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BOARD MEETING NOTICE
May 22-23, 2013

Embassy Suites Anaheim South
11767 Harbor Blvd.
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(714) 539-3300

Wednesday, May 22, 2013
9:00 a.m.

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

- I. Petition for Early Termination of Probation for Patricia Lee, MFC 39362
- II. Petition for Modification of Probation for Troy Nickell, IMF 70464
- III. Petition for Modification of Probation for Maria Valle, IMF 67932

FULL BOARD CLOSED SESSION

- IV. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and Take Action on Disciplinary Matters
- V. Pursuant to Section 11126(a) of the Government Code, the Board Will Meet in Closed Session to Evaluate the Performance of the Board's Executive Officer

FULL BOARD OPEN SESSION

- VI. Suggestions for Future Agenda Items
- VII. Public Comment for Items Not on the Agenda
- VIII. Adjournment



Governor
Edmund G. Brown Jr.
State of California
State and Consumer
Services Agency
Department of
Consumer Affairs

Thursday, May 23, 2013

8:30 a.m.

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

- IX. Introductions*
- X. Approval of the February 27-28, 2013 Board Meeting Minutes
- XI. Chairperson's Report
- XII. Executive Officer's Report
 - a. Budget Report
 - b. Operations Report
 - c. Personnel Update
 - d. BreEZe Update
 - e. LPCC Program Update
- XIII. Update on Examination Restructure and ASWB Contract
 - a. Discussion and Possible Action Regarding Proposal to Delay Implementation of the Board's Examination Restructure
 - b. Update on ASWB Contract
- XIV. Out-of-State Education Review Committee Update
- XV. Policy and Advocacy Committee Report
 - a. Recommendation #1 - Support Assembly Bill 186 (Maienschein), if amended
 - b. Recommendation #2 - Neutral Assembly Bill 213 (Logue)
 - c. Recommendation #3 - Support Assembly Bill 252 (Yamada and Eggman), if amended
 - d. Recommendation #4 - Oppose Assembly Bill 376 (Donnelly)
 - e. Recommendation #5 - Oppose Assembly Bill 512 (Rendon), unless amended
 - f. Recommendation #6 - Neutral Assembly Bill 790 (Gomez)
 - g. Recommendation #7 - Support Assembly Bill 1057 (Medina)
 - h. Recommendation #8 - Support Senate Bill 22 (Beall)
 - i. Recommendation #9 - Support Senate Bill 126 (Steinberg)
 - j. Recommendation #10 - Support Senate Bill 282(Yee), if amended
 - k. Recommendation #11 - Oppose Senate Bill 578 (Wyland)
 - l. Legislative Update
 - m. Rulemaking Update
- XVI. Other Legislation
 - a. Discussion and Possible Action Regarding Assembly Bill 809 (Logue), Healing Arts - Telehealth
 - b. Discussion and Possible Action Regarding Senate Bill 131(Beall), Childhood Sexual Abuse – Statute of Limitations
 - c. Discussion and Possible Action Regarding Senate Bill 243 (Wyland), Licensed Professional Clinical Counselors
- XVII. Discussion and Possible Rulemaking Action Regarding Revision to the Board's Continuing Education Program

- XVIII. 90-Day Rule and Enforcement Action Research Update
- XIX. Discussion and Possible Action Regarding Revising the Board's 2010 Strategic Plan
- XX. Discussion and Possible Action Regarding Practice in Exempt Settings
- XXI. Update and Discussion Regarding Mandated Reporting of Sexual Activities of Minors
- XXII. Election of Board Officers 2013-2014
- XXIII. Suggestions for Future Agenda Items
- XXIV. Public Comment for Items Not on the Agenda
- XXV. 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* **February 27-28, 2013**

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

Wednesday, February 27th

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Karen Pines, Vice Chair, LMFT Member
Samara Ashley, Public Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Sarita Kohli, LMFT Member (arrived at 8:58 a.m.)
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Christina Wong, LCSW Member

Members Absent

Linda Forster, Public Member
Eileen Colapinto, Public Member

Staff Present

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

Guest List

On file

FULL BOARD OPEN SESSION

I. Introductions

Dr. Christine Wietlisbach called the meeting to order at 8:40 a.m. Christina Kitamura called roll, and a quorum was established. Introductions were not made due to the schedule of petitions.

II. Petition for Early Termination of Probation for Anthony Edell, MFC 32926

Jonathan Lew, Administrative Law Judge (ALJ), presided over the hearing. Karen Denvir, Deputy Attorney General (DAG), represented the Board of Behavioral Sciences. Anthony Edell was not represented by an attorney.

Judge Lew opened the hearing at 8:44 a.m. DAG Denvir presented the background of Mr. Edell's probation. Mr. Edell was sworn in. Mr. Edell presented his request for early termination of probation and information to support the request. DAG Denvir cross-examined Mr. Edell.

Board members also posed questions to Mr. Edell. After Mr. Edell answered all questions, Judge Lew closed the hearing at approximately 9:08 a.m.

Sarita Kohli arrived during the petition hearing at 8:58 a.m. Judge Lew informed Ms. Kohli that she will not participate in the vote during closed session regarding Mr. Edell's petition.

III. Petition for Early Termination of Probation for Gabriela Galindo, MFC 40229

Jonathan Lew, ALJ, presided over the hearing. Karen Denvir, DAG, represented the Board of Behavioral Sciences. Gabriela Galindo was not represented by an attorney.

Judge Lew opened the hearing at 9:12 a.m. DAG Denvir presented the background of Ms. Galindo's probation. Ms. Galindo was sworn in. Ms. Galindo presented her request for early termination of probation and information to support the request. DAG Denvir cross-examined Ms. Galindo. Board members also posed questions to Ms. Galindo. After Ms. Galindo answered all questions, Judge Lew closed the hearing at approximately 9:52 a.m.

A recess was called at 9:53 a.m. The Board reconvened at 10:09 a.m.

IV. Petition for Early Termination of Probation for Elena Labastida, IMF 66102

Jonathan Lew, ALJ, presided over the hearing. Karen Denvir, DAG, represented the Board of Behavioral Sciences. Elena Labastida was not represented by an attorney.

Judge Lew opened the hearing. DAG Denvir presented the background of Ms. Labastida's probation. Ms. Labastida was sworn in. Ms. Labastida presented her request for early termination of probation and information to support the request. DAG Denvir cross-examined Ms. Labastida. Board members also posed questions to Ms. Labastida. After Ms. Labastida answered all questions, Judge Lew closed the hearing at approximately 10:39 a.m.

V. Petition for Modification of Probation for James McLindon, MFC 50610

Jonathan Lew, ALJ, presided over the hearing. Karen Denvir, DAG, represented the Board of Behavioral Sciences. James McLindon was not represented by an attorney.

Judge Lew opened the hearing at 10:53 a.m. DAG Denvir presented the background of Mr. McLindon's probation. Mr. McLindon was sworn in. Mr. McLindon presented his request for modification of probation and information to support the request.

Judge Lew closed the hearing to the public at 11:03 a.m. Judge Lew closed the hearing at approximately 11:27 a.m.

The Board returned to open session at 11:30 a.m.

Julie McAuliffe, the Board's Probation Monitor, was called as a witness to answer questions from the Board.

VI. Suggestions for Future Agenda Items

No suggestions were made.

VII. Public Comments

No public comments were made.

The Board took a break for lunch at 11:35 a.m. and reconvened in closed session at approximately 1:20 p.m.

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

The Board adjourned at 3:50 p.m.

Thursday, February 28th

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Karen Pines, Vice Chair, LMFT Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, 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, Regs/Legislation Analyst
Dianne Dobbs, Legal Counsel
Christina Kitamura, Administrative Analyst

Members Absent

Linda Forster, Public Member
Eileen Colapinto, Public Member
Samara Ashley, Public Member

Guest List

On file

FULL BOARD OPEN SESSION

Dr. Christine Wietlisbach called the meeting to order at 9:10 a.m. Christina Kitamura called roll, and a quorum was established. Board Members, Board staff, and audience members introduced themselves.

IX. Approval of the November 28-29, 2012 Board Meeting Minutes

Kim Madsen noted the following corrections:

- Page 8, 7th paragraph - *Dr. Douglas asked why profession...* to *Dr. Douglas asked why the profession.*
- Page 17, part (e)(2), - *Therefore, and in-state applicant missing one of these areas...* to *Therefore, an in-state applicant missing one of these areas.*

Betty Connolly noted the following corrections:

- Page 6, 4th paragraph - removed "Dr." from the first sentence.
- Page 6, 10th paragraph, 1st sentence - *Licensed Education Psychologists* to *Licensed Educational Psychologists.*

Renee Lonner noted the following corrections:

- Page 7, 3rd paragraph - *California Psychological Association (CPA) was not listed in the draft language and if the CPA would be added...* to *California Psychological Association (CPA) was not listed in the draft language and asked if the CPA could be added.*
- Page 11, 5th paragraph - *Ms. Forster stated that there must be language in existence that describes one who substance abuse* to *Ms. Forster stated that there must be language in existence that describes one having a substance abuse problem.*

Christina Wong moved to approve the November 28-29, 2012 Board meeting minutes as amended. Dr. Leah Brew seconded. The Board voted (9 yea, 1 abstention) to pass the motion.

X. Executive Officer's Report

a. Budget Report

Ms. Madsen reported that as of December 31, 2012, the Board spent about 42% of the current budget. The largest percentage of the expenditures is related to operating expenses and equipment. Revenue collected as of December 31, 2012 is over \$4.2 million. There was a spike in revenues due to the receipt of LPCC applications.

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. The only way the Board can get additional staffing is through a Budget Change Proposal (BCP). The Board must be able to demonstrate that statutory changes occurred and additional staffing is needed to meet its mandate. Obtaining additional staff will be a challenge, but Board staff will continue to make those efforts.

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.

Jill Epstein, California Association of Marriage and Family Therapists (CAMFT), asked for a status update of the Board's efforts to pursue additional staff to process the exam applications, such as "borrowing" a staff person from DCA.

Ms. Madsen responded that in order to "borrow" a DCA staff person, the Board would incur the costs of employing that individual. Currently, projections reflect an unencumbered amount of about \$70,000 at the end of the fiscal year. Ms. Madsen is hesitant in bringing on a DCA staff person due to the tight budget. An option that is being considered is to recruit a member from AARP. This is a federally funded program, and the individual can work up to 20 hours a week. Additionally, a Board staff person will be retiring in April, which will give Board staff an opportunity to look at the position that will be vacated, determine where the greatest need is and reassign the position.

b. Operations Report

Ms. Madsen provided the operations report.

Quarterly performance statistics were provided in the meeting materials. Processing times on this report reflect an average for the quarter.

The Board has one vacancy in the Enforcement Unit. Efforts to fill this position are underway.

Effective January 1, 2013, the incumbent in the fingerprint technician position is now working half time. Therefore, some of the duties on this desk have been reassigned to another staff member.

In the licensing program, fourth quarter statistics reflect an overall decrease in application volume, which is not unusual. The Board's current processing times are increasing. The increased processing times reflect Board staff's efforts to assist with the BreEZe testing, decrease in staff within the LCSW unit, and reassignments.

In the examination program, a total of 2,511 examinations were administered in the fourth quarter. Seven examination development workshops were conducted October through December.

In the administrative program, the cashiering unit is currently processing renewal applications within 10 days of receipt. All other applications are processed within 6 days of receipt.

In the enforcement program, staff continues to meet or exceed the established performance measures (PM) with the exception of PM 4, Formal Discipline. The Board's current quarterly average is 786 days to complete an investigation. This quarter saw a significant reduction in the average days to complete a formal investigation. The average reduced from 858 days in October to 688 days in December. This is reflective of the additional staffing to the Attorney General's Office and the Office of Administrative Hearings.

As for the customer satisfaction survey, the fourth quarter reflects a slight decrease in overall satisfaction, accessibility, and courtesy from the third quarter. Successful service increased slightly. Ratings for overall satisfaction, successful service, and accessibility reflect an increase since last year's fourth quarter rating. The Board's courtesy rating was equivalent to last year's fourth quarter rating.

Ben Caldwell, American Association for Marriage and Family Therapy California Division (AAMFT-CA), noted that the examination data on the Board's website has not been updated since early 2012. Schools and students rely on this data. Specifically, schools rely on the data for their accreditation process. Mr. Caldwell expressed appreciation for any efforts that can be made towards updating this information.

Mr. Caldwell also noted that transition to DSM-V is taking place this year. He asked when this diagnostic information will be included in the exams.

Ms. Madsen referred to Dr. Tracy Montez. Dr. Montez did not have the information on hand. Ms. Madsen stated that the DSM-V will be incorporated over a period of time, but she did not have the specific details on hand.

Ms. Epstein and Ms. Madsen recalled previous discussions regarding the DSM-V. To Ms. Epstein's recollection, questions related to the DSM-V would occur during the 2014 exam development workshops.

c. Personnel Update

Ms. Madsen provided the personnel update.

Effective January 1, 2013, Michelle Eernisse-Villanueva was promoted to a Staff Services Analyst (SSA) within the Enforcement Unit. Ms. Eernisse-Villanueva is 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.

Because of Ms. Eernisse-Villanueva's promotion, there is one vacancy. The Board is currently recruiting to fill this vacancy.

XI. BreEZe Update

Ms. Madsen provided an overview of staff involvement in the BreEZe project. Since July 2012, the time that the Board has contributed towards the BreEZe project is about 2.5 full-time positions. These efforts have been directed to testing the BreEZe system and data verification, both time intensive processes.

Testing involves staff following a script (or a roadmap) and performing that function in the BreEZe system. Any errors discovered during this process are reported to the vendor for correction. After the correction is made, staff must re-test the script.

Data verification involves staff taking the data in the current system, transferring it to the BreEZe system, ensuring that the data is transferring correctly, and ensuring that it is functioning properly.

In January, staff began training on the BreEZe system. After completing the training, staff was directed to participate or “play” in the BreEZe “sandbox.” The sandbox is a BreEZe environment where staff can use the system and become proficient with the system.

Ms. Madsen introduced Amy Cox-O’Farrell, Deputy Director of the Office of Information Services Division. Ms. Cox-O’Farrell gave an overview of the BreEZe implementation.

Ms. Cox-O’Farrell stated that BreEZe will be implemented in 3 phases. She gave a brief overview of BreEZe. BreEZe is an online license and enforcement system which will offer online renewal, original exam app, online complaints. It will interface with exam vendors and after the exam is taken, the record will be updated and sent electronically to the BreEZe system.

Data verification and validation, as Ms. Madsen mentioned, is the process of ensuring the data from the Legacy system will be converted properly in the BreEZe system. The data is being standardized across the boards and bureaus.

BreEZe is being released in 3 phases: Phase 1 is the healthcare boards and bureaus; phase 2 is a mixture, and phase 3 has some large entities including Contractors State License Board, Bureau of Automotive Repair and 8 other entities.

DCA and Accenture are currently working to establish a “go-live” date. May was the anticipated month to implement phase 1. However, as of this report, this implementation date is being reevaluated.

Ms. Lock-Dawson requested a demonstration of the BreEZe system on a future agenda. Ms. Cox-O’Farrell agreed that this can be done.

Karen Pines asked if requested upgrades or changes incur the Board additional costs. Ms. Cox-O’Farrell responded yes. If there is a break in the system or it does not work as defined, the vendor fixes it; however, if the change is a new requirement, the Board would incur the additional costs.

Dr. Douglas asked how this system will improve efficiency. Ms. Cox-O’Farrell replied that staff may not see a faster turnaround in processing the workload; however, staff will notice a smoother/more standardized process and there will be additional services/functions that the current system does not have such as on-line applications, renewals, and complaints. Dr. Douglas requested to discuss the cost analysis in the future.

The executive officers of the boards and bureaus, Accenture, and Ms. Cox-O’Farrell have met to discuss Request for Changes (RFC). In these meetings, they document the issues and consequences of not going forward. About 75% of the requests have been denied. The 25% of requests that were approved were critical changes and did incur costs. There was a budget of

about \$2 million for unanticipated changes. Typically, 10% of the total budget is allowed for unanticipated tasks (UT) such as changes or missed requirements. Currently, about 75% of the UT budget has been expended. DCA is running out of money for unanticipated tasks. Currently, DCA has approximately \$200,000 left for UT for phases 2 and 3. DCA, via a special project report, is requesting additional funding for UT; roughly \$3 million.

Sarita Kohli asked Ms. Cox-O'Farrell to describe the process to get input from boards and bureaus. Ms. Cox-O'Farrell explained that the boards and bureaus were asked to document their business requirements. This process was repeated a 2nd time to better document the business requirements.

Janlee Wong, National Association of Social Workers California Chapter (NASW-CA), asked how much this system costs and will there be a reduction in processing times.

Ms. Madsen anticipates changes in streamlining some of the processes, especially for renewals. Most of those results will not be seen for at least a year after the system is implemented. She anticipates efficiencies seen in other applications processed online as well.

Ms. Cox-O'Farrell responded that the total system costs is roughly \$50 million. To date, the department has not gone over budget.

Dr. Douglas requested the best estimate for improvement time. Ms. Cox-O'Farrell responded that staff may not notice a decrease in transaction processing time.

Ms. Madsen indicated that the immediate efficiency will be in renewals. The BreEZe system is designed to reject an incomplete renewal. Incomplete renewals are the main reason for delays in renewal processing.

Ms. Cox-O'Farrell indicated that there may be an increase in online complaints because it will be easier to file a complaint. She added that the Board may need to place staff in positions to answer phone calls regarding questions regarding this online system and troubleshoot problems that users may experience.

