eligibility for a retired license. The amendment would state that a licensee is eligible for a retired license if he or she holds a current, active license, or an inactive license, if the license is in good standing. It would also reduce the timeline allowed to restore a retired license to active status from five years to three years.

Child Custody Evaluators

This bill proposal would specify that the Board may access a child custody evaluation report for the purpose of investigating allegations that one of its licensees, while serving as a child custody evaluator, engaged in unprofessional conduct in the creation of the report. Currently, the law does not give the Board direct access to the child custody evaluation report. This leaves the Board unable to investigate allegations of unprofessional conduct of its licensees while they are serving as a custody evaluator, even though the Board is mandated to do so by law.

Omnibus Legislation (Senate Business, Professions, and Economic Development Committee)
(No Bill Number Assigned at This Time)

This bill proposal, approved by the Board at its November 9, 2011 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

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To: Board Members

Date: February 5, 2012

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Rulemaking Update

APPROVED REGULATORY PROPOSALS

Title 16, CCR Sections 1811, 1870, 1887.3: Revision of Advertising Regulations, Two-Year Practice Requirement for Supervisors of Associate Social Workers (ASWs), and HIV/AIDS Continuing Education Course for LPCCs

This proposal makes three types of revisions to current Board regulations:

1. Revises the regulatory provisions related to advertising by Board licensees.
2. Revises current Board regulations to include LPCCs in the requirement to take a one-time, seven hour continuing education course covering the assessment and treatment of people living with HIV/AIDS.
3. Requires supervisors of ASWs to be licensed for two years prior to commencing any supervision.

This proposal was approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on January 9, 2013. It becomes effective on **April 1, 2013**. Staff is working to inform licensees and registrants of these upcoming changes.

SUBMITTED REGULATORY PROPOSALS

Title 16, CCR Section 1833: Regulations to Implement SB 363 (Marriage and Family Therapist Intern Experience)

SB 363 (Chapter 384, Statutes of 2011) limited the number of client-centered advocacy hours for a marriage and family therapist intern to 500 hours.

This proposal deletes a provision of Board regulations which conflicts with SB 363 and that is no longer needed due to the new legislative provisions enacted by SB 363. This amendment was approved by the Board at its meeting on November 9, 2011. This proposal also deletes an outdated provision in Section 1833 regarding crisis counseling on the telephone, which directly

conflicts with telehealth provisions in LMFT licensing law. This amendment was approved by the Board at its meeting on February 29, 2012.

This proposal was submitted to OAL for final approval on January 25, 2013.

Title 16, CCR Section 1888 and Disciplinary Guidelines

This proposal makes several revisions to the Disciplinary Guidelines, which are incorporated by reference into Board regulations. This proposal was approved by the Board at its meeting on November 9, 2011, and additional changes were approved by the Board at its meeting on May 16, 2012.

This proposal was submitted to OAL for final approval in early February.

Title 16, CCR Sections 1803, 1845, 1858, 1881; Add Sections 1823, 1888.1, SB 1111: Enforcement Regulations

This proposal is part of an effort by DCA for healing arts boards to individually seek regulations to implement those provisions of SB 1111 and SB 544 (part of DCA's Consumer Protection Enforcement Initiative) that do not require statutory authority.

The intent of SB 1111, which failed passage in 2010, and SB 544, which failed passage in 2011, was to provide healing arts boards under DCA with additional authority and resources to make the enforcement process more efficient. These regulations propose delegation of certain functions to the executive officer, required actions against registered sex offenders, and additional unprofessional conduct provisions to aid in the enforcement streamlining effort.

This proposal was approved by the Board at its meeting on August 18, 2011. It is now through the public comment periods, and has been submitted to the Department of Consumer Affairs (DCA) and the State and Consumer Services Agency (SCSA) for review. Once approved by these entities, staff will submit it to OAL for final approval.

PENDING REGULATORY PROPOSALS

Title 16, CCR Section 1888 and Disciplinary Guidelines: SB 1441: Uniform Standards for Substance Abuse

This is a regulatory proposal that the Department of Consumer Affairs (DCA) and the Legislature is asking all healing arts licensing boards to run. It creates uniform standards for discipline that the boards must abide by in cases of licensee or registrant substance abuse. This proposal was prompted by a concern at the Legislature that there is a lack of a consistent policy across DCA's healing arts boards for dealing with licensees or registrants who abuse drugs and alcohol.

This proposal was approved by the Board at its meeting on November 28, 2012. Next, staff will submit it to OAL for publication in its Notice Register, which will begin the 45-day public comment period.

Title 16, CCR Section 1820.5; Add Sections 1820.6 and 1820.7: Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families

This proposal clarifies the law regarding requirements for LPCCs to treat couples and families. It also outlines a process by which LPCCs and PCC interns receive Board confirmation that they have met the requirements to treat couples and families.

This proposal was approved by the Board at its meeting on November 28, 2012. Next, staff will submit it to OAL for publication in its Notice Register, which will begin the 45-day public comment period.

Title 16, CCR Sections 1805, 1806, 1816, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1829, 1877; Add Sections 1805.01, 1825, 1826, 1830, 1878: Regulations to Implement SB 704 (Examination Restructure)

This proposal revises current Board regulations in order to be consistent with the statutory changes made by SB 704 (Chapter 387, Statutes of 2011), which restructures the examination process for LMFT, LCSW, and LPCC applicants.

This proposal is awaiting Board approval.

Title 16, CCR Sections 1887, 1887.1, 1887.3, 1887.4, 1887.11; Add Sections 1887.41, 1887.42, 1887.43; Delete Sections 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.13, 1887.14: Continuing Education

This proposal makes a number of changes to the Board's continuing education program. These changes are proposed based on the recommendations of the Board's Continuing Education Committee, which was formed in 2011 in response to a number of concerns raised about continuing education.

This proposal is awaiting Board approval.

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Applied Measurement Services, LLC

February 4, 2013

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

Dear Mrs. Madsen:

Applied Measurement Services, LLC (AMS) is concluding its assessment of the Association of Marital and Family Therapy Regulatory Boards' (AMFTRB) Marital and Family Therapy National Examination. The purpose of this assessment was to determine whether the national examination meets prevailing standards for fair, valid and legally defensible licensure examinations. Further, an evaluation of the congruence between the national examination plan and the Board of Behavioral Sciences' (BBS) Marriage and Family Therapist examination plan was also performed.

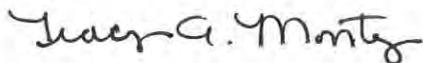
Due to confidentiality parameters outlined in the AMFTRB Non-Disclosure and Confidentiality Agreement, a detailed report and recommendations will be presented at the BBS board meeting on February 27, 2013 during closed session. AMS will provide a summary report and address questions during open session, as appropriate under confidentiality agreement provisions.

AMS will discuss technical issues pertaining to the following components of examination validation:

- Practice analysis
- Examination development
- Passing scores
- Test administration
- Test security
- Transparency of examination program

If you have questions about the information presented in this update, you may contact by mobile phone at 530.788.5346.

Sincerely,



Tracy A. Montez, Ph.D.
President

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

To: Board Members

Date: February 12, 2013

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Board Discussion: Therapist Mandated Reporting of Sexual Activity of Minors

Current law (the California Child Abuse and Neglect Reporting Act or CANRA) specifies types of sexual contact that must be reported as child abuse to law enforcement by mandated reporters.

There are specific guidelines in law outlining circumstances when consensual, heterosexual intercourse is not reportable. For example, a therapist would not be required to report a case of two 14 year olds engaging in consensual, heterosexual sexual activity (unless there is evidence of exploitation).

However, the law does not treat other types of sexual activity, including oral copulation and anal sex, in the same manner. For example, if a therapist learned that a 14 year old patient was engaging in oral or anal sex consensually with another 14 year old, then by law they must make a mandated report of child sexual abuse. This forces therapists, as mandated reporters, to treat heterosexual activity as consensual, while treating homosexual or other sexual activities as child abuse.

Ben Caldwell, PsyD, LMFT, professor at Alliant University, and member of the American Association for Marriage and Family Therapy – California Division (AAMFT-CA), is here to present further information on this topic, and discuss his desire to sponsor legislation to correct this inequity in the law.

Attachments

- A. PowerPoint Presentation, "CANRA Reform" by Benjamin E. Caldwell, PsyD
- B. Penal Code Sections 11165.1, 261.5, and 288 (CANRA definitions of child sexual abuse)
- C. Penal Code Section 11165.7 (CANRA list of mandated reporters)
- D. Penal Code Section 11166 (CANRA reporting duty and timelines)

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CANRA reform

Benjamin E. Caldwell, PsyD
Legislative and Advocacy Committee Chair
AAMFT-California Division

Reporting consensual sexual activity among minors



- California's Child Abuse and Neglect Reporting Act (CANRA) defines the types of sexual contact that must be reported as child abuse to law enforcement by psychotherapists and other mandated reporters.
- Mandated reporters must report some instances of consensual heterosexual (vaginal) intercourse among minors, depending on the minors' ages.