Ms. Lonner expressed that this transition can be very stressful and asked if staff will be assisted with this transition through consulting or training. Ms. Madsen replied that staff will go through a training session addressing changes in the work environment.

XII. Budget Presentation – Analysis of the Board of Behavioral Sciences Fund Condition – Brian Skewis, Budget Analyst

Brian Skewis, Department of Consumer Affairs (DCA) Budget Analyst, presented an overview of DCA's budget process. Mr. Skewis discussed the Board's budget and the budget process, the fund condition, expenditures and answered questions.

All programs under DCA participate in incremental budgeting as opposed to zero-based budgeting. This means that the starting point of the current year's budget is the prior year's budget act.

The fund condition document provided at all Board meetings shows one year of active data, the current year, authorized expenditures and projected revenue, proposed budget years, several years of formula-driven expenditures and revenue projections beyond the budget year. The document is used to assess the cash fund at the beginning and end of each fiscal year, factoring in projected revenue and expenditures. The document also shows loans to the General Fund and loan repayments, and is used to forecast any upcoming fund issues.

The Board has \$12.3 million in General Fund loans. Repayment of those loans will begin in fiscal year 2013.

Although there are budgeted amounts for each line item, the Board cannot expend the bottom line budget at the end of the year.

Mr. Skewis meets with Ms. Madsen and Board staff several times during the year to ensure that the Board is maintaining the proper level of expenditures.

Mr. Skewis talked about the General Fund Loan. He explained that DCA determines if there are programs within DCA that can loan funds to the General Fund. The Board was identified as one of those programs. A loan was taken out from the Board, and a repayment date was established. As the repayment date approaches, if there is not an immediate need for the funds, the repayment date is pushed out until there is a need. This has been the case for the Board since 2002-2003. Generally, there is a need when the fund reserve reaches 3 months of operating expenses. The Board should see some repayment in the 2014-15 fiscal year since its fund will reach its 3 months reserve of operating expenses. The Board will not see 100% repayment; only the amount needed is what will be repaid.

Ms. Madsen stated that the Board is currently within a 9-month fund reserve.

XIII. Update on the Licensed Professional Clinical Counselor Program

Ms. Madsen reported on the Licensed Professional Clinical Counselor (LPCC) Program and provided some statistics.

It is taking approximately 6-8 weeks to evaluate a Professional Clinical Counselor Intern (PCI) Application. The increase in time is due to the volume of information from applicants whose files were previously evaluated. These applicants are submitting information to satisfy deficiencies the evaluator identified in their applications.

To date the Board has issued 183 PCI registration.

It is taking approximately 6-8 weeks to evaluate out-of-state traditional applications. The Board is currently evaluating applications received in January 2013.

The Board received nearly all of the Grandparent applications on the last day the applications were due, which was on December 31, 2011. Although these applications were postmarked by the due date, the applications were not received in our office until January 3, 2012. The LPCC staff reports that they are now evaluating applications received on January 3, 2012. There is an estimated 1,500 applications.

To date, about 40% of the MFT/LCSW Grandparent Applications have been evaluated, about 56% of the non-BBS licensed Grandparent Applications have been evaluated, and 254 LPCC licenses have been issued.

Ms. Wong requested numbers of the out-of-state applicants versus applicants that are in California.

Ms. Epstein, CAMFT, asked why the GAP examination was suspended and when the GAP examination will resume. Ms. Madsen replied that she does not anticipate the GAP examination to be available before June 1st. She also stated staff is coordinating workshops to redevelop the exam. Applicants who are in this process will have their time extended for the period of time that the GAP exam is not available. Ms. Madsen stated that she cannot speak on the reasons why the GAP exam was suspended at this time.

Dr. Wietlisbach called for a recess at 10:34 a.m. The Board reconvened at 10:52 a.m.

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, 498043(b), 4996.9, 4996.23, 4999.47(a), 4980.54, 4980.72, 4999.60, 4989.68, 4996.3, 4996.18, and 4999.46

Rosanne Helms reported on the proposed omnibus bill.

At its November 2012 meeting, the 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.

At the November 2012 meeting, there was a request for Board consideration of an additional omnibus bill amendment regarding the scope of practice for LPCCs. 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 Work California Chapter (NASW-CA) requested a similar amendment to clarify that the scope of practice of Licensed Clinical Social Workers (LCSW) 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 2012 meeting.

Staff is requesting to 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 and 4999.33.

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

Mr. Caldwell suggested adding additional language to avoid conflict of law. Ms. Dobbs stated that since the code sections are listed as required, there is no conflict.

Patricia Lock-Dawson moved to direct staff to make any non-substantive changes to the proposed language and submit to the Legislature for inclusion in the 2013 omnibus bill. Renee Lonner seconded. The Board voted unanimously (10-0) to pass the motion.

b. Recommendation #2 – Possible Rulemaking Action to Implement Senate Bill 704, Statutes of 2011, Chapter 387 – Examination Restructure

Ms. Helms reported on proposed regulation to implement the exam restructure.

SB 704, sponsored by the Board, restructured the examination process for applicants who are seeking LMFT, LCSW, and 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.

An earlier version of the exam restructure regulation was approved by the Board at its November 2011 meeting. However, since that time, the examination restructure effective date was delayed from January 1, 2013 to January 1, 2014, due to conflicts with implementing DCA's BreEZe Database System. Due to this change, as well as other technical changes that are now needed, staff is requesting reconsideration of this proposal.

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.
- 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.
- 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.
- Delete 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.

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

Mr. Caldwell referred to Section 1805.01 Reexamination, "applicant shall not take the same version of any board-administered exam." He suggested adding "more than once" to the end of that sentence.

Ms. Madsen expressed concern that an applicant could take three different versions of the exam, and may have to cycle back and repeat one of those versions again. The language proposed by Mr. Caldwell would suggest that the applicant could not do that. Dianne Dobbs, legal counsel to the Board, agreed.

Ms. Madsen suggested the following language: "An application shall not take the same version of any board-administered exam more than once during the same release time period."

Mr. Caldwell asked if this could be resolved through a tracking mechanism so that an applicant could not be given the same exam version twice.

Dr. Tracy Montez, not speaking for the Office of Professional Examination Services, replied that the candidates would not be taking a version of an exam more than once in the time period. It is possible that the version could be used again in the future. If candidates were to take the same version, it will be in such a manner that the time frame is extended so that they are not tested on recall. There will be tracking mechanisms.

Ms. Helms suggested the following language: "An application shall not take the same version of any board-administered exam more than once during the same examination release period."

Ms. Kohli asked how a candidate will know when there is a new released version of the exam and the specified time that the candidate must wait to take the new version. Ms. Madsen replied that the current structure is set at 180 days. With more frequent testing in law and ethics, new versions can be released every 90 days. However, a candidate may not know when there is a new exam version released. That could be made available to the candidate, but Ms. Madsen was not sure about it at this time.

Ms. Lonner suggested the following language: "An applicant for reexamination shall take a different version of the board-administered examination from the version of the applicant's most recent prior exam."

Mr. Caldwell asked if an intern whose registration expires at the end of January 2014 would have to take the law and ethics exam within one month of renewing the registration. Ms. Madsen responded, no, the intern would have up to January 2015 to take the exam.

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

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

Steve Sodergren presented the proposed regulations

During 2012 the Continuing Education Provider Review Committee met to discuss concerns regarding continuing education and current Board processes. The following concerns were:

- Current scope of approval authority
- Review of coursework/content
- Expired provider approval
- Self-study vs. online learning
- Cite and fine CE providers
- CE credit for examination development
- CE provider approval through an accrediting body
- Continuing competency

The proposed amended language would remove the Board's authority to directly approve and license CE providers. The "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.

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 recognized approval agencies are outlined in the proposed language.
- One of the following organizations that are recognized by the Board as continuing education providers. The recognized continuing education providers are outlined in the proposed language.

Ms. Epstein expressed concern regarding the language that requires Board-recognized approval agencies to conduct periodic reviews of courses offered by providers. Mr. Sodergren stated that according to staff's research, the agencies are conducting periodic/annual reviews. Ms. Epstein requested inserting "annual reviews" to the language.

Ms. Epstein requested the following amendments to the proposed language:

- Page 8 (b)(3), correct *practices* to *practice*.
- Page 9 (b)(2), for consistency, correct *organization* to *entity*.

Ms. Epstein referred to page 9 (b)(4) and asked how an entity can document their means to avoid a conflict of interest between provider and approval functions. She understood the intent, but suggested revising the language. Mr. Sodergren agreed that this needs some work.

Mr. Caldwell asked if the currently approved CE providers renewing in March or April 2014 would be authorized to provide CE until the changes take effect on July 1, 2014, or will their renewals be good for 2 years.

Ms. Madsen replied that the Board will not accept CE from a Board-approved provider after July 1, 2014. At some point, the Board will stop issuing renewals in advance of that date. She doesn't have all answers yet due to the implementation of the new BreEZe system and the constraints to stopping renewal notices.

Mr. Sodergren summarized the discussed amendments:

- Grammatical corrections,
- Section 1887.42(a)(5) changing *periodic reviews* to *periodic or annual reviews*,
- Section 1887.41(b)(4) to provide clarifying language, and
- Section 1887.3 adding language to allow CE credit units when participating in an association's law and ethics committee.

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

Dr. Wietlisbach changed the order of the agenda items, taking item XV (closed session) before item XIV.d.

The Board took a recess at 12:03 p.m. and reconvened in closed session at 12:33 p.m. to discuss item XV.

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

Dr. Tracy Montez met with the Board regarding the possible use of the Association of Marital and Family Regulatory Board Examination for licensure in California.

FULL BOARD OPEN SESSION – The Board returned to open session at 1:32 p.m.

XIV. Policy and Advocacy Committee Report (continued)

d. Legislation Update

Ms. Helms provided an update on legislation that the Board is pursuing:

LMFT and LCSW Applicant Remediation of Coursework - AB 428

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.

LMFT and LPCC Out-of-State Applicant Requirements - AB 451

Licensing requirements for out-of-state LMFT and LPCC applicants are set to change on January 1, 2014. 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.

Retired Licenses - AB 404

This bill proposal would clarify the law regarding eligibility for a retired license.

Omnibus Legislation (no bill number assigned at this time)

This bill will be introduced in March.

Child Custody Evaluators - AB 958

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.

Two versions of this bill were presented to the Board and to the audience. The first version is the language that the Board approved at its November 2012 meeting, which would allow the Board to access a child custody evaluation report.

The second version is the language provided from the Legislative Counsel, which addresses concerns regarding confidentiality. Board staff made suggested changes to the Legislative Counsel's version.

A discussion regarding language on AB 958 took place.

Dr. Brew referred to the Legislative Counsel's language: "If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the licensing board decided that no further action will be taken in the matter of suspected licensing violations." In regards to this statement, if additional evidence is submitted to the Board several years later regarding a previous suspected licensing violation, Dr. Brew expressed that she would want the confidential information to be available.

Ms. Madsen explained that if this information is used in a matter where the Board could not substantiate a violation of law, the Board could not use that evidence in another proceeding where a violation of law was found. Therefore, this sentence in the Legislative Counsel's language is reasonable because it's consistent with what the Board is currently doing.

Dr. Wietlisbach asked why staff suggested deleting the sentence "Except as otherwise provided in this subdivision, confidential information in the possession of the licensing board may not contain the name of the minor."

Ms. Madsen did not know the rationale as to why this sentence was introduced in the language. She explained that whenever a Board investigation involves a minor, the minor is never identified. Ms. Madsen also explained that a problem with keeping this sentence is the minor's name would have to be redacted throughout the report before providing the report to the Board. That would be a burden put upon the court, which is not the Board's intent.

Ms. Helms also noted that if a complainant provided the report, the complainant will most likely not redact the minor's name.

Ms. Lonner preferred the language approved by the Board at its November 2012 meeting, and indicated that the Board may still have problems getting the report through the Legislative Counsel.

Jill Epstein, CAMFT, and Janlee Wong, NASW-CA, both expressed opposition to AB 958.

Ms. Dobbs provided a legal opinion. She stated that Board staff has valid concerns for striking the red highlighted sentences. The yellow highlighted language that was provided by the Legislative Counsel is to make it clear that these reports remain confidential, and that they do not lose any protection that the current law provides. Ms. Dobbs suggested working with the author's office on the language to ensure that the Board's proposed bill does not compromise the confidentiality of these reports and to ensure that the Board can truly be able to use the documents only for investigative purposes and if a case goes to hearing. Ms. Dobbs stated that she is comfortable with including the yellow highlighted language and striking the red highlighted language.

Dr. Wietlisbach summarized that the version provided by the Legislative Counsel is closer to where the Board needs to be in working with the author.

Ms. Kohli requested to hear objections from CAMFT and NASW-CA.

Ms. Epstein stated that CAMFT has several objections. One objection is in regards to confidentiality issues. Second, there is a process in place to address bias by the evaluator. The Board's responsibility is to evaluate the process, not the content of the report. Furthermore, there is already a process in place to obtain the report.

Mr. Wong, NASW-CA, shares CAMFT's concerns. He stated that the timing sequence of this bill was not thought out. Custody hearings are contentious, and parties will use anything to seek their goals. The timing where the custody evaluation is concerned, can affect the outcome of the custody decision. This should not be done until the Board knows what the impact will be.

Ms. Lonner replied to the concerns expressed by CAMFT and NASW-CA. She explained that when Board members and Board staff participated in meetings with the judicial council, they learned that there truly is no court "system." Instead, there are 58 separate counties in California, and each has its own process in family law and child custody investigations. Most of them have no "viable" venue for parents. Ms. Lonner shares Mr. Wong's concern that children come first, and that is the basis of this bill. Ms. Lonner also explained that the Board members and staff offered alternative ways that the judicial council could monitor the situation; however, they do not have the resources or motivation.

Ms. Lonner replied in response to the Board receiving confidential records. The Board always receives confidential records known as treatment records. Treatment records are highly confidential and they typically provide tremendous details.

Dr. Brew asked who the report belongs to, and can the parents request to release the report to the Board. Ms. Madsen responded that the report is the property of the court. The parent(s) have the option to release the report through the subpoena process, which means they would have to retain the services of an attorney.

Ms. Helms pointed out that the Family Code states that the Board *shall* investigate a case of unprofessional conduct on a child custody evaluator. The way the law is written, it is a mandate for the Board to investigate; it is not permissive.

Ms. Epstein asked if there are other documents, such as treatment notes, that can be used in the investigation other than the evaluation report. Ms. Lonner responded that it is not a treatment relationship. Ms. Helms also responded that the complaints are based specifically on the evaluation reports.

Ms. Madsen provided examples of information that can only be obtained in the report to investigate the matter. For example, witness statements were misrepresented in the report, a parent was diagnosed in the evaluation report, or the evaluator engaged in the services of an evaluator and a supervising monitor (a dual relationship).

Patricia Lock-Dawson moved to direct staff to work with the author's office, to amend Family Sections 3025.5 and 3111 with the Legislative Council's language and the Board's suggested modifications. Christina Wong seconded. The Board voted unanimously (10-0) to pass the motion.

Ms. Madsen stated that the Board will work with the stakeholders and the author's office to craft language that satisfies the concerns.

e. Rulemaking Update

Ms. Helms provided a brief update on rulemaking.

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 was approved by the Office of Administrative Law (OAL). It becomes effective on April 1, 2013. Staff is working to inform licensees and registrants of these upcoming changes.

Disciplinary Guidelines and Enforcement Regulations

Both of these regulations have been submitted to OAL for final approval. OAL has 45 days to issue a decision on these proposed regulations.

Regulations to Implement SB 363 - Marriage and Family Therapist Intern Experience

OAL is currently reviewing SB 363. OAL brought an issue to Board staff's attention. There is a form incorporated by reference in that regulation. The form on file with OAL was filed in 1999. That form has since been updated, and the updated version must be incorporated with the regulation. Board staff is seeking the Board's approval since this is a change.

Sarita Kohli moved to adopt the proposed changes. Renee Lonner seconded. The Board voted unanimously (10-0) to pass the motion.

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

Dr. Tracy Montez, Applied Measurement Services, concluded her assessment but cannot release it publicly due to confidentiality parameters outlined in the Association of Marital and Family Therapy Regulatory Board (AMFTRB) Non-Disclosure and Confidentiality Agreement.

Dr. Montez provided some general information. She looked at several components of examination validation:

- Practice analysis,
- Examination development,
- Passing scores,
- Test administration,
- Test security, and
- Transparency of examination program.

Dr. Montez found some technical issues that the Board needs to follow-up. She recommended to the Board to continue working with AMFTRB to address the technical issues and follow along with recommendations that its own vendor made for other examination services, and therefore, to ensure that they meet the standards that would be expected in California.

The Board took a recess at 2:23 p.m. and reconvened at 2:33 p.m.

XVII. Discussion Regarding Therapist Mandated Reporting of Sexual Activity of Minors

Benjamin Caldwell, AAMFT-CA, presented information regarding reporting consensual sexual activity among minors.

California's Child Abuse and Neglect Reporting Act (CANRA) define the types of sexual contact that must be reported by mandated reporters. They must report some instances of consensual heterosexual intercourse among minors depending on their ages. However, mandated reporters must report all cases of consensual oral sex, anal sex, or object penetration as child abuse regardless of age. Issues with this mandate are: 1) it is discriminatory against gay and lesbian adolescents, 2) there are unintended consequences for religious adolescents, and 3) it is not consistent with adolescents' normal sexual development.

Mr. Caldwell provided definitions of sexual assault defined by CANRA, quotes from BBS licensees, information on current science regarding adolescent sexual development and religious adolescents, and information on prior efforts to amend the law.

Mr. Caldwell presented a proposed amendment to Penal Code Section 11165.1. This amendment would not require mandated reported to report oral sex, anal sex, or object penetration involving a minor if:

- The act was consensual,
- There was no coercion or intimidation involved, and
- Both persons were at least 14 years old.

AAMFT-CA is creating a coalition with mandated reporters and stakeholders interested in amending CANRA's language, and they are searching for an author this year or in 2014.

Mr. Caldwell is requesting that the Board support the concept of CANRA reform and direct staff to participate in future discussions with the coalition, and perhaps co-sponsor legislation with the Board of Psychology and other state agencies that govern licenses and registrations of mandated reporters.

Patricia Lock-Dawson moved to refer this matter to the Policy and Advocacy Committee. Renee Lonner seconded. The Board voted unanimously (10-0) to pass the motion.

XVIII. Suggestions for Future Agenda Items

Dr. Wietlisbach suggested a discussion to create new committees based on current issues that the Board is facing.

XIX. Public Comment for Items Not on the Agenda

There were no public comments.

XX. Adjournment

The meeting was adjourned at 3:12 p.m.

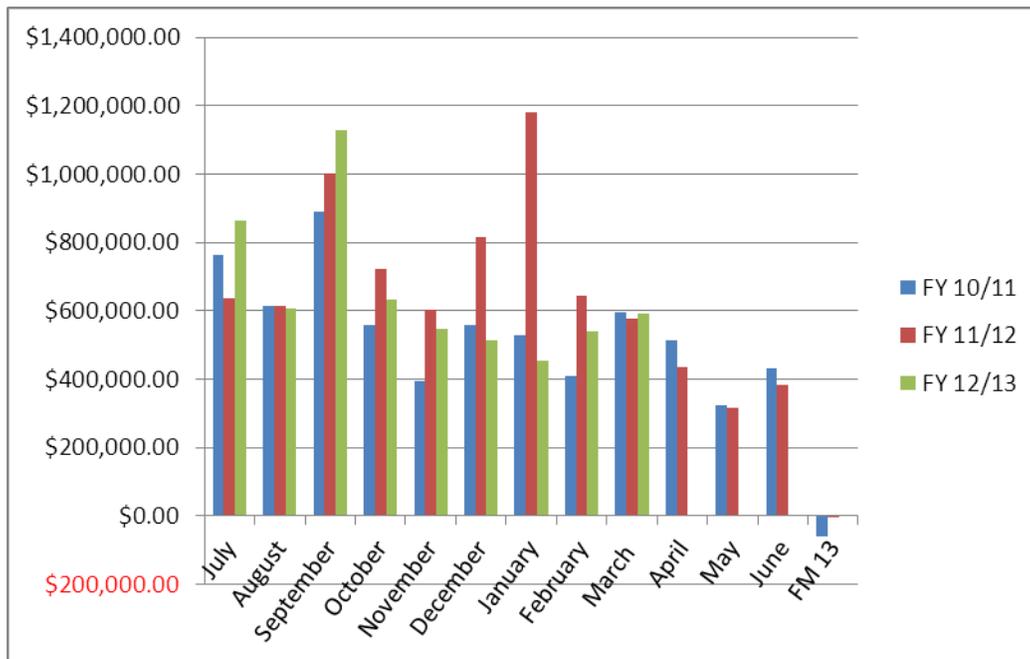


2012/2013 Budget

The 2012/2013 budget for the Board is \$8,077,669. As of March 31, 2012, the Board has spent \$5,289,333 reflecting 65% of the total budget. The chart below provides a breakdown of expense categories and percentages.

Expense Category	Amount	Percentage
Personnel	\$ 2,120,602	26%
OE&E	\$ 2,315,621	29%
Enforcement	\$ 816,539	10%
Minor Equipment	\$ 36,571	0%
Total	\$ 5,289,333	65%

Revenues collected as of March 31, 2013 total \$5,880,835.95.



Board Fund Condition

The Board's fund condition as of January 29, 2013 reflects a reserve balance of 1.9 months

2013/2014 Budget

The Governor's proposed 2013/2014 budget projects the Board's 2013/2014 budget at \$8,063,000 and does not reflect any additional staffing.

In mid May the Department of Finance will release its May Revision adjustments. This document provides an update on the state's revenues and expenditures which allows the Governor to make the appropriate adjustments to upcoming budget.

Although the receipt revenues thus far have exceeded projections, the Governor's priority to maintain a structurally balanced budget remains. Therefore, any significant changes in funding are unlikely.

BBS EXPENDITURE REPORT FY 2012/13

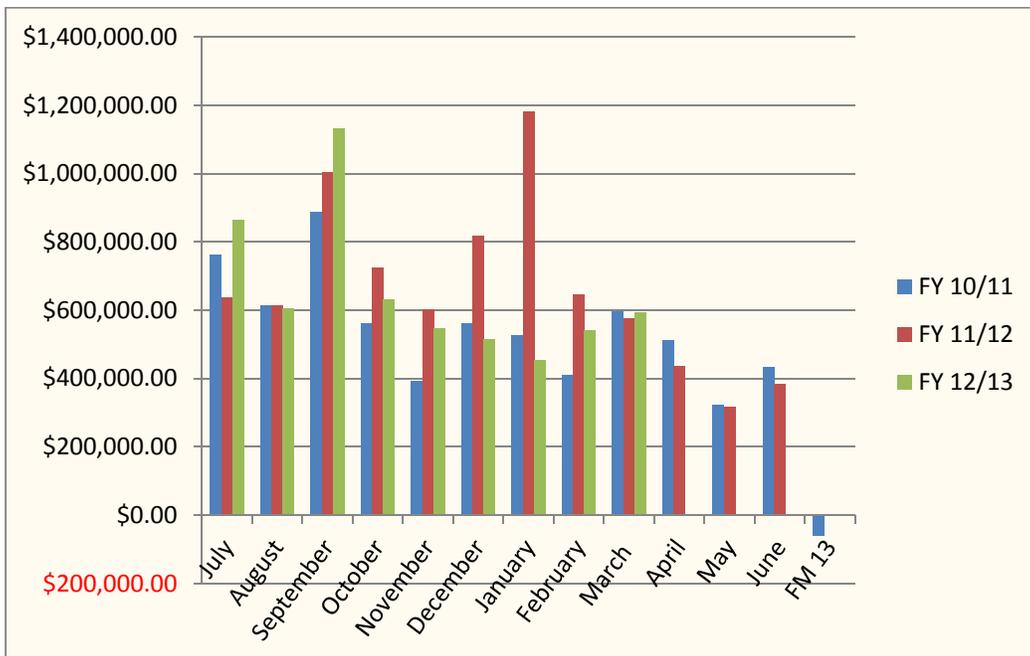
OBJECT DESCRIPTION	11/12	FY 2012/13			
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT AS OF 3/31/2013	PROJECTIONS	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	1,728,520	1,990,849	1,331,423	2,030,000	(39,151)
Salary & Wages (Stat Exempt)	89,748	86,904	65,205	86,941	(37)
Temp 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	14,500	16,000	(3,100)
Overtime	0	14,533	941	1,500	13,033
Totals Staff Benefits	865,004	1,002,306	708,533	1,062,000	(59,694)
Salary Savings					0
TOTALS, PERSONAL SERVICES	2,696,972	3,115,041	2,120,602	3,196,441	(81,400)
OPERATING EXP & EQUIP					
Fingerprint Reports	15,897	19,827	7,815	18,000	1,827
General Expense	44,833	47,720	50,084	80,000	(32,280)
Printing	43,882	53,000	43,991	50,000	3,000
Communication	7,992	11,513	8,624	11,000	513
Insurance	0	325		0	325
Postage	79,993	108,009	74,203	100,000	8,009
Travel, In State	88,948	55,684	51,292	80,000	(24,316)
Travel, Out-of-State	28,319	72,000	10,315	35,000	37,000
Training	7,745	20,463	1,990	3,500	16,963
Facilities Operations	267,195	227,925	184,560	243,000	(15,075)
Utilities	280	4,330	0	0	4,330
C&P Services - Interdept.	0	14,939	39,717	60,200	(45,261)
C&P Services-External Contracts	33,942	234,978	14,154	145,000	89,978
DEPARTMENTAL PRORATA					
DP Billing (424.03)	516,006	803,418	602,349	803,418	0
Indirect Distribution Costs (427)	389,640	393,793	295,345	393,793	0
Public Affairs (427.34)	26,284	22,459	16,844	22,459	0
D of I Prorata (427.30)	13,058	15,946	11,960	15,946	0
Consumer Relations Division (427.35)	26,881	27,311	20,483	27,311	0
OPP Support Services (427.01)	0	490	0	490	0
Interagency Services (OER IACs)	243,757	325,065	111,480	260,000	65,065
Consolidated Data Services (428)	2,252	24,096	1,524	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	326,160	434,800	0
EXAM EXPENSES					
Exam Site Rental	34,953	99,630	22,591	99,630	0
Exam Contract (PSI) (404.00)	334,567	358,659	314,495	360,000	(1,341)
C/P Svs - Expert Examiners (404.01)	0	45,000		0	45,000
C/P Svs - External Subj Matter (404.03)	212,020	365,260	85,566	215,000	150,260
ENFORCEMENT					
Attorney General	991,570	801,588	636,594	1,000,000	(198,412)
Office of Admin. Hearing	139,768	154,926	86,416	140,000	14,926
Court Reporters	6,516	0	6,564	9,000	(9,000)
Evidence/Witness Fees	34,283	94,955	21,888	35,000	59,955
Division of Investigation	239,510	86,771	65,078	86,771	0
<i>LPCC</i>	<i>398,076</i>				
Minor Equipment (226)	25,896	8,300	6,964	5,000	3,300
Equipment, Replacement (452)	24,162	0	29,607	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	3,168,731	4,824,318	138,310
TOTAL EXPENDITURES	\$7,314,579	\$8,077,669	\$5,289,333	\$8,020,759	\$56,910

Reimbursements	FY 11/12 Actuals	Budget Alotment	Current as of 3/31/2013
Fingerprints	(13,301)	(24,000)	(7,882)
Other Reimbursements	(11,215)	(26,000)	(4,810)
Unscheduled Reimbursements	(120,609)		(88,800)
Total Reimbursements	(145,125)	(50,000)	(101,492)

BLUE PRINT INDICATES THE ITEMS ARE SOMEWHAT DISCRETIONARY.

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	\$452,850.71
February	\$430,200.00	\$409,637.17	\$646,040.15	\$541,115.50
March	\$569,946.20	\$597,687.20	\$576,972.25	\$593,123.75
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)	



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%.

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Board Statistics

Attached for your review are the quarterly performance statistics. Processing times on this report reflect an average for the quarter.

Board Staffing

The Board has one vacancy in the Enforcement Unit and one position in the Licensing Unit. Efforts to fill these positions are underway.

Licensing Program

The first quarter statistics reflect an overall decrease in application volume. However, the LCSW and LEP examination applications increased 23% and 78% respectively.

Application type	Applications received (1 st quarter)	Applications received prior report (4 th quarter)	Increase/Decrease
MFT Intern	828	953	-13%
MFT Examination	547	577	-5%
ASW	483	521	-7%
LCSW Examination	447	363	23%
LEP Examination	32	18	78%
LPCC Intern	90	110	- 18%
LPCC Examination *	11	20	-20%

* Traditional path does not include grandparent pathway

The Board's current processing times are noted below. Figures below reflect processing times as of April 30, 2013.

License type	Current Processing Times	Previous report Processing Times	Increase/Decrease
MFT Intern	32 days	43 days	- 11 days
MFT Examination	197 days	171 days	+ 26 days
ASW	59 days	58 days	+ 11 days
LCSW Examination	167 days	161 days	+ 6 days
LEP Examination	96 days	52 days	+ 44 days
LPCC Intern	98 days	126 days	- 28 days
CE Provider	119 days	63 days	+ 56 days

The increased processing times reflect Board staff's efforts to assist with the BreEZe testing, and reassignments.

Examination Program

A total of 2,090 examinations were administered in the first quarter. Sixteen (16) examination development workshops were conducted January through March.

Administration Program

The cashiering unit is currently processing renewal applications within 7 days of receipt. All other applications are processed within 9 days of receipt.

Enforcement Program

The Enforcement staff received 228 consumer complaints and 200 criminal convictions representing a 9% and 33% decrease respectively from the previous quarter. 433 cases were closed this quarter 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 855 days. It is important to note that this performance measure relies on the efficiency of outside state agencies such as the Office of Attorney General and the Office of Administrative Hearings.

Customer Satisfaction Survey

The first quarter reflects an increase in all categories from the last quarter as well as from the same period last year.

Category	Current Quarter Rating (1 st Qtr.)	Previous Quarter Rating (4 th Qtr.)	Prior Year Rating (1 st Qtr.)
Overall Satisfaction	3.5	2.8	2.9
Successful Service	76	53	50
Accessibility	3.4	2.6	2.6
Courtesy	4.1	3.5	3.9
Total Survey Responses	75	62	172



Board of Behavioral Sciences Quarterly Statistical Report - as of March 31, 2013

Introduction

This report provides statistical information relating to various aspects of the Board's business processes. Statistics are grouped by unit.

Reading the Report

Items on the report are aggregated by quarter. The top of the column indicates the quarter and the year (Q111 = 1/2011-3/2011; Q211 = 4/2011-6/2011). Common abbreviations for licensees and registrants: LCSW = Licensed Clinical Social Worker; LEP = Licensed Educational Psychologist; LMFT = Licensed Marriage and Family Therapist; LPCC = Licensed Professional Clinical Counselor; ASW = Associate Clinical Social Worker; PCE = Continuing Education Provider. Other common abbreviations: Proc = Process; Def = Deficiency; CV= Clinical Vignette; AG = Attorney General.

Cashiering Unit

The Board's Cashiering Unit processes license renewals and applications. Approximately 85% of renewal processing occurs in the Department of Consumer Affairs Central Cashiering Unit.

Renewals Processed In-House

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Processed	2267	1892	2401	2047	1735	2274	1881	1910	16407
Received	2015	1814	1197	1822	1939	2064	1918	1900	14669
Proc Time	23	18	29	9	7	7	6	10	14

ATS Cashiering Items (e.g. exam eligibility apps, registration apps, etc)

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Processed	5650	5143	7618	7562	5864	6681	5270	4975	48763
Received	5315	5399	6543	6814	5922	6652	5503	5335	47483
Proc Time	9	12	11	8	3	5	4	9	8

Initial Licenses Issued*

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total
LCS	319	216	262	260	317	240	251	228	2093
LEP	20	28	18	12	23	27	13	18	159
LMFT	456	267	315	411	442	473	519	368	3251
PCE	42	35	51	77	86	52	53	49	445
LPCC				9	52	88	105	108	362

*For MFT Intern and ASW registration statistics, please reference the Licensing Unit portion of the report

Enforcement Unit

The Board's Enforcement Unit investigates consumer complaints and reviews prior and subsequent arrest reports for registrants and licensees. The pending total is a snapshot of all pending items at the close of a quarter.

Complaint Intake *

Complaints	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
Received	210	259	237	222	174	253	274	251	228	2108
Closed without Assignment for Investigation	0	0	0	0	0	0	0	1	0	1
Assigned for Investigation	210	259	237	222	274	216	294	240	255	2207
Average Days to Close or Assigned for Investigation	5	4	4	3	5	6	8	7	8	+
Pending	0	0	0	0	0	37	17	30	4	4

Convictions/Arrest Reports	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
Received	228	207	190	219	234	323	330	298	200	2229
Closed / Assigned for Investigation	228	208	190	219	234	323	330	298	199	2229
Average Days to Close	4	4	4	3	2	1	1	1	1	+
Pending	0	0	0	0	0	0	0	0	1	1

Investigation**

Desk Investigation	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
Assigned	438	467	428	441	508	539	624	538	454	4437
Closed	495	580	489	416	461	562	578	522	428	4531
Average Days to Close	135	140	163	125	126	122	103	120	136	+
Pending	752	634	568	590	641	622	650	675	708	708

Field Investigation (Non-Sworn)	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
Assigned	8	1	2	3	7	2	7	0	1	31
Closed	10	14	4	3	11	4	2	4	1	53
Average Days to Close	386	416	481	332	474	331	285	280	106	+
Pending	28	17	12	12	9	7	12	8	9	9

Field Investigation (Sworn)	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
Assigned	2	12	5	6	4	3	6	4	9	51
Closed	4	6	8	6	7	7	6	1	4	49
Average Days to Close	362	450	582	294	407	388	563	264	480	+
Pending	18	24	21	20	16	12	11	15	20	20

All Investigations	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
First Assignments	438	467	428	441	508	539	624	538	454	4437
Closed	509	600	501	425	479	573	586	527	433	4633
Average Days to Close	142	149	172	129	138	127	108	121	139	+
Pending	798	675	601	622	666	641	673	698	737	737

Enforcement Actions

	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
AG Cases Initiated	22	41	37	16	34	32	22	29	23	256
AG Cases Pending	138	157	163	160	167	169	160	151	139	139
SOIs Filed	8	2	7	6	3	10	9	2	9	56
Accusations Filed	18	14	24	18	21	20	21	20	15	171
Proposed/Default Decisions Adopted	12	5	11	2	9	10	7	11	9	76
Stipulations Adopted	12	14	16	15	11	11	17	14	18	128
Disciplinary Orders	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
Final Orders (Proposed Decisions Adopted, Default Decisions, Stipulations)	24	19	27	17	20	21	24	25	30	207
Average Days to Complete***	911	776	855	960	973	858	806	804	897	+
Citations	Q111	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	YTD
Final Citations	9	15	14	11	8	49	16	36	18	176
Average Days to Complete****	306	269	288	262	362	97	134	80	287	+

Complaint Intake *

Complaints Received by the Program. Measured from date received to assignment for investigation or closure without action.