Reporting consensual sexual activity among minors



- Mandated reporters must report all instances of consensual oral sex, anal sex, or object penetration involving minors as child abuse, regardless of the minor's age.
- This is discriminatory on its face against gay and lesbian adolescents.
- It has unintended consequences for religious adolescents as well.
- It is not consistent with current scientific understanding of adolescents' normal sexual development.

Reporting consensual sexual activity among minors



- There have been at least two previous efforts to fix this problem. While unsuccessful, both received significant support from licensees.
- The BBS can serve its mission of public protection by working with AAMFT-CA and other stakeholders to amend the outdated language in CANRA, so that mandated reporters will be required only to report sexual contact that is truly abusive.

Current law



Sexual assault as defined in CANRA



- Penal Code section 11165.1 defines sexual abuse for reporting purposes:
 - (a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral copulation), 289 (sexual penetration), or 647.6 (child molestation).

Sexual assault as defined in CANRA

- CANRA defines some but not all instances of statutory rape as child abuse. (“Subdivision (d) of section 261.5”)
- Mandated reporters are left to memorize a chart of acceptable age combinations for consensual vaginal intercourse among minors.
- If the age combination is OK, and there is not evidence of coercion, bribery, or exploitation, the therapist does not make a report.

Sexual assault as defined in CANRA

- One partner 13 or younger: If the other partner is also 13 or younger and both children are of similar maturity, report only if there is evidence of intimidation, coercion, bribery, or other exploitation. If the other partner is 14 or older, report.
- One partner age 14 or 15: If the other partner is under 14, report. If the other partner is 14 to 20 years old, do not report unless there is evidence of exploitation as described above. If the other partner is 21 or older, report.
- One partner age 16 or 17: If the other partner is under 14, report. If the other partner is 14 or older, do not report unless there is evidence of exploitation as described above.

Source: Atkins, C. L. (2007). Reporting consensual activity between minors: The confusion unraveled. *The Therapist*, 19(1), 32-35, as paraphrased on mftprogress.com

Sexual assault as defined in CANRA

- Meanwhile, CANRA defines all instances of oral sex, anal sex, or object penetration as abusive.
- The age combination of the partners does not matter.
- Consent does not matter.

Therapist reactions

Quotes from BBS licensees and registrants

- “It is essential that adolescent clients trust their therapist [...] When they do share honestly, we are then in a position to help guide their thinking, choices, and behavior, to help them understand when they need additional assistance, and to be willing to seek it. I am appalled that a minor’s revelations of a consensual sexual involvement currently require a mandated report. I cannot help a young person who won’t talk to me because of concern that I will file a report. [...] Please change this law and give me the credibility to help.” – J. J., LMFT

Source: Reform California Sex Laws, <http://reformcaliforniasexlaws.org/blog>

Quotes from BBS licensees and registrants

- “I currently work with adolescents in a group home facility who have an open case with DCFS or Probation. This population typically has histories of abuse and neglect and establishing rapport and trust with them can be challenging. Having to [...] report a minor’s consensual oral or anal sexual relations can prove disastrous, and often irreparable to the therapeutic relationship. I fully support any changes or modifications to this reporting law.” – L. B., MFT Registered Intern

Source: Reform California Sex Laws, <http://reformcaliforniasexlaws.org/blog>

Quotes from BBS licensees and registrants

- "The mandate to report abuse often results in a two fold negative effect which is: 1) the report is often not responded to correctly by personnel and 2) the damage the mandated report creates, when working with a teenager, is often never repaired. [...] It is very disheartening to work days, weeks and months to build up a relationship with a teenager and then have it destroyed in one moment because of a report for "suspected" child abuse." – C. M., MFT Registered Intern

Source: Reform California Sex Laws, <http://reformcaliforniasexlaws.org/blog>

Quotes from BBS licensees and registrants

- "It appears to me the law discriminates against consensual oral or anal sex based on a presumed standard of normalcy rather than any realistic notion of "protecting" our children from sexual abuse. It also imposes sexual tastes, values, and fears in the same way that miscegenation laws once did [...] or laws prohibiting sodomy were used to persecute gay men. Please add my name to the list of mandated reporters urging the legislature to right this egregious wrong." – C. M., LMFT