Investigations **

Complaints investigated by the program whether by desk investigation or by field investigation. Measured by date the complaint is received to the date the complaint is closed or referred for enforcement action. If a complaint is never referred for Field Investigation, it will be counted as 'Closed' under Desk Investigation. If a complaint is referred for Field Investigation, it will be counted as 'Closed' under Non-Sworn or Sworn.

Disciplinary Orders Average Days to Complete ***

Measured by the date the complaint is received to the date the order became effective.

Citations ****

Measured by the date the complaint is received to the date the citation was issued.

+ unable to capture average data for more than a 12 month cycle

Licensing Unit

The Board's Licensing Unit evaluates applications for registration and examination eligibility. This involves verifying educational and experience qualifications to ensure they meet requirements defined in statute and regulation.

LCSW Examination Eligibility Applications

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Received	406	346	309	385	409	370	363	447	3035
Approved	311	276	229	450	276	245	365	184	2336
Proc Time	75	88	103	85	95	111	134	177	109
Proc Time Less Def Lapse	40	54	71	61	52	78	104	137	75

LMFT Examination Eligibility Applications

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Received	500	525	450	575	622	556	577	547	4352
Approved	367	489	436	548	765	478	686	366	4135
Proc Time	161	170	176	179	139	135	146	178	161
Proc Time Less Def Lapse	137	155	158	168	130	115	129	154	143

LPCC Examination Eligibility Applications (Traditional Path)

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Received			17	23	16	20	20	11	107
Approved			0	1	4	11	15	13	44
Proc Time									
Proc Time Less Def Lapse									

LPCC Grandparenting Applications

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
LMFT Received**			1171	868					2039
LMFT Approved*			0	195	234	174	196	48	847
LCSW Received**			86	72					158
LCSW Approved*			0	16	22	4	7	4	53
LMFT and LCSW Received**			1257	943					2200
LMFT and LCSW Approved*			0	212	256	178	202	52	900
Non-BBS-Licensee Received**			627	608					1235
Non-BBS-Licensee Approved*			0	88	102	134	296	215	835

*Applications evaluated and sent a deficiency notice/made exam eligible

**No LPCC Grandparenting applications were received after Q112 because the application deadline had passed.

**LEP Examination
Eligibility Applications**

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Received	24	29	17	25	39	28	18	32	212
Approved	12	12	25	26	25	25	32	7	164
Proc Time	127	125	91	86	63	82	57	52	85
Proc Time Less Def Lapse	28	22	49	39	28	31	24	26	31

**ASW Registration
Applications**

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Received	689	973	556	507	852	1063	521	483	5644
Approved	433	757	729	678	529	871	1002	418	5417
Proc Time	46	55	62	69	43	52	48	50	53
Proc Time Less Def Lapse	40	51	59	63	36	49	45	45	49

**MFT Intern Registration
Applications**

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Received	884	1462	816	851	1003	1565	953	828	8362
Approved	789	856	1101	980	1162	1251	998	852	7989
Proc Time	32	47	83	68	34	22	32	33	44
Proc Time Less Def Lapse	28	43	78	64	29	20	28	29	40

LPC Intern Registration Applications

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total/Avg
Received			43	49	75	124	110	90	491
Approved			0	11	30	62	80	44	227
Proc Time				136	125	94	65	144	113
Proc Time Less Def Lapse				124	102	58	43	49	75

Examination Unit

The Board's Examination Unit processes complaints and performs other administrative functions relating to the Board's examination processes.

Exam Administration

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113	Total
Total Exams Administered	2162	1809	2063	1967	2470	2125	2511	2090	17197
LCSW Written	526	427	466	515	603	435	525	499	3996
LCSW CV	415	332	392	316	402	323	372	324	2876
LMFT Written	606	557	598	575	748	691	789	721	5285
LMFT CV	575	446	578	480	580	487	610	416	4172
LPCC GAP (LMFT)			2	34	46	87	81	13	263
LPCC GAP (LCSW)			0	1	1	1	4	2	9
LPCC GP L&E			0	25	49	57	93	81	305
LPCC Traditional L&E						7	12	14	33
LEP	40	47	27	21	41	37	25	37	275

Customer Satisfaction Survey

The Board maintains a Web based customer satisfaction survey.

	Q211	Q311	Q411	Q112	Q212	Q312	Q412	Q113
Overall Satisfaction ^a	2.9	2.5	2.6	3.0	2.8	3.0	2.8	3.5
Courtesy ^a	3.6	3.5	3.5	3.8	3.7	3.9	3.5	4.1
Accessibility ^a	2.7	2.1	2.3	2.8	2.6	2.7	2.6	3.4
Successful Service ^b	54	42	41	47	49	48	53	76
Total Respondents	118	134	115	91	72	57	62	75

^a Average rating based on 1-5 scale (1=Unacceptable, 5=Excellent)

^b Percent answered "Yes"

Performance Measures

Q3 Report (January - March 2013)

To ensure stakeholders can review the Board's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

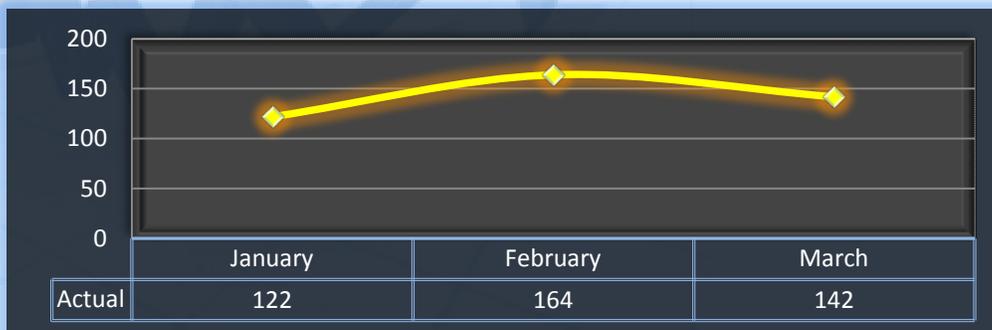
Volume

Number of complaints and convictions received.

Q3 Total: 428

Complaints: 228 Convictions: 200

Q3 Monthly Average: 143

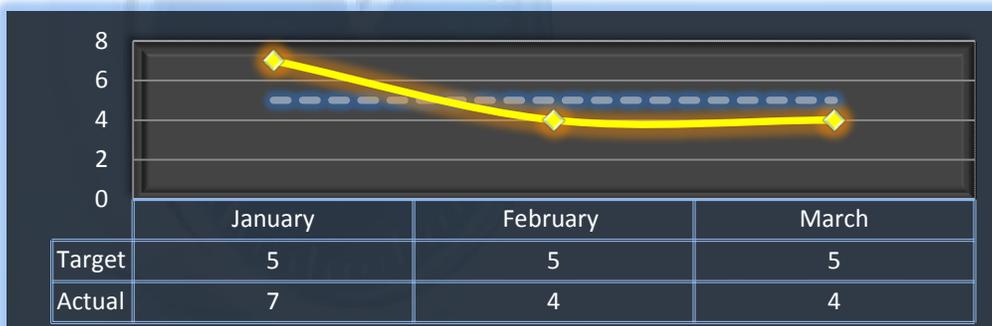


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q3 Average: 5 Days



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 180 Days

Q3 Average: 132 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q3 Average: 855 Days

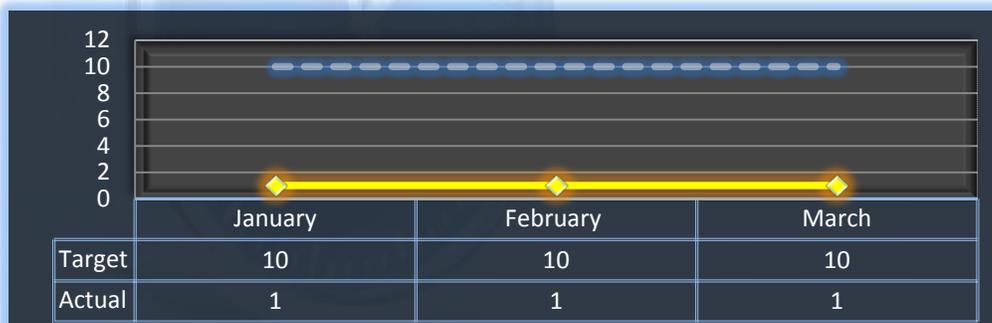


Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q3 Average: 1 Day



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q3 Average: N/A

The Board did not handle any probation violations this quarter.

Note: Cycle times are affected by the current hiring freeze and are subject to outside agencies workload and staffing constraints.

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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: May 7, 2013

From: Laurie Williams
Personnel Liaison

Telephone: (916) 574-7850

Subject: Personnel Update

New Employees

Guillermo Tapia joined the Board as an Office Technician in the Enforcement Unit on May 1, 2013. He will provide support to the Enforcement Analysts and the Enforcement Manager. Guillermo transferred from the Department of Motor Vehicles where he was a Motor Vehicle Technician in the Driver Safety Litigation Unit.

Departures

After nearly 37 years in state service, Elina Taylor retired from the Board effective April 30, 2013. Elina was a BBS employee since 1998; she worked in the licensing, examination, and enforcement unit. Her knowledge, professionalism, kindness, and humor will be missed.

Crystal Martinez will be separating from state service effective May 13, 2013. Crystal is leaving state service to pursue a new career in the private sector. She performed the duties as a Fingerprint Technician in the Enforcement Unit.

Vacancies

Management Services Technician (MST) (full-time) in the Licensing Unit: This vacancy is to fill behind Elina Taylor. The Board has decided to reclassify this vacancy from an Associate Governmental Program Analyst in the Exam Unit to a Management Services Technician (MST) to better suit the current business needs of the Board. This MST will function as an additional full-time Licensed Marriage & Family Therapist Evaluator in the Licensing Unit. The Board is currently advertising for this vacancy and anticipates hiring for this position in the latter part of this month.

Office Technician (Typing) (OT) (part-time) in the Enforcement Unit: The Request for Personnel Action was submitted to Office of Human Resources (OHR) in preparation to fill behind Crystal Martinez upon her separation. The Board will begin recruitment for this vacancy as soon as it receives OHR approval.

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To: Board Members

Date: May 3, 2013

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: BreEZe Update

The efforts by the Board staff, the BreEZe project team, and DCA to launch the BreEZe database continue. In mid-April, Release 1 boards and bureaus were notified that the May "Go-Live" date was not possible. Noting that the fiscal year end was nearing, DCA committed to the Release 1 boards and bureaus that BreEZe will not launch in June.

Board staff continues to test the system and verify that our existing data will convert over correctly. The level of staff commitment to the BreEZe project has increased as a result of the reduction of time permitted to complete the BreEZe tasks. Through their efforts numerous errors and corrections to the database configuration have been identified. Both the Board staff and DCA is firm in their resolve that BreEZe will not be released until its functionality is acceptable.

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To: Board Members

Date: May 9, 21013

From: Paula Gershon
Licensing Manager

Telephone: (916) 574-7830

Subject: LPCC Program Update

LPCC INTERN PROGRAM (PCI)

It is taking approximately 6 weeks to evaluate a PCI Intern Applications received at the Board. The PCI Evaluator is currently evaluating applications received in late March.

To date the Board has issued 140 Professional Clinical Counselor Intern ("PCI") Registrations.

LPCC OUT OF STATE TRADITIONAL APPLICATIONS

It is taking approximately 60 days to evaluate out-of-state traditional applications. The Board is currently evaluating applications received in March, 2013.

LPCC GRANDPARENT APPLICATIONS

As previously noted, the Board received 3,433 applications for the two grandparent programs.

The Board now has a total of four evaluators in the LPCC Licensing Unit. The Licensing Analysts have made tremendous progress in the last few months resulting in a decrease in the estimated time it will take to complete the evaluations of the LPCC Grandparent Applications.

See attached information sheet regarding the current status of the two LPCC Grandparent Programs.

LPCC GRANDPARENT APPLICATIONS

MFT/LCSW GRANDPARENT APPLICATIONS

- 2,196 applications received
- To date 1,238 (**60%**) applications have been evaluated.
- It is estimated that evaluations of these applications will be completed within the next 9 months.

NON-BBS LICENSED GRANDPARENT APPLICATIONS

- 1,236 applications received
- To date 1,022 (**87%**) applications have been evaluated.
- It is estimated that evaluations of these applications will be completed within the next 3 months.

THE BOARD HAS ISSUED THE FOLLOWING:

- **PCI REGISTRATIONS – 238**
- **LPCC LICENSES - 381**

1625 North Market Blvd., Suite S-200
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www.bbs.ca.gov

To: Board Members

Date: May 8, 2013

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Examination Restructure Timing

SB 704 (Negrete McLeod, Chapter 387, Statutes of 2011) restructured the examination process for the Board's Marriage and Family Therapist (LMFT), Professional Clinical Counselor (LPCC) and Clinical Social Worker (LCSW) licensees.

Last year, SB 1575 (Chapter 799, Statutes of 2012) extended the effective date of the exam restructure from January 1, 2013 to January 1, 2014.

Based on continuing implementation conflicts with the Department of Consumer Affairs' (DCA's) new database system, BreEZe, staff recommends extending the effective date of the exam restructure a second time, in order to ensure that once implemented, both the BreEZe and the exam restructure projects will run smoothly.

Background

Under current law, applicants must take and pass a standard written examination upon completion of examination eligibility requirements, including completion of experience requirements. Once an applicant passes the standard written examination, they are eligible to take a clinical vignette examination. An applicant must pass both examinations to be eligible for licensure.

The exam restructure requires applicants for licensure to pass two new exams: a California law and ethics examination and a written clinical examination. These new exams will replace the standard written and the clinical vignette exams currently in place.

The exam restructure will change the timing of when examinations are taken. The California law and ethics examination will be taken during the registration period while the applicant gains experience hours. The written clinical examination will be taken once the registrant has completed all supervised work experience, education requirements, and passed the California law and ethics examination.

Status of the BreEZe Database System

The Board is currently transitioning to BreEZe, a new database system which will replace the current CAS and ATS database systems. All units of the Board, including licensing, enforcement, examinations, and administration, will be affected.

DCA is currently working to implement the database system and is committed to ensuring the database will function properly before being introduced. Due to unforeseen issues, the BreEZe implementation date has been delayed several times. Currently, the target introduction date is summer 2013.

Potential Conflict with BreEZe implementation and the Exam Restructure

The implementation of the BreEZe database system will have a positive impact on Board operations. It will allow Board licensees and registrants to renew online and pay their renewal fees via credit card online. It will also streamline and simplify many tasks for Board staff. However, its successful implementation will require a significant amount of staff resources. Staff has been continuously involved in the initial testing and design of the system. Staff is currently completing training and working with the design team to ensure all functions operate correctly. There will be a learning curve for staff as they transition from the old system to the new one.

An operational database system is critical to Board operations. Although the roll-out of BreEZe is targeted for this summer, any unforeseen problems could delay the implementation date, and consequently, Board operations.

The examination restructure will also be a complicated and time-intensive transition for staff. The timing of the examinations will change, and there will be new requirements that registrants must take the California law and ethics exam in order to renew, and take a 12 hour law and ethics course in order to renew if the exam was not passed. In addition, staff will need to undertake a large outreach effort to ensure that applicants are aware of and understand the new process, and to explain to those already in the exam process how the restructure affects them.

Staff is concerned that if the BreEZe system needs to be delayed until fall or beyond, it would coincide too closely with the exam restructure effective date of January 1, 2014. This could severely cripple Board operations if staff must learn both a new database system and the complexities of the exam restructure at the same time.

In addition, if BreEZe were not operational on January 1, 2014, the exam restructure could not be implemented. The exam restructure changes are being programmed into the BreEZe system. Changes to the current CAS and ATS systems are no longer allowed under any circumstances, as programming changes are very costly and these systems are about to become obsolete. The department is therefore focusing all of its programming efforts on the implementation of BreEZe.

If BreEZe is not operational on January 1, 2014, the Board would not simply be able to continue to administer the current clinical vignette and standard written exams. The code sections granting the authority for the Board to administer these exams expire on January 1, 2014 in order to allow the Board the authority to administer the new exams.

Proposed Solution

When the Board proposed delaying the exam restructure effective date last year, there was no way to predict that the rollout of the BreEZe database would be delayed several times. In order to avoid a situation in which the exam restructure cannot be implemented properly due to the implementation of the BreEZe system, and to avoid additional future requests to delay the effective date of the exam restructure, staff suggests that the implementation date of the exam restructure be extended from January 1, 2014 to January 1, 2016.

Recommendation

Staff recommends that the Board direct staff to pursue legislation to change the implementation date of the exam restructure from January 1, 2014 to January 1, 2016.

Attachments

Attachment A: Proposed Language

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Attachment A
Proposed Language
SB 821 Omni Bill Amendments – Exam Restructure Date Change

Amend §4980.397.

(a) Effective January 1, ~~2014~~2016, 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, ~~2014~~2016.

Amend §4980.398.

(a) Each applicant who had previously taken and passed the standard written examination but had not passed the clinical vignette 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 obtained eligibility for the standard written examination shall take the California law and ethics examination and the clinical examination.

(d) This section shall become operative on January 1, ~~2014~~ 2016.

Amend §4980.399.

(a) Except as provided in subdivision (a) of Section 4980.398, 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, ~~2014~~ 2016.

Amend §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, ~~2014~~2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~2016, deletes or extends that date.

Amend §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, ~~2014~~ 2016, 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, ~~2014~~ 2016.

Amend §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, ~~2014~~2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~2016, deletes or extends that date.

Amend §4980.50.

Effective January 1, ~~2014~~ 2016, 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, ~~2014~~ 2016, 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) A passing score on the clinical examination shall be accepted by the board for a period of seven years from the date the examination was taken.

(i) 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.

(j) This section shall become operative on January 1, ~~2014~~ 2016.

Amend §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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014-2016~~, deletes or extends that date.

Amend §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, ~~2014~~ [2016](#).

Amend §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, ~~2014-2016~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014-2016~~, deletes or extends that date.

Amend §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, ~~2014~~ 2016.

Amend §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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §4984.72.

(a) Effective January 1, ~~2014~~ 2016, 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, ~~2014~~ 2016.

Amend §4992.05.

(a) Effective January 1, ~~2014~~ 2016, 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, ~~2014~~ 2016.

Amend §4992.07.

(a) An applicant who had previously taken and passed the standard written examination but had not passed the clinical vignette 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 obtained eligibility for the standard written examination shall take the California law and ethics examination and the clinical examination.

(d) This section shall become operative on January 1, ~~2014~~ 2016.

Amend §4992.09.

(a) Except as provided in subdivision (a) of Section 4992.07, 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, ~~2014~~ 2016.

Amend §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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §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, ~~2014~~ 2016, 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) A passing score on the clinical examination shall be accepted by the board for a period of seven years from the date the examination was taken.

(i) This section shall become operative on January 1, ~~2014~~ 2016.

Amend §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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §4996.1.

(a) Effective January 1, ~~2014~~ 2016, 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, ~~2014~~ 2016.

Amend §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 a maximum of 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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §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 a maximum of 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, ~~2014~~ 2016.

Amend §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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §4996.4.

(a) Effective January 1, ~~2014~~ 2016, 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, ~~2014~~ 2016.

Amend §4996.17.

(a) (1) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(2) Commencing January 1, 2014, an applicant with experience gained outside of California shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, 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 patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

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

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

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

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

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

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

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

(3) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, 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 patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

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

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

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

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

(c) The board may issue a license to any person who, at the time of application, holds a valid, active clinical social work license issued by a board of clinical social work examiners or a corresponding authority of any state, if the person has held that license for at least four years immediately preceding the date of application, the person passes, or has passed, the licensing

examinations as specified in Section 4996.1, and the person pays the required fees. Issuance of the license is conditioned upon all of the following:

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

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

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

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

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

(2) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, 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 patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

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

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

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

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

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

(d) Commencing January 1, ~~2014~~ 2016, an applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination specified in Section 4996.1 if the applicant obtained a passing score on the licensing examination set forth in regulation as accepted by the board.

Amend §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, ~~2014~~ 2016, 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.

Amend §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) Renew annually for a maximum of five years after initial registration with the board.
- (e) 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.
- (f) This section shall remain in effect only until January 1, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §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) Renew annually for a maximum of five years after initial registration with the board.
- (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, ~~2014~~ 2016.

Amend §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~~ 375 hours of experience ~~providing counseling or crisis counseling on the telephone, personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.~~

(5) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 1820 of Title 16 of the California Code of Regulations.

(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, seminars, 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~~ [Except for experience gained pursuant to subparagraph \(D\) of paragraph \(6\) of subdivision \(b\), 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, ~~2014~~ [2016](#), and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ [2016](#), deletes or extends that date.

Amend §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~~ 375 hours of experience providing ~~counseling or crisis counseling on the telephone, personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.~~

(5) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 1820 of Title 16 of the California Code of Regulations.

(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, seminars, 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~~ [Except for experience gained pursuant to subparagraph \(D\) of paragraph \(6\) of subdivision \(b\), 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, ~~2014~~ [2016](#).

Amend §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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §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, ~~2014~~ 2016.

Amend §4999.52.

(a) Except as provided in Section 4999.54, 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) If the board decides to require a national examination specified in paragraph (1), a passing score on this examination shall be accepted by the board for a period of seven years from the date the examination was taken.

(7) If the board decides to require the examinations specified in paragraph (5), a passing score on these examinations shall be accepted by the board for a period of seven years from the date the examination was taken.

(8) 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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §4999.52.

(a) Except as provided in Section 4999.54, 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, ~~2014~~ [2016](#), 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) A passing score on the clinical examination shall be accepted by the board for a period of seven years from the date the examination was taken.

(k) 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.

(l) The provisions of this section shall become operative on January 1, ~~2014~~ 2016.

Amend §4999.53.

(a) Effective January 1, ~~2014~~ 2016, 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, ~~2014~~ 2016.

Amend §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, ~~2014~~ 2016.

Amend §4999.64.

(a) Effective January 1, ~~2014~~ 2016, 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, ~~2014~~ 2016.

Amend §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, ~~2014~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014~~ 2016, deletes or extends that date.

Amend §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, ~~2014~~ 2016.

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To: Board Members

Date: May 3, 2013

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Update Association of Social Work Boards Contract

As part of the upcoming examination restructure, the Board initiated the contract process to use the Association of Social Work Board (ASWB) national examination for licensure in California. However, due to the delays associated with the BreEZe project, the Board has no other choice but to postpone its examination restructure. Accordingly, the Board has suspended the contract process with ASWB.

The Board's Executive Officer contacted ASWB Executive Director Mary Jo Monahan to inform Ms. Monahan of this recent development. Ms. Monahan was assured that the decision to postpone the Board's examination restructure and use of the ASWB national examination was simply an unforeseen delay. The Board remains committed to the examination restructure and use of the ASWB national examination. As the new date to implement the examination restructure nears, the contract process with ASWB will resume.

Ms. Monahan will attend the 2014 Spring Board meeting to provide a presentation regarding the ASWB national examination.

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To: Board Members

Date: May 3, 2013

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Out-of-State Education Review Committee Update

On April 26, 2013, the Out-of-State Education Review Committee held its first meeting. The committee was established to consider the potential barrier to licensure out-of-state applicants may face after January 1, 2014.

After January 1, 2014, out-of-state applicants are required to enroll and complete graduate level coursework to remediate educational deficiencies. These applicants are no longer able to remediate coursework deficiencies through continuing education classes. Consequently, an out-of-state applicant may incur several thousands of dollars to become licensed in California. It is estimated that the cost will exceed \$10,000.

The committee, stakeholders, and Board staff discussed the current and future educational requirements as well as the current and future options to remediate coursework. From this discussion, areas of concerns were identified by the group. These concerns will be discussed at the upcoming meetings.

The committee will meet on June 28, 2013 and September 6, 2013. Both meetings will be in Sacramento at the Department of Consumer Affairs in the El Dorado Room.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 186 **VERSION:** AMENDED APRIL 22, 2013

AUTHOR: MAIENSCHIN **SPONSOR:** AUTHOR

RECOMMENDED POSITION: SUPPORT IF AMENDED

SUBJECT: MILITARY SPOUSES: TEMPORARY LICENSES

Summary

This bill would require a board within the Department of Consumer Affairs (DCA) to issue a temporary license to a spouse of a military member who is already eligible for an expedited license.

Existing Law:

- 1) Requires a board within DCA to expedite the licensing process for an applicant who is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California. (Business and Professions Code (BPC) §115.5(a))
- 2) States that in order for the license to be expedited, the military spouse must hold a current license in another state in the same profession for which he or she is seeking a California License. (BPC §115.5(a))

This Bill:

- 1) Requires a Board within DCA to issue a temporary license to an applicant who is eligible for, and requests, an expedited license. Such an applicant must be married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, and must hold a current license in the same profession in another state. (BPC §115.5(b)(1))
- 2) Allows the Board to conduct an investigation of the applicant, including a criminal background check, before issuing the temporary license. (BPC §115.5(b)(2))
- 3) Allows the Board to request the applicant provide a full set of fingerprints in order to conduct the criminal background check. (BPC § 115.5(b)(3))
- 4) Before receiving the temporary license, the applicant must provide the following with the application: (BPC §115.5(b)(3))
 - A signed affidavit that he or she meets all of the temporary license requirements, and that the information in the application is accurate.
 - A written verification from his or her original licensing jurisdiction stating that the license is in good standing.

- 5) States that the temporary license expires after 12 months, upon issuance of the expedited license, or upon denial of the expedited license, whichever occurs first. (BPC §115.5(b)(1))
- 6) Requires the applicant must not have committed any act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license. Violation of this requirement is grounds for denial or revocation of the temporary license. (BPC §115.5(b)(3))
- 7) States the applicant must not have been disciplined by a licensing entity in another jurisdiction and must not be the subject of an unresolved complaint, review, or disciplinary proceeding of a licensing entity. (BPC §115.5(b)(3))
- 8) Allows the Board to adopt regulations to administer the provisional license program. (BPC §115.5(c))

Comments:

- 1) **Author's Intent.** The intent of this bill is to allow a military spouses to be issued a temporary license upon application, so that he or she may immediately seek employment upon relocation to California due to the other spouse's active duty military orders. Currently, if the spouse is in a profession that has a state licensing requirement, he or she must wait to seek employment until a state license is received.

The author notes that according to recent study by the California Research Bureau, this state has approximately 72,000 military spouses living here at any given time, and approximately 1/3 of this population is in a profession that has a licensing requirement. This population typically has a high unemployment rate, because while military families can receive orders to move as often as every two years, state licensing processes can take several months.

This bill is part of a larger federal effort to improve the lives of military families. In February 2012, the U.S. Treasury and the U.S. Department of Defense issued a report titled "Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines." This report noted that approximately 35 percent of military spouses work in professions that require state licensure or certification, and recommended the use of temporary licenses to be used to accommodate qualified military spouses while they work toward a permanent license.

- 2) **Current Board Process.** The Board does not currently have a temporary license status. An applicant who has an out of state license can submit an application for examination eligibility. The Board evaluates the application to ensure the applicant meets the Board's education and experience requirements. If the Board determines that they meet all of the requirements, the Board will deem the applicant eligible to take the required examinations. Upon passage of the Board-required examinations, the Board will issue a license.

AB 1904 (Chapter 399, Statutes of 2012) became law on January 1, 2012, and requires the Board to expedite the licensing process for an applicant who is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, if the applicant holds a current license in the same profession in another state.

- 3) **Bypassing the Licensure Process.** As written, this bill requires that to obtain a temporary license, the military spouse must hold a current license in the same profession in another state. It does not require the following:

- That the licensing requirements in the other state in which the person holds a license be substantially equivalent to the requirements in California; or
- That the applicant passes the required Board administered examinations.

Each of the Board's four license types is currently required to pass at least one Board-administered examination. Passage of a Board-administered examination ensures that a candidate for licensure has competencies unique to the mental health environment in California.

Each applicant's education and experience is examined by the Board licensing evaluator during the review of the application. Bypassing this review, and the requirement of the passage of an examination tailored to address the unique mental health environment in California, could jeopardize consumer protection.

4) Continuity of Care. This bill creates a temporary license that is valid for a 12-month period, or until the expedited license is issued or denied, whichever occurs first. If the Board finds that the temporary licensee does not qualify for licensure, then the provisional license expires. In addition, if the applicant has not passed the required Board licensing exam(s) during the 12-month period, then the temporary license would expire. If this happened, the applicant would no longer be able to see his or her patients. A consumer who seeks mental health services often seeks treatment for an extended period of time. Having a practitioner whose temporary license expires suddenly could disrupt the continuity of care for patients.

5) Staffing and Breeze Concerns. The Board does not currently have a provisional license status. It is unclear how quickly the department could create one, as boards under DCA are transitioning to the new Breeze database system.

In addition, staff is already experiencing licensing backlogs due to an increase of applications received, while at the same time experiencing furloughs and the inability to hire additional needed staff. Adding a new license type would increase staff workload, and therefore would likely create a need for new staff.

6) Recommended Position. At its April 18, 2013 meeting, the Policy and Advocacy Committee recommended that the Board take a "support if amended" position on this bill, requesting the following amendments:

- An amendment requiring verification of a valid license in good standing in another state (*subsequent amendments have met this request*);
- An amendment requiring the applicant to provide a transcript to the Board;
- An amendment allowing delayed implementation to accommodate DCA's transition to the BreEZe database system;
- An amendment requiring the applicant to pass the California law and ethics examination prior to issuance of a temporary license; and
- An amendment requiring the applicant to provide fingerprints to the Board (*subsequent amendments have met this request*).

This bill was amended after the Policy and Advocacy Committee meeting. The amendments narrowed the timeframe for a temporary license from 18 to 12 months, and made some of the amendments that the Committee requested, as noted above.

7) Support and Opposition.

Support:

- California Architects Board
- California Association for Health Services at Home
- Department of Defense (DOD)
- National Military Family Association
- San Diego Military Advisory Council

Opposition:

- American Association for Marriage and Family Therapy, California Division
- Board for Professional Engineers, Land Surveyors, and Geologists
- California Nurses Association

8) History

2013

- Apr. 30 From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 1.) (April 30). Re-referred to Com. on APPR.
- Apr. 23 Re-referred to Com. on B.,P. & C.P. In committee: Set, first hearing. Hearing canceled at the request of author.
- Apr. 22 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
- Apr. 2 Re-referred to Com. on B.,P. & C.P.
- Apr. 1 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
- Feb. 7 Referred to Com. on B.,P. & C.P.
- Jan. 29 From printer. May be heard in committee February 28.
- Jan. 28 Read first time. To print.

9) Attachment: Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines, February 2012, U.S. Department of the Treasury and U.S. Department of Defense



U.S. Department of the Treasury



U.S. Department of Defense

Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines

February 2012

“We’re redoubling our efforts to help military spouses pursue their educations and careers...We’re going to help spouses get that degree, find that job, or start that new business. We want every company in America to know our military spouses and veterans have the skills and the dedication, and our nation is more competitive when we tap their incredible talents.”

- President Barack Obama, January 24, 2011



February 15, 2012



The President and his administration have taken the initiative to make the care and well-being of our nation's veterans, service members, and military families a priority across all agencies of the government. Last year, the President unveiled *Strengthening Our Military Families: Meeting America's Commitment* – a document that outlined the commitment of 16 separate agencies to 47 initiatives designed to improve the lives of military families. First Lady Michelle Obama and Dr. Jill Biden have also made it their personal priority to support our nation's veterans, service members, and military families through their Joining Forces initiative.

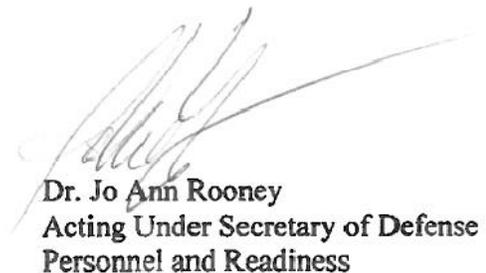
As a result of the President's advocacy, and in response to conversations that the First Lady and Dr. Biden have had with military spouses, the Departments of Treasury and Defense have co-authored this report to highlight the impact of state occupational licensing requirements on the careers of military spouses. The report shows that military spouses are especially affected by state occupational licensing requirements. About 35 percent of military spouses work in professions that require state licenses or certification. They move across state lines far more frequently than the general population. These moves present administrative and financial challenges, as illustrated in a case study of nursing licensing requirements. The report identifies best practices that states and licensing bodies can adopt through legislation, as well as current Department of Defense initiatives that address this issue.

We believe the best practices described in this report provide a baseline for further improvements, and hope it is a call to action to support our military spouses while still maintaining professional standards that ensure public safety. We are asking state governments, licensing boards, and professional associations to join us in finding more efficient ways for military spouses and other mobile professionals to fulfill these state and professional licensing and certification requirements.

Our military spouses support the well-being and safety of our nation, and we can best appreciate their sacrifices and unique challenges by adopting practices that lessen the burdens of their frequent moves. They have a compelling need and we are suggesting tangible solutions. All that is needed is the willingness to take action.



Dr. Janice Eberly
Assistant Secretary of the Treasury
for Economic Policy



Dr. Jo Ann Rooney
Acting Under Secretary of Defense
Personnel and Readiness

Executive Summary

On January 24, 2011, President Obama, First Lady Michelle Obama, and Dr. Jill Biden presented *Strengthening Our Military Families: Meeting America's Commitment* – a document that responded to the Presidential Study Directive calling on all Cabinet Secretaries and other agency heads to find better ways to provide our military families with the support they deserve. The directive was initiated to establish a coordinated and comprehensive federal approach to supporting military families, and it contains nearly 50 commitments by federal agencies in pursuit of this goal.

State licensing and certification requirements are intended to ensure that practitioners meet a minimum level of competency. Because each state sets its own licensing requirements, these requirements often vary across state lines. Consequently, the lack of license portability – the ability to transfer an existing license to a new state with minimal application requirements – can impose significant administrative and financial burdens on licensed professionals when they move across state lines. Because military spouses hold occupational licenses and often move across state lines, the patchwork set of variable and frequently time-consuming licensing requirements across states disproportionately affect these families. The result is that too many military spouses looking for jobs that require licenses are stymied in their efforts.