Source: Reform California Sex Laws, <http://reformcaliforniasexlaws.org/blog>

Quotes from BBS licensees and registrants

- "I have worked with youth at both a drug treatment facility and at a nonpublic school for emotionally disturbed students. My clients were members of gangs, survivors of trauma, in foster care, and in and out of residential treatment. Needless to say, developing rapport with each of them was always a challenge. Having a safe place where they could be open without fear of judgment, punishment or retaliation was a critical component of the therapeutic process as many of them [...] no longer felt safe revealing even the most basic information. (continued)

Source: Reform California Sex Laws, <http://reformcaliforniasexlaws.org/blog>

Quotes from BBS licensees and registrants

- "I knew it was my job to help protect the safety of my young clients and to ensure their rights were respected. I have made countless reports to CPS when any suspicion of abuse or neglect arose. I have never shied away from this duty, regardless of how difficult it would be for my client or their parent or guardian. However, the most frustrating moments were always those at the outset of therapy and throughout the course of therapy when I would have to remind my clients of my mandate to report "some" consensual sexual acts. (continued)

Source: Reform California Sex Laws, <http://reformcaliforniasexlaws.org/blog>

Quotes from BBS licensees and registrants

- "Inevitably, as our therapeutic relationship would deepen, they would want to discuss some of the more intimate parts of their lives – often the happiest part of their otherwise challenging lives. The conversation would take an abrupt turn when I would remind them of my "duty." I wholeheartedly agree that our youth need to be protected from any situations that are potentially abusive, exploitative or neglectful. Oral or anal sex among consensual partners is none of [those] things." – M. H., LMFT

Source: Reform California Sex Laws, <http://reformcaliforniasexlaws.org/blog>

Current science

Oral and anal sex are often precursors to intercourse

- Most of those who have had intercourse before age 18 have also had oral sex.¹
- 2006 national study: Almost 1/4 of teenagers who had not had vaginal intercourse had engaged in oral sex.²
- Sets up a backward reporting standard, where intercourse is not considered abuse but what typically comes before it is considered abuse.

Sources: (1) Halpern-Felsher, B. L., Cornell, J. L., Kropp, R. Y., & Tschann, J. M. (2005). Oral versus vaginal sex among adolescents: Perceptions, attitudes, and behavior. *Pediatrics*, 115(4), 845-851. (2) Halpern, C. I., & Haydon, A. A. (2012). Sexual timetables for oral-genital, vaginal, and anal intercourse: Sociodemographic comparisons in a nationally representative sample of adolescents. *American Journal Of Public Health*, 102(6), 1541-1548

Religious adolescents often seek to preserve a specific notion of virginity

- Among teenage girls who have had oral but not vaginal sex, "morals/religion" is the most common reason for postponing vaginal sex.
- Again, a backward reporting standard is the result: The behavior adolescents are choosing to preserve their virginity (also, commonly, to reduce risk of STI transmission and pregnancy) is labeled as abusive and a mandatory report. Meanwhile, the riskier behavior these teens are avoiding is not considered abuse and is not reportable.

Source: Guttmacher Institute tabulations of the 2002 National Survey of Family Growth. In Dallard, D. (2006). Legislating against arousal: The growing divide between federal policy and teenage sexual behavior. *Guttmacher Policy Review*, 9(3), 12-16.

Prior efforts

CANRA Task Force

- AB2442 (2002, Keeley) "created the Child Abuse and Neglect Reporting Act Task Force for the purpose of reviewing CANRA and addressing: (1) the value of the [Child Abuse Central] Index in protecting children; and (2) changes needed with respect to CANRA, including the operation of the Index.
- The Task Force consisted of 15 members representing a variety of state agencies and offices.

Sources: Child Abuse and Neglect Reporting Act Task Force Report (2004)

CANRA Task Force

- The Task Force issued its report in 2004, including 17 specific proposed statutory amendments to CANRA.
- Clarifying reportable consensual sexual activity among minors was the first recommendation made.
- Proposal was included in SB1313 (2004, Kuehl), but was amended out of the bill in the Assembly after having made it through the Senate. (The bill ultimately was signed into law without this piece.)

Sources: Child Abuse and Neglect Reporting Act Task Force Report (2004), SB1313 (2004) revisions and information on leginfo.ca.gov

Grossman group

- A group of therapists including Gerry Grossman worked on this issue in late 2009 and early 2010.
- Efforts included an article in CAMFT's *The Therapist* magazine, a dedicated web site, and legislative outreach.
- The group apparently failed to find author in 2010, and their effort appears to have been largely abandoned.