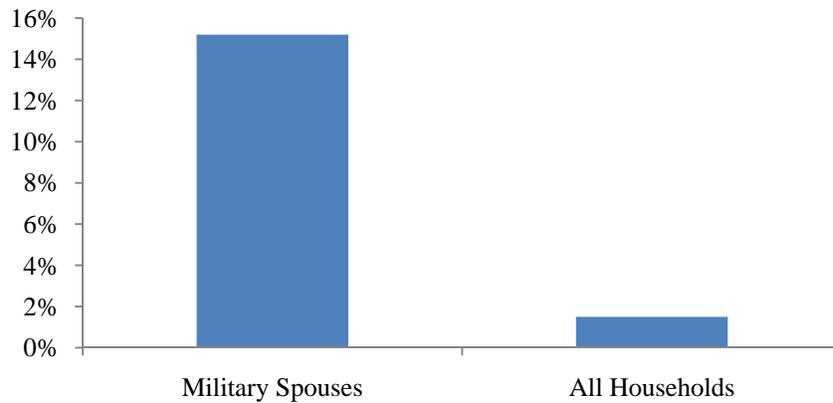
A spouse's employment plays a key role in the financial and personal well-being of military families, and their job satisfaction is an important component of the retention of service members. Without adequate support for military spouses and their career objectives, the military could have trouble retaining service members.

The Department of the Treasury and the Department of Defense (DoD) have conducted an analysis to highlight the importance of state occupational licensing requirements in the lives of licensed military spouses. The report demonstrates that military spouses often work in occupations that require a license or certification and that they have a relatively high rate of interstate mobility compared to the general population. The report also examines a case study of nursing licensing requirements to illustrate the administrative and financial burdens that licensed military spouses face when they move across state lines, and highlights current DoD initiatives that address these licensing issues. Finally, the report identifies best practices that states and licensing bodies can adopt to help reduce barriers for military spouses moving across state lines.

This report finds that:

- **Nearly 35 percent of military spouses in the labor force require licenses or certification for their profession.**
- **Military spouses are ten times more likely to have moved across state lines in the last year compared to their civilian counterparts.**

Percent of Adult Population that Moved Across State Lines in the Last Year



In a 2008 Defense Manpower Data Center (DMDC) survey of military spouses, participants were asked what would have helped them with their employment search after their last military move. Nearly 40 percent of those respondents who had moved indicated that “easier state-to-state transfer of certification” would have helped them.

This report highlights best practices that states can pursue to help licensed military spouses. These best practices to help make licenses more portable come at little cost to states, but could make a meaningful difference in the lives of many military families. These best practices include:

- *Facilitating endorsement of a current license* from another jurisdiction as long as the requirements for licensure in that jurisdiction are substantially equivalent to those in the licensing state, and the applicant:
 - Has not committed any offenses that would be grounds for suspension or revocation of the license in the other jurisdiction, and is otherwise in good standing in that jurisdiction; and
 - Can demonstrate competency in the occupation through methods as determined by the Board, such as having completed continuing education units, having had sufficient recent experience (in a full or part time, paid or volunteer position), or by working under supervision for a prescribed period.
- *Providing a temporary or provisional license* allowing the military spouse to practice while fulfilling requirements needed to qualify for endorsement in the licensing state, or awaiting verification of documentation supporting an endorsement. Temporary licenses should require minimum documentation, such as proof of holding a current license in good standing and marriage to an active duty Service member who is assigned to the state.

- *Expediting application procedures* so that:
 - The director overseeing licensing within the state has authority to approve license applications for the boards; and/or
 - The individual licensing boards have authority to approve a license based simply on an affidavit from the applicant that the information provided on the application is true and that verifying documentation has been requested.

DoD, through the DoD-State Liaison Office (DSLO), has an on-going program to address key issues with state policymakers. This program, USA4 Military Families, covers 10 key issues, including occupational licensing and eligibility for unemployment compensation benefits. As of February 2012, thirteen states have introduced bills addressing the aforementioned best practices, and DSLO is working with these legislators. Although DoD continues to work on these issues on behalf of military spouses, more work remains to be done.

Introduction

Military spouses not only play an enormous role in supporting our armed forces, but they also endure recurring absences of their service member spouse, frequent relocations, and extended periods of single-parenting and isolation from friends and family.ⁱ Research suggests that the effects of these challenging circumstances can be mitigated by employment. Unfortunately, military spouses earn less than their civilian counterparts and are less likely to be employed, on average.^{ii,iii} A RAND study found that nearly two-thirds of military spouses felt that being a military spouse negatively affected their opportunity to work because of the “frequent and disruptive moves” associated with a military lifestyle.^{iv}

CIVILIAN SPOUSES OF ACTIVE DUTY SERVICE MEMBERS^v

Number: 612,709

- Army: (40%)
- Navy: (24%)
- Marine Corps: (13%)
- Air Force: (24%)

Gender:

- Female: 95%
- Male: 5%

Average age: 32

Average years married: 7.8 years

Race/Ethnicity:

- Non-Hispanic White: 68%
- Non-Hispanic Black: 9%
- Hispanic: 12%

Education:

- No College: 16%
- Some College: 49%
- Bachelor’s Degree: 25%
- Advanced Degree: 10%

Employment:

- Labor participation rate: 57%
- Unemployment rate: 26%

Age of Children*:

- Have children 5 & under: 54%
- Have children 6-12: 30%
- Have children 13-17: 15%

*72% have children

Research on military spouses finds that employment positively affects their general well-being – both directly and indirectly. Specifically, satisfaction with career development prospects has a direct and statistically significant effect on military spouses’ well-being.^{vi} However, many military spouses are not satisfied with their career prospects. One military spouse said, “as time passes and I am unable to find work, my career dies and I feel like I have to abandon my personal and professional goals because my spouse is [the] military.”^{vii} Although many military families depend on two incomes, they often face difficulties in career maintenance: “having to leave an excellent job behind, be unemployed for months, then underemployed...all of this affects our family’s finances.”^{viii}

Military spouse employment and the associated financial and personal well-being is also an important component of the retention of service members. More than half of all active duty military personnel are married, and 91 percent of employed military spouses indicated that they wanted to work and/or needed to work.^{ix} Research suggests that spouse dissatisfaction with the ability to pursue career objectives may hinder re-enlistment. Not only are military spouses highly influential regarding re-enlistment decisions, but more than two-thirds of married service members reported that their decision to re-enlist was largely or moderately affected by their spouses’ career prospects.^x

Complicated state occupational licensing requirements contribute to the difficulties that spouses of military personnel face in the workforce. State licensing and

certification requirements are intended to ensure that practitioners meet a minimum level of competency and to help “protect the public from unqualified providers.”^{xi,xii} Because each state sets its own licensing requirements, these requirements often vary across state lines. Consequently, the lack of license portability – the ability to transfer an existing license to a new

state with minimal requirements – can impose significant administrative and financial burdens on licensed professionals when they move across state lines. Because nearly 35 percent of military spouses work in licensed or certified professions and are 10 times as likely to move across state lines than their civilian counterparts, military spouses are more frequently affected by the lengthy background checks, exams, fees, and other burdens associated with the lack of licensing portability.

Military spouses have expressed their frustration with the lack of licensing portability. According to a May 2010 survey of military spouses conducted by Blue Star Families, a military family support group, almost half of respondents felt that being a military spouse negatively affected their ability to pursue a career, while one in five respondents cited difficulties arising from the lack of licensing portability.^{xiii} One military spouse said, “moving from one state to another, with different licensing requirements, has been a challenge. My career, while fairly portable, has still been difficult to maintain.”^{xiv} Another military spouse, a real estate broker, explained the challenges of transferring licenses when she and her husband moved across state lines:

I was a real estate broker in North Carolina when I met my husband. When we [moved] to Texas, my license was no longer valid...In order to reinstate my license, I would have had to attend Texas real estate school and pay Texas licensure fees. The cost to get my license and restart my business would have been more than I could have earned in the 18 months we lived there before [moving] to Kentucky. In Kentucky, I would have had to do it all over again.^{xv}

Given the volunteer nature of our military, the sacrifices military families make for this country, and the importance of retaining these families to maintain the readiness of our military, ensuring that licensing procedures do not needlessly hinder military spouses is critically important.

The first section of this report uses the Current Population Survey to demonstrate that military spouses often work in occupations that require a license or certification and that they have a relatively high rate of interstate mobility compared to the general population. The second section illustrates the administrative and financial burdens that military spouses face when they move across state lines by examining a case study of nursing licensing requirements. Finally, the third section highlights current DoD initiatives that address these licensing issues and discusses best practices that states and licensing bodies can adopt to help reduce barriers for military spouses moving across state lines.

Part 1: Licensing and Mobility

This section uses data from the Annual Social and Economic (ASEC) supplement of the Current Population Survey (CPS) to demonstrate that military spouses often work in state licensed occupations and that they have a relatively high rate of interstate mobility compared to the general population. The CPS is the basis for official government labor force statistics, including the unemployment rate.^{xvi} While the CPS does not survey military barracks, the data do include civilian spouses of service members even if they live on-base in civilian housing.

We constructed a sample of approximately 2,800 spouses of active duty, Guard and Reserve service members, by combining CPS labor force data from 2007 through 2011. Table 1 presents summary statistics for our sample of military spouses. Due to data constraints, we exclude dual-military families (in which both spouses are enlisted) from the analysis. About 95 percent of military spouses in our sample are female, which is consistent with personnel data from DoD.^{xvii}

Table 1: Gender and Population Estimate of Military Spouses

	Population estimate	Sample size	Percent of Total
Women	670,280	2,609	94.2%
Men	43,511	162	5.8%

Notes: Annual averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS.

Table 2 presents labor force statistics for military spouses and civilian spouses. Data from the CPS show that the labor force participation rate for military spouses has been about 57 percent over the past five years, with an unemployment rate of 9.3 percent.

Table 2: Labor Force Participation and Unemployment Rate of Military and Civilian Spouses

	Military Spouses	Civilian Spouses
Labor Force Participation Rate	56.8%	72.8%
Unemployment Rate	9.3%	4.9%

Notes: Annual averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS. Civilian spouse statistics are weighted to be comparable with the gender distribution of military spouses. Data are restricted to respondents aged 18 to 45.

Table 3 presents educational attainment for military spouses and civilian spouses using CPS data. Almost 44 percent of military spouses have “some college” but not a four-year degree, compared to 28 percent of civilian spouses. “Some college” includes receiving a degree or certificate from a community college or other short-term training program. In our sample, 38 percent of civilian spouses have at least a bachelor’s degree, compared to 31 percent of military spouses.

Table 3: Educational Attainment of Military and Civilian Spouses

	Military Spouses	Civilian Spouses
Less than high school	2.9%	9.9%
High school diploma (or equiv.)	22.7%	24.9%
Some college	43.4%	27.8%
Bachelor's degree or higher	31.0%	37.3%

Notes: Averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS. Civilian spouse statistics are weighted to be comparable with the gender distribution of military spouses. Data are restricted to respondents aged 18 to 45.

Occupations of Military Spouses

Table 4 presents the top 20 occupations among our sample of military spouses. Teaching is the most common occupation among military spouses, followed by child care services, and nursing. While many of the common occupations among military spouses are not licensed, some of the most popular professions, including teaching and nursing, do require licensure.

In a 2008 Defense Manpower Data Center survey of active duty military spouses, participants were asked what would have helped them with their employment search after their last military move. Nearly 40 percent of those respondents who had moved indicated that “easier state-to-state transfer of certification” would have helped them. This is not surprising given that a third of the respondents had “recently been employed” in an occupation with potential licensure requirements, and nearly half of the respondents suggested that they were interested in pursuing careers in licensed fields.^{xviii} These responses are consistent with our findings in the CPS, which suggest that nearly 35 percent of military spouses in the labor force require licenses or certification for their profession.^{xix}

**Table 4: Top 20 Occupations for
Military Spouses in the Labor Force**

Rank	Occupation	Percent of total
1	Teachers (Pre-Kindergarten - 12th Grade)**	5.2
2	Child care workers*	3.9
3	Registered nurses**	3.7
4	Retail salespersons	3.6
5	Secretaries and administrative assistants	3.5
6	Waiters and waitresses	3.0
7	Receptionists and information clerks	2.8
8	Cashiers	2.8
9	First-line supervisors/managers of retail sales workers	2.5
10	Customer service representatives	1.8
11	First-line supervisors/managers of office and administrative support workers	1.6
12	Accountants and auditors**	1.6
13	Nursing, psychiatric, and home health aides*	1.5
14	Managers, all other	1.3
15	Tellers	1.3
16	Dental assistants*	1.2
17	Financial managers	1.2
18	Postsecondary teachers	1.2
19	Stock clerks and order fillers	1.2
20	Other teachers and instructors	1.2
<u>Memo</u>		
	Other categories	53.9

Notes: Annual averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS. Data include unemployed workers. Double asterisks (**) denote occupations that require licenses; single asterisk (*) denotes occupations that have certification.

Military Spouse Mobility

The ASEC supplement also asks respondents if they moved in the past year. Military spouses are approximately ten times more likely to have moved across state lines in the last year compared to the total population.^{xx} Table 5 presents mobility rates for military spouses and for the total population. On average, 15 percent of military spouses reported moving across state lines in the twelve months before the CPS survey, compared to only 1.5 percent of all CPS respondents.

**Table 5: Annual Percent of Adult Population
Who Moved Across State Lines**

	Percent Moved
Military Spouse	15.2
Civilian Spouse	1.1
Single / Unmarried	1.8
<u>Memo</u>	
All households	1.5

Notes: Annual averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS, but reflect relocation in the year before the survey. Those who moved from overseas locations are excluded from this table.^{xxi}

Because military spouses frequently hold occupations that have licensing requirements and because they move across state lines much more than the general population, complicated licensing processes are disproportionately burdensome for them. The next section will examine state licensing requirements for nurses as a case study of the difficulties that military spouses face when transferring their license across state lines.

Part 2: Nurse Licensing Case Study

Registered Nursing License Portability

Nursing is among the most popular professions for military spouses, and registered nurses must meet licensure requirements in each of the states where they practice. Even though the nursing profession has standardized several aspects of its licensing procedures, transferring a license when moving remains a complicated process because of variability in state licensing requirements. These problems are not unique to the nursing profession, and many licensed professionals face similar challenges when attempting to transfer their license across state lines.

To illustrate the administrative and financial burdens that licensed military spouses face when they move across state lines, this section examines a case study of nursing licensing requirements. This section documents the process for obtaining a new nursing license in any state, lists the standardized aspects of moving a nursing license to another state, and demonstrates the variability in licensure requirements across state lines.

Initial Licensing Hurdles

To obtain an initial license as a registered nurse (RN) in any state, applicants must satisfy a large set of requirements. According to the Bureau of Labor Statistics, a nursing student must complete either a bachelor's degree, an associate's degree, or receive a diploma from an approved nursing program.^{xxii} After completing a degree from an accredited program, an applicant for a registered nursing license must take the National Council Licensure Examination for Registered Nurses (NCLEX-RN). This nationally recognized test is administered by the National Council of State Boards of Nursing (NCSBN) and "measures the competencies needed to perform safely and effectively as a newly licensed, entry-level nurse."^{xxiii, xxiv} Passing a background check is also a requirement for nursing licensure in all states.

Standardized Aspects of the Nursing "Licensure by Endorsement" Process

In general, a nurse changing his or her state of permanent residence must apply to the new state's licensing board for "licensure by endorsement," which is the process of transferring an existing nursing license to a new state. This process includes the application for and receipt of a temporary license while the application for a permanent license is processed. While a nurse waits for a temporary license, he or she may be unable to practice. The Nurse Licensure Compact (NLC) and the NURSYS online database help to address this inflexibility and facilitate the license transferring process by providing elements of standardization.

The NCSBN created the NLC in 1997.^{xxv} Twenty-four states are members of the NLC. If a nurse changes his or her permanent residence from one compact state to another, the compact allows the nurse to practice using the previous state's license for up to 30 days. A change in residence requires that the nurse obtain a temporary or permanent license in the new state of residence in order to practice there for longer than 30 days. The NLC website states that nurses transferring their licenses when moving across state lines must "apply for licensure by endorsement, pay any applicable fees, and complete a declaration of primary state of residency in

the new home state, whereby a new multistate license is issued and the former license is inactivated.”^{xxvi} In other words, the 30-day privilege granted by this compact is separate from the temporary and permanent licenses granted through licensure by endorsement with the state nursing board. The compact agreement fills the gap between the time when the nurse moves and when a temporary license can be issued by the receiving state’s nursing board.

The “licensure by endorsement” process has many components. A major part of this process is the verification of licensure in the previous state of residence. To this end, the NCSBN created an online data clearinghouse called NURSUS. Forty-six state nursing boards participate in NURSUS for verification of previous RN licensure.^{xxvii} If a nurse needs license verification from a state that does not participate in NURSUS, he or she must contact the latter state’s nursing board for a state-specific verification. There is a \$30 fee for the use of the NURSUS system.^{xxviii}

Although the NLC and NURSUS provide some standardization to the licensure by endorsement process, they do not ensure straightforward license portability for nurses moving across state lines and do not eliminate many of the non-uniform aspects of the application process, which are discussed below.

Variability Among States in the “Licensure by Endorsement” Process

While states frequently employ “licensure by endorsement” in nursing licensure, many states have additional requirements. Some states require “current experience”; this requirement mandates that prospective state license holders hold a current license and have worked as a nurse for some period specified by the state licensure board. The “current license” requirement often presents a significant complication when the license holder moves back to the United States after living overseas, as many military spouses do.

To allow nurses to continue practicing while their application for permanent licensure by endorsement is being processed, many state nursing boards offer temporary licenses after a preliminary background and qualifications checks. A clean record is usually required for a temporary license to be issued.^{xxix}

Table 6 lists the 10 states with the largest active duty military populations and illustrates the variability in state nursing board requirements regarding license portability. For example, the wait time for a temporary license varies from as little as ten days in Virginia and Texas to up to six weeks in California. The time period for which a temporary license is valid also varies, from 30 days in Virginia to six months in California, Kentucky and North Carolina.^{xxx} The waiting time for a permanent license is often not published by the state nursing board, but in most states an application expires if not completed within one year of the start date. Application fees also vary: among the 10 states examined, the fee ranged from \$43 in Colorado to \$200 in Texas.^{xxxi}

Other Factors

There are other factors that both facilitate and slow the licensure by endorsement process. Some states offer automated procedures for submission of fingerprints, transcripts and fees, but others do not.^{xxxii} Variability exists in the state board requirements for nursing licenses as well. Some

states automatically accept nursing degrees issued by a nationally approved program operated in another state, while others require that a nurse fulfill specific course requirements prior to licensure by endorsement.^{xxxiii} There is also variation in state licensure requirements on training about time-varying issues such as infection control, abuse, privacy, and medical records.^{xxxiv}

Although license portability for nurses is generally more straightforward than for other professions, nurses moving across state lines still have to go through a rigorous application process to practice nursing in another state. The variability of these processes and the associated need to continually relicense through examination poses difficulties for military spouses in licensed occupations. Other professions popular among military spouses, such as teaching, have even more complicated license portability requirements. One aspect of teacher licensing is discussed in Box 1, below.

Box 1: Teacher Testing Requirements

License portability in teaching is very complicated. There are several tiers of licensing in teaching, and course requirements vary widely based on the state and the subject being taught. Even the relatively standardized portions of teaching license requirements, such as the required Praxis II subject tests, have very different state standards. The table below demonstrates how the Praxis II cutoff scores vary among states.^{xxxv}

Praxis II Passing Scores in States with Large Military Populations

	Mathematics	English Language, Literature, and Composition	Social Studies	Biology	Chemistry
Colorado	156	162	150
Hawaii	136	164	154	151	154
Kentucky	125	160	151	146	147
Virginia	147	172	161	155	153
Difference between the highest and lowest passing scores	31	12	11	9	7

In addition to the variability in Praxis II cutoff scores, many states with large military populations have their own individual examinations. Re-taking exams due to inconsistent cutoff scores or additional state tests pose time-consuming and expensive barriers to license portability.

Table 6: Requirements for Transferring Nursing Licenses to a New State

State	Does the state participate in NLC and NURSYS?	Application fee?	NCLEX Standardized Test	Temporary license valid for:	Wait time for temporary license:	Degree from accredited nursing education program needed?	Need Current Experience for Endorsement?
California	No (accepts verification from NURSYS, but does not provide information through NURSYS)	\$100 or \$151, depending on which fingerprinting method chosen	Yes, or SBTPE	6 months	4-6 weeks	Yes	No
Colorado	Yes	\$43	Yes, or SBTPE	4 months	--	Yes	No
Florida	NURSYS only	\$223	Yes, or SBTPE	--	--	Yes	Requires that the applicant worked as a nurse for 2 of the past 3 years
Georgia	No (accepts verification from NURSYS, but does not provide information through NURSYS)	\$60	Yes, or SBTPE	Does not typically provide temporary licenses	--	Yes	Requires that the applicant worked as a nurse for 3 months or 500 hours in the past 4 years
Hawaii	No (accepts verification from NURSYS, but does not provide information through NURSYS)	\$135-\$180	Yes (minimum score: 1600), or SBTPE (minimum score: 350)	3 months	--	Yes	No
Kentucky	Yes	\$169.25	Yes, or SBTPE	6 months	2 weeks	Yes	No
North Carolina	Yes	\$188	Yes (minimum score: 1600), or SBTPE (minimum score: 350)	6 months	2 weeks	Yes	No
Texas	Yes	\$200	Yes, or SBTPE (minimum score: 350)	120 days	10 days	Yes	Requires that the applicant worked as a nurse or passed the appropriate RN exam in the past 4 years
Virginia	Yes	\$190	Yes, or SBTPE	30 days (may be extended at discretion of the board)	10 days	Yes	No
Washington	NURSYS only	\$92	Yes, or SBTPE	--	--	Yes	No

Note: '--' indicates unavailable information. Source: Web sites of the listed state's Board of Nursing. Contact information for each State Board is posted on the web site of the National Council of State Boards of Nursing, under a link for Boards of Nursing. See www.ncsbn.org.

Part 3: Best Practices and Department of Defense Initiatives

Best Practices to Facilitate Licensure Portability

DoD has identified best practices that states could adopt to facilitate license portability. Although DoD initially focused on promoting specific national compacts and national certifications for two career areas (teachers and nurses), the Department has recently shifted to initiatives easing the overall licensing process in a state to affect a broader population of licensed military spouses. The Nurse Licensure Compact, described earlier in this report, which gives nurses a more streamlined approach to transferring a current license to a member state, provided DoD the key concepts (temporary licenses and endorsements) to use with states for expediting licensure in other occupations, particularly if the state boards adopt methods that can expedite the application and approval process.

Licensure by Endorsement

DoD and independent studies have consistently found that “licensure by endorsement” significantly eases the process of transferring a license from one state to another. Standard “licensure through examination” requires the applicant to go through numerous state reviews in addition to passing national or state examinations and may include a supervised practicum or apprenticeship. Licensure by endorsement streamlines the application and state verification process for applicants with active out-of-state licenses, helping licensed military spouse professionals return to work more quickly. Obtaining a license by endorsement usually only requires that the license from the previous state is based on requirements similar to those in the receiving state, and without a disciplinary record. However, in some cases, applicants must also show they have recently worked in the occupation (such as two out of the past four years) as a way of demonstrating current experience or proficiency. This latter requirement can pose a problem for military spouses who have been unable to practice due to assignment overseas or in other locations. If a spouse does not meet these requirements, they will, at a minimum, have to undergo further scrutiny than the endorsement process generally requires, and in some cases, go through the full “licensure through examination” process.

In its efforts to promote a broad-based model for licensure by endorsement, DoD worked closely with the Colorado Department of Regulatory Agencies (DORA) and interested state legislators, who subsequently passed Colorado House Bill (HB) 1175 in 2010. The legislation requires the licensure through endorsement process be considered for all 77 occupations regulated by DORA and allows the Director of DORA, rather than the individual licensing boards, to determine what is required to demonstrate competency for endorsement. This eliminates delays in waiting for boards to convene. Moreover, the legislation allows for alternative demonstrations of current experience, where required, such as accepting continuing education as a substitute when there are gaps in employment. This last provision especially helps military spouses who have been at an overseas duty station for an extended period of time and unable to practice.

Two other states enacted legislation in 2011 facilitating licensure by endorsement, each with a somewhat different approach to accommodating the needs of military spouses:

- Arizona enacted Senate Bill (SB) 1458 in 2011, which allows a military spouse applicant to qualify for endorsement with one year of experience in most occupations. For those few that require more than one year, it allows the applicant to be licensed if supervised by a licensed professional.
- Texas SB 1733, enacted in 2011, is similar to Colorado HB 1175 in that it allows the board to establish alternatives to current experience for proof of occupational competency. The bill also allows military spouses who had been licensed in Texas to reinstate their license if it expired less than five years ago and they spent at least six months of that time out of the state.

Temporary or Provisional Licensing

Temporary or provisional licensure is another way to ease state-to-state transitions for military spouses. Typically, these licenses are valid for anywhere between 3 and 12 months. To apply, the applicant usually has to provide proof of a current license, obtain a background check, and submit an application and fee. These licenses allow applicants to be employed while they fulfill all of the requirements for a permanent license, including examinations or endorsement, applications, and additional fees. Typically, temporary or provisional licenses are managed separately by each occupational area within a state, as is true for the Nurse Licensure Compact, discussed earlier in this report.

Colorado also provided DoD's first opportunity to gain support for temporary/provisional licensing for military spouses. In 2008, Colorado enacted HB 1162 which provides interim authorization to a military spouse with a current teaching license from another state to work within a school district for one year and allows the school district to provide an induction program which will help the military spouse obtain a professional educator license.

In 2010, DoD worked with state legislators in Florida to develop legislation supporting temporary licensure that encompasses multiple occupations. Florida HB 713 impacts commercial occupations, such as Veterinarians and Certified Public Accountants, providing the military spouse a six month temporary license as long as the spouse is married to an active member of the military assigned in Florida, has a current license, submits fingerprints for a background investigation, and pays a fee for the temporary license. Moreover, the bill allows military spouses to retain their Florida licenses if they move out of state for military reasons, and to practice without renewing the license upon return as part of a military move. Florida extended these provisions to healthcare occupations in 2011 with the enactment of HB 1319.

Four other states (Alaska, Kentucky, Missouri, and Tennessee) enacted legislation in 2011 to provide temporary/provisional licenses to military spouses, primarily using the Florida model. Notably, Kentucky HB 301 and Tennessee HB 968 provide licensure by endorsement if the spouse is qualified and temporary licensure if the spouse must fulfill additional state requirements to obtain a license (by endorsement or examination).

Expedited Application Processes

Approximately half of the states use a regulatory agency, such as the Department of Regulatory Agencies, while the others regulate through individual occupational boards and do not have an umbrella agency to expedite the application process. Different approaches were required to streamline the process in these states.

Through internal agreements with individual licensing boards, the Colorado Director of DORA has the authority to expedite the endorsement process by interceding to approve applications that fulfill the boards' criteria. Two states which do not have structures analogous to that in Colorado found other ways to expedite the application process:

- Montana provided an innovative approach in HB 94 that allows boards to approve an application (for an endorsement or temporary license) based on an affidavit stating that the information provided is true and accurate and that the necessary documentation is forthcoming. Boards review the documentation upon receipt and can take disciplinary action if there are discrepancies.
- Utah HB 384 allows their occupational boards to approve the use of out-of-state licenses for “the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:
(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and
(ii) the license is current and the spouse is in good standing in the state of licensure.”

While the Utah provision is the most inclusive and least intrusive for a military spouse, DoD will monitor its implementation to see if out-of-state licenses are accepted by employers as equal in quality to in-state licenses. In developing expedited approaches that save military spouses time and money, DoD does not want to make licensure easier for military spouses to achieve at the expense of degrading their perceived value in their profession.

The 2011 legislative activity is now the baseline for further developments in 2012. Legislators, regulators, and boards have been innovative and have shown an overall willingness to address the core concern that military spouses have only a short time in a location to establish their households, obtain new licenses, find employment within their professions, and progress in their skills and abilities. 2012 may provide additional innovation and opportunities to improve licensure portability for military spouses around the following integrated set of concepts:

- *Facilitating endorsement of a current license* from another jurisdiction as long as the requirements for licensure in that jurisdiction are substantially equivalent to those in the licensing state, and the applicant:
 - Has not committed any offenses that would be grounds for suspension or revocation of the license in the other jurisdiction, and is otherwise in good standing in that jurisdiction; and

- Can demonstrate competency in the occupation through various methods as determined by the Board, such as having completed continuing education units, having had sufficient recent experience (in a full or part time, paid or volunteer position), or by working under supervision for a prescribed period.
- *Providing a temporary or provisional license* allowing the military spouse to practice while fulfilling requirements needed to qualify for endorsement in the licensing state, or awaiting verification of documentation supporting an endorsement. Temporary licenses should require minimum documentation, such as proof of holding a current license in good standing and marriage to an active duty Service member who is assigned to the state.
- *Expediting application procedures* so that:
 - The director overseeing licensing within the state has authority to approve license applications for the boards; and/or
 - The individual licensing boards have authority to approve a license based simply on an affidavit from the applicant that the information provided on the application is true and that verifying documentation has been requested.

Other Department of Defense Initiatives

DoD Military Spouse Discussion Board

Although these current licensure initiatives appear very promising, DoD is reaching out to military spouses for their input on how best to alleviate the hindrances created by licensure requirements. Spouses have been encouraged to share their stories and concerns about the licensure process and provide examples of real world solutions. DoD posted a discussion board on Facebook.com to facilitate the aggregation of these stories and issues.

DoD also recognizes that best practices developed thus far with states may not cover all occupations and all impediments. With the exception of legislation passed in Colorado in 2008 for teachers entering the state, DoD is not aware of changes improving licensure for military spouses in this particular profession. Similarly, the legislation recently passed has specifically excluded attorneys. DoD launched specific discussion board sessions to learn more about the processes for obtaining teaching or law licenses and the barriers faced in maintaining these licenses while moving with the military. To further this discussion, DoD has invited interested military spouses who are teachers and attorneys to join groups to continue this dialogue.

Spouses who are attorneys have responded through the Military Spouse JD Network (MSJDN), an organization established by military spouses to advocate for provisional bar membership, to educate the legal community about military spouses, and to build a network to support improved career opportunities. DoD is working with the JD Spouse Network to achieve accommodations for attorneys.

MyCareer Advancement Account (MyCAA) Program

DoD currently operates the MyCAA program, which provides flexible, self-managed education and training accounts that enable military spouses of junior service members to gain the skills needed to successfully enter, navigate, and advance in portable careers. The accounts offer up to \$4,000 to eligible spouses for pursuit of an Associate's degree, or license or credential leading to a portable career. Accounts are available to military spouses married to service members serving on active duty in the junior Enlisted, Warrant Officer and Officer grades.^{xxxvi} Funds may be used by eligible military spouses entering the workforce or transitioning between jobs and careers, and to incumbent workers in need of new skills to remain employed or move up the career ladder. Accounts must be used to pay for expenses directly related to the attainment of an Associate's degree, license, or industry-recognized credential. The accounts have helped build the financial stability of military families. In FY11, approximately 38,000 spouses applied for and were provided MyCAA financial assistance.

Military Spouse Employment Partnership (MSEP)

The Military Spouse Employment Partnership (MSEP) is a targeted recruitment and employment partnership solution that connects corporate partners with military spouses who are seeking fulfilling portable careers. MSEP supports spouses of members on active duty, in the National Guard, and Reserves from all Services. MSEP partners offer flexible job opportunities that can withstand relocations, deployments, and other aspects of military life that have made career advancement so difficult for spouses in the past. MSEP now has almost 100 vetted "Fortune 500 Plus" employers participating, with over 150,000 jobs posted to its web portal (www.MSEPJobs.com) and 10,000 spouses who have been hired. As an MSEP Partner, a company agrees to:

- Identify and promote career opportunities for military spouses;
- Post job openings and a corporate human resources employment page on the MSEP Web portal;
- Offer transferable, portable career opportunities to relocating military spouse employees;
- Mentor incoming MSEP corporate partners;
- Participate in an annual MSEP meeting; and
- Document and provide employment data on military spouses hired.

MSEP's goal is to level the playing field and help military spouses connect with companies that are searching for skilled employees. Moreover, the impact of MSEP goes beyond just reducing the unemployment rate for military spouses by connecting employers to a large and diverse body of exceptionally capable, dedicated, and motivated workers. MSEP provides meaningful career opportunities that are compatible with the spouse's military service, which supports families remaining in the military.

Unemployment Compensation Eligibility

Military spouses face many challenges associated with frequent mobility, including the loss of income associated with the relocation process. In 2004, DoD began working with states to

enable military spouses who become unemployed because of their service member's reassignment to be eligible for unemployment compensation. Prior to DoD's involvement in this issue, most state statutes and policies viewed a spouse leaving a job due to a military move as a "voluntary" separation despite the fact that their departures are involuntary. Thirty-nine states now provide military spouses eligibility for unemployment compensation when they leave employment because of a military move, nearly triple the number of states in 2004. Eighty-five percent of military spouses live in these 39 states (plus the District of Columbia). The states granting unemployment compensation eligibility to working spouses in transition provide a much-needed financial bridge for military families during mandatory moves and allow licensed spouses the cushion to obtain new credentials and seek employment in their new state.

Part 4: Conclusion

Occupational licensing requirements place a significant and undue burden on military spouses, a population that makes great sacrifices for this country. Because many military spouses hold occupational licenses and often move across state lines, the patchwork set of variable and frequently time-consuming licensing requirements across states disproportionately affect these families.

A spouse's employment plays a key role in the financial and personal well-being of military families, and their job satisfaction is an important component of the retention of service members. Without adequate support for military spouses and their career objectives, the military could have trouble retaining service members.

Although further research will be conducted to pinpoint the most effective ways to help licensed military spouses when they transition across state lines, DoD has already identified several best practices that states can implement to ease job transitions for this population. These best practices — licensure by endorsement, temporary licensing, and expedited application processes — come at little cost to states, but would make an enormous difference in the lives of licensed military spouses.

DoD, through the DoD-State Liaison Office (DSLO), has an ongoing program to address key issues with state policymakers. This program, USA4 Military Families, covers 10 key issues, which include occupational licensing and eligibility for unemployment compensation benefits. As of February 2012, thirteen states have introduced bills addressing the aforementioned best practices, and DSLO is working with these legislators. This is encouraging and shows that states are willing to consider this valuable change. The Administration encourages all states to examine these best practice initiatives and work with DoD on their implementation. DoD will track the enactment of legislation to measure the change in processes and continue to request feedback from military spouses to ensure these processes meet their needs.

For additional information on these initiatives or to contact the DSLO, please visit www.usa4militaryfamilies.org and click on the licensure issue. Although DoD continues to work on these issues on behalf of military spouses, more work remains to be done.