Source: <http://reformcallforriasexlaws.org/blog>

Proposed change



Draft amendment

- Penal Code section 11165.1 (a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), ~~286 (sodomy)~~, subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), ~~288a (oral copulation)~~, ~~289 (sexual penetration)~~, or 647.6 (child molestation). "Sexual assault" also means conduct in violation of one or more of the following sections: Section 286 (sodomy), with the exception of subdivision (b) (1); Section 288a (oral copulation), with the exception of subdivision (b) (1); or Section 289 (sexual penetration), with the exception of subdivision (h).



Impact of amendment

- If the preceding language were adopted, mandated reporters would not be required to report oral sex, anal sex, or object penetration involving a minor, if all of the following apply:
 - (1) the act was consensual
 - (2) there was no coercion or intimidation involved
 - (3) both persons were at least 14 years old.



Next steps & request



Coalition for CANRA reform

- AAMFT-CA is building a coalition of mandated reporters and other stakeholders interested in amending CANRA to remove its discriminatory and problematic language.
- We are shopping for an author in 2013 (would need to be added to an existing bill) or 2014 (as a possible standalone measure).



Our request of the BBS

- At this time we request the BBS express support for the concept of CANRA reform, as outlined here, and direct staff to participate in discussions among our coalition for CANRA reform.
- This would not be a commitment to support any specific legislation – any proposed bill would be reviewed through normal BBS process.
- Such direction allows us to approach other stakeholders with the promise that the BBS is interested and actively involved.



Our ideal world

- It would be ideal for the BBS to co-sponsor legislation with the Board of Psychology and other state agencies involved in the mandated reporting of abuse and governing the licenses and registrations of mandated reporters.
- This is consistent with the BBS charge of public protection, as discrimination embedded in current law fails to appropriately protect the public, and leads many mandated reporters to simply avoid reporting duties.

Our request of other stakeholder groups

- Please join us in this effort.

**ATTACHMENT B
CANRA DEFINITIONS OF CHILD SEXUAL ABUSE**

CANRA definition of child sexual abuse:

11165.1 (a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral copulation), 289 (sexual penetration), or 647.6 (child molestation).

Definitions of statutory rape and lewd and lascivious acts appearing earlier in the Penal Code: *Note: Sections incorporated by reference into the definition of child abuse, and thus reportable, are highlighted; note that this means those sections NOT incorporated by reference are NOT included in the definition of child abuse and thus are not reportable.*

Statutory rape (establishes the 16- and 21-year-old age boundaries)

261.5. (a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age.

(b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

(e) [Paragraph e establishes civil penalties for those found guilty of violating this section.]

Lewd and lascivious acts (establishes the 14-year-old age boundary for all contact, and the 10-year gap for activity that does not include intercourse when one partner is 14 or 15)

288. (a) Except as provided in subdivision (i), any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1, upon or with the body, or any part or member thereof,

of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) (1) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

(c) (1) Any person who commits an act described in subdivision (a) with the intent described in that subdivision, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.

[Subsections c2-i describe penalties and additional information not incorporated by reference and thus not relevant here.]

ATTACHMENT C
CANRA LIST OF MANDATED REPORTERS

11165.7.

(a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by a public or private school.
- (4) A classified employee of a public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.

(17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.

(18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.

(19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

(20) A firefighter, except for volunteer firefighters.

(21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner or other person who performs autopsies.

(29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates,

or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disk, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.

(30) A child visitation monitor. As used in this article, "child visitation monitor" means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) "Animal control officer" means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) "Humane society officer" means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) An employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.

(36) A custodial officer, as defined in Section 831.5.

(37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43) (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to

an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

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ATTACHMENT D
CANRA REPORTING DUTY AND TIMELINES

11166.

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the State Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence,

including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) (1) Any commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practically possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of

receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.

(2) Any commercial computer technician who has knowledge of or observes, within the scope of his or her professional capacity or employment, any representation of information, data, or an image, including, but not limited, to any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or material are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a brief description of the images or materials.

(3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (41) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, "electronic medium" includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, "sexual conduct" means any of the following:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(B) Penetration of the vagina or rectum by any object.

(C) Masturbation for the purpose of sexual stimulation of the viewer.

(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(E) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or

suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.