Appendix 1: Licensing and Certification

There are two major types of occupational skill verification: certification and licensing. Certification is less stringent than licensing, and is meant to ensure that practitioners meet a minimum standard of knowledge about their field. Professions as varied as car mechanics and travel agents are certified. Licensing gives the practitioner a “right to practice,” which differs from certification in that it is illegal to practice without a license.^{xxxvii} Possessing a license indicates that the practitioner has satisfied government requirements by passing exams, completing education requirements, satisfying background checks, completing administrative paperwork, and paying fees.^{xxxviii} A wide range of professions are licensed, including secondary school teachers, healthcare professionals (including nurses, doctors and medical technicians), lawyers, and social workers.

For most licensed professions, state boards administer the licensure process. Because of the variability in the licensing requirements from state to state, groups that are highly mobile and work largely in licensed fields frequently face administrative difficulties due to the lack of licensing portability.

Appendix 2: Top 20 States With the Most Active Duty Military Spouses

State	Number of Military Spouses (total)	Military Spouses per 1000 Civilian Spouses
Hawaii	25,875	119.7
Alaska	12,025	103.4
Virginia	65,889	46.2
North Carolina	55,563	33.8
Kentucky	25,896	30.2
Washington	32,553	27.6
Colorado	23,292	27.1
Kansas	15,183	26.7
Georgia	38,563	24.9
North Dakota	3,030	22.1
New Mexico	6,309	18.5
South Carolina	13,730	17.5
Texas	66,936	16.8
Oklahoma	11,301	15.7
Wyoming	1,610	15.2
Nevada	5,387	14.4
Maryland	13,883	14.0
California	72,422	12.3
Delaware	1,819	11.9
Louisiana	9,423	11.6

Note: Location of spouses is based on the assignment of the service member. Service members stationed in the District of Columbia are omitted. Numbers are as of September 30, 2011.

References and Notes

- ⁱIn this report, "military spouses" refer to the civilian spouses of military personnel.
- ⁱⁱLim, Nelson, Daniela Golinelli, and Michelle Cho. "Working Around the Military" Revisited: Spouse Employment in the 2000 Census Data. Santa Monica, CA: RAND, 2007.
- ⁱⁱⁱWhere the civilian population is adjusted for the gender composition of the military spouse population
- ^{iv}Lim, Nelson, Daniela Golinelli, and Michelle Cho. "Working Around the Military" Revisited: Spouse Employment in the 2000 Census Data. Santa Monica, CA: RAND, 2007.
- ^vDMDC (2011). 2010 Military Family Life Project: Administration, datasets, and codebook (Report No. 2010-031). Arlington, VA: DMDC. All data are from 2010.
- ^{vi}Rosen, Leora N., Jeannette R. Ickovics, and Linda Z. Moghamdam. "Employment and Role Satisfaction." *Psychology of Women Quarterly* 14 (1990): 371-85
- ^{vii}Blue Star Families. "2010 Military Family Lifestyle Survey." *Blue Star Families*. 07 Jan. 2011.
- ^{viii}Blue Star Families. "2010 Military Family Lifestyle Survey." *Blue Star Families*. 07 Jan. 2011.
- ^{ix}Defense Manpower Data Center, *2008 DMDC Survey of Active Duty Spouses*. Available: <https://www.dmdc.osd.mil/appj/dwp/index.jsp>
- ^xDefense Manpower Data Center, *2008 DMDC Survey of Active Duty Spouses*. Available: <https://www.dmdc.osd.mil/appj/dwp/index.jsp>
- ^{xi}See Appendix 1 for the difference between 'certification' and 'licensing.'
- ^{xii}Krueger, Alan B. "Do You Need a License to Earn a Living? You Might Be Surprised at the Answer." *The New York Times*. 02 Mar. 2006. Web. 07 Jan. 2011.
- ^{xiii}Blue Star Families. "2010 Military Family Lifestyle Survey." *Blue Star Families*. 07 Jan. 2011. The Blue Star Families survey was an informal survey of military spouses.
- ^{xiv}Blue Star Families. "2010 Military Family Lifestyle Survey." *Blue Star Families*. 07 Jan. 2011.
- ^{xv}Blue Star Families. "2010 Military Family Lifestyle Survey." *Blue Star Families*. 07 Jan. 2011.
- ^{xvi}The CPS consists of a representative sample of about 60,000 households a month, and labor force questions are asked concerning all working-age adult members in the household. The ASEC CPS supplement includes detailed questions on the occupation of all working-age adults.
- ^{xvii}Department of Defense Personnel Files; this does not include spouses who are themselves a part of the military.
- ^{xviii}Defense Manpower Data Center, *2008 DMDC Survey of Active Duty Spouses*. Available: <https://www.dmdc.osd.mil/appj/dwp/index.jsp>
- ^{xix}Using CPS and a list of licensed occupations from Kleiner, Morris M., and Alan B. Krueger. "The Prevalence and Effects of Occupational Licensing." *British Journal of Industrial Relations* 48.4 (2010): 676-87.
- ^{xx}Excludes moves from overseas.
- ^{xxi}These data are from 2006-2010 because questions regarding mobility are asked of the previous year. These data were compiled using pooled data from 2007 to the 2011 ASEC CPS supplement.
- ^{xxii}"Registered Nurses." U.S. Bureau of Labor Statistics. 17 Dec. 2009. Web. 22 Jan. 2012.
- ^{xxiii}Before 1982, this test was called the State Board Test Pool Examination (SBTPE), and results from this older version of the test are still accepted by state nursing boards.
- ^{xxiv}National Council of State Boards of Nursing. "What Is NCLEX?" Web. 22 Jan. 2012.
- ^{xxv}Broun, Caroline N. "About NCLA." Nurse Licensure Compact Administrators. 2010. Web. 07 Jan. 2011.
- ^{xxvi}National Council of State Boards of Nursing. "Nurse Licensure Compact: Fact Sheet for Licensees and Nursing Students." NCLA.
- ^{xxvii}National Council of State Boards of Nursing. "NURSYS." Nursys.com. 2011. Web. 22 Jan. 2012
- ^{xxviii}National Council of State Boards of Nursing. "Frequently Asked Questions." NURSYS, 2011. Web. 7 Jan. 2011.
- ^{xxix}Prior convictions and disciplinary actions are often reviewed by state boards on a case-by-case basis, taking into account the severity of prior offenses and any remedial activities that may have been required. Telephone conversation with Danny Cope, California Department of Consumer Affairs Board of Registered Nursing call center operator, October 20, 2010.
- ^{xxx}Web sites of the listed state's Board of Nursing. Contact information for each State Board is posted on the web site of the National Council of State Boards of Nursing, under a link for Boards of Nursing. See www.ncsbn.org.
- ^{xxxi}Web sites of the listed state's Board of Nursing. See www.ncsbn.org.
- ^{xxxii}Telephone conversation with Danny Cope, California Department of Consumer Affairs Board of Registered Nursing call center operator, October 20, 2010.

^{xxxiii}Telephone conversation with Diane Tompkins, Assistant Director of Certifications, American Nurses' Credentials Center, October 21, 2010.

^{xxxiv}Email correspondence with Anne Tumbarello, Director of the BSN Program at Mount St. Mary's College in Los Angeles, California.

^{xxxv}Educational Testing Service. "The Praxis Series Passing Scores by Test and State." Ets.org. 2010. Web. 12 Feb. 2012. The table lists four of the ten states with the largest active duty military populations for which Praxis cut off scores are available.

^{xxxvi}Eligible military spouses include those who are married to Service members on active duty and those who are married to members of the Guard and Reserve who are on Federal orders. The junior grades covered are Enlisted grades E1 – E5, Warrant Officer grades W1 and W2, and Officer grades O1 and O2.

^{xxxvii}Kleiner, Morris M., and Alan B. Krueger. "The Prevalence and Effects of Occupational Licensing." *British Journal of Industrial Relations* 48.4 (2010): 676-87.

^{xxxviii}Kleiner, Morris M., and Alan B. Krueger. "The Prevalence and Effects of Occupational Licensing." *British Journal of Industrial Relations* 48.4 (2010): 676-87.

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 186

Introduced by Assembly Member Maienschein
(Principal coauthor: Assembly Member Hagman)
(Coauthors: Assembly Members *Chávez*, *Dahle*, *Donnelly*, *Beth*
***Gaines*, *Grove*, *Harkey*, *Olsen*, and *Patterson*)**
(Coauthors: Senators Fuller and Huff)

January 28, 2013

An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 186, as amended, Maienschein. Professions and vocations: military spouses: temporary licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. *Existing law requires that the licensing fees imposed by certain boards within the department be deposited in funds that are continuously appropriated.* Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic

partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

~~This bill would authorize a board within the department to issue a provisional license to an applicant who qualifies for an expedited license pursuant to the above-described provision. The~~

This bill would require a board within the department to issue a temporary license to an applicant who qualifies for, and requests, expedited licensure pursuant to the above-described provision if he or she meets specified requirements. The bill would require the temporary license to expire 12 months after issuance, upon issuance of the expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first. The bill would authorize a board to conduct an investigation of an applicant for purposes of denying or revoking a temporary license, and would authorize a criminal background check as part of that investigation. The bill would require an applicant seeking a temporary license to submit an application to the board that includes a signed affidavit attesting to the fact that he or she meets all of the requirements for the temporary license and that the information submitted in the application is accurate, as specified. The bill would also require the application to include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing.

~~This bill would prohibit a provisional temporary license from being provided to any applicant who has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license at the time the act was committed, or committed. The bill would provide that a violation of the above-described provision may be grounds for the denial or revocation of a temporary license. The bill would further prohibit a temporary license from being provided to any applicant who has been disciplined by a licensing entity in another jurisdiction, or is the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. The bill would require the board to approve a provisional license based on an application that includes an affidavit that the information submitted in the application is accurate and that verification documentation from the other jurisdiction has been requested. The bill would require the provisional license to expire after 18 months or at the issuance of the expedited license. The bill would~~

require an applicant, upon request by a board, to furnish a full set of fingerprints for purposes of conducting a criminal background check.

~~By creating provisional licenses for which a fee may be collected and deposited into a continuously appropriated fund, this bill would make an appropriation.~~

Because the bill would authorize the expenditure of continuously appropriated funds for a new purpose, the bill would make an appropriation.

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

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

1 SECTION 1. Section 115.5 of the Business and Professions
2 Code is amended to read:

3 115.5. (a) A board within the department shall expedite the
4 licensure process for an applicant who meets both of the following
5 requirements:

6 (1) Supplies evidence satisfactory to the board that the applicant
7 is married to, or in a domestic partnership or other legal union
8 with, an active duty member of the Armed Forces of the United
9 States who is assigned to a duty station in this state under official
10 active duty military orders.

11 (2) Holds a current license in another state, district, or territory
12 of the United States in the profession or vocation for which he or
13 she seeks a license from the board.

14 ~~(b) (1) For each applicant who is eligible for an expedited~~
15 ~~license pursuant to subdivision (a) and meets the requirements in~~
16 ~~paragraph (2), the board shall provide a provisional license while~~
17 ~~the board processes the application for licensure. The board shall~~
18 ~~approve a provisional license based on an application that includes~~
19 ~~an affidavit that the information submitted in the application is~~
20 ~~accurate and that verification documentation from the other~~
21 ~~jurisdiction has been requested. The provisional license shall expire~~
22 ~~18 months after issuance or upon issuance of the expedited license.~~

23 *(b) (1) A board shall, after appropriate investigation, issue a*
24 *temporary license to an applicant who is eligible for, and requests,*
25 *expedited licensure pursuant to subdivision (a) if the applicant*
26 *meets the requirements described in paragraph (3). The temporary*
27 *license shall expire 12 months after issuance, upon issuance of*

1 *the expedited license, or upon denial of the application for*
2 *expedited licensure by the board, whichever occurs first.*

3 (2) *The board may conduct an investigation of an applicant for*
4 *purposes of denying or revoking a temporary license issued*
5 *pursuant to this subdivision. This investigation may include a*
6 *criminal background check.*

7 (3) (A) *An applicant seeking a temporary license issued*
8 *pursuant to this subdivision shall submit an application to the*
9 *board which shall include a signed affidavit attesting to the fact*
10 *that he or she meets all of the requirements for the temporary*
11 *license and that the information submitted in the application is*
12 *accurate, to the best of his or her knowledge. The application shall*
13 *also include written verification from the applicant’s original*
14 *licensing jurisdiction stating that the applicant’s license is in good*
15 *standing in that jurisdiction.*

16 ~~(2) (A)~~

17 (B) *The applicant shall not have committed an act in any*
18 *jurisdiction that would have constituted grounds for denial,*
19 *suspension, or revocation of the license under this code at the time*
20 *the act was committed. A violation of this subparagraph may be*
21 *grounds for the denial or revocation of a temporary license issued*
22 *by the board.*

23 ~~(B)~~

24 (C) *The applicant shall not have been disciplined by a licensing*
25 *entity in another jurisdiction and shall not be the subject of an*
26 *unresolved complaint, review procedure, or disciplinary proceeding*
27 *conducted by a licensing entity in another jurisdiction.*

28 (D) *The applicant shall, upon request by a board, furnish a full*
29 *set of fingerprints for purposes of conducting a criminal*
30 *background check.*

31 (c) *A board may adopt regulations necessary to administer this*
32 *section.*

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 213

VERSION: AMENDED APRIL 18, 2013

AUTHOR: LOGUE

SPONSOR: AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: LICENSURE AND CERTIFICATION REQUIREMENTS: MILITARY EXPERIENCE

Existing Law:

- 1) Requires healing arts boards under the Department of Consumer Affairs (DCA) to provide methods of evaluating education, training, and experience obtained in military service if the training is applicable to the requirements of the profession. (Business and Professions Code (BPC) §710)
- 2) Requires an applicant for licensure as a clinical social worker to have a master's degree from an accredited school of social work. (BPC §4996.2(b))
- 3) Defines an accredited school of social work as a school that is accredited by the Commission on Accreditation of the Council on Social Work Education. (BPC §4991.2)
- 4) Requires an applicant for licensure as a marriage and family therapist to have a specified doctoral or master's degree from one of the following types of school, college, or universities (BPC §§ 4980.36, 4980.37, 4980.40.5):
 - a. Accredited by a regional accrediting agency recognized by the United States Department of Education; or
 - b. Approved by the Bureau for Private Postsecondary Education; or
 - c. Accredited by any of the following:
 - i. Northwest Commission on Colleges and Universities;
 - ii. Middle States Association of Colleges and Secondary Schools;
 - iii. New England Association of Schools and Colleges;
 - iv. North Central Association of Colleges and Secondary Schools; or
 - v. Southern Association of Colleges and Schools.
- 5) Requires an applicant for licensure as a professional clinical counselor to have a master's or doctoral degree with specified content, obtained from one of the following (BPC §§4999.12(a),(b), 4999.32(b), 4999.33(b)):
 - a. A school, college or university accredited by the Western Association of Schools and Colleges, or its equivalent regional accrediting institution; or

- b. A school, college or university that possessed unconditional approval by the Bureau for Private Postsecondary Education at the time of the applicant's graduation from the school, college or university.

This Bill:

- 1) As of July 1, 2015, requires a board that accredits or approves schools offering education course credits toward licensing requirements to require a school seeking accreditation or approval to submit proof that it has procedures in place to evaluate an applicant's military education, training and experience toward completion of an educational program designed to qualify a person for licensure. (BPC §712(a))
- 2) Requires the Department of Veterans Affairs to provide technical assistance to boards in determining equivalency of education, training, and practical experience. (BPC §712(b))
- 3) States that these new requirements shall not interfere with any educational certification, licensing requirement, or standards set by the Board. (BPC §712(c))

Comment:

- 1) **Intent.** This bill is part of a larger federal effort to improve the lives of military families. The bill's author notes that lack of health care providers is a significant barrier to access to health care services in underserved areas. As of June 2011, post 9/11 veterans of the military had an unemployment rate of 13.3 percent, but have often gained education, training, and experience in their military service that can be transferred to a licensed profession.
- 2) **Current Board Procedure.** The Board has very specific requirements for education and experience in its licensing laws. Currently, if an applicant for licensure or registration had military education and experience, the Board would conduct a review to determine whether or not it was substantially equivalent to current licensing requirements. This would be done on a case by case basis, depending on the specific characteristics of the individual's education and experience.

The Board is not aware of specific circumstances in which an individual had military education or experience. This is not tracked by the Board and there is not a common provider of military education or experience that the Board sees cited on incoming applications. Occasionally, the Board sees supervised experience that was obtained out of the country. This experience may be accepted by the Board if the Board can determine that the experience was substantially equivalent, and upon verification that the supervisor is an equivalently licensed acceptable professional who has been licensed at least two years in his or her current jurisdiction and is in good standing.

- 3) **Behavioral Health Professionals in the Military.** The U.S. Army lists certain types of mental health occupations on its website:
 - **Social Workers:** According to the web site, army social workers perform a variety of job duties, including providing clinical counseling, crisis intervention, teaching, training, supervision, and research. The website also cites access to training opportunities for social workers, including continuing education courses, seminars, and conferences.

Appointment as a social worker requires a master's degree in social work from a program accredited by the Council on Social Work Education. The social worker must also have a current and unrestricted state license in social work.

The military has a partnership with Fayetteville State University to provide a master of social work program at Fort Sam Houston military installation in Texas. This program is designed to allow soldiers to earn a master's degree in social work from an accredited university while in active duty military service, in an effort to increase the number of social workers in military service.

USC also offers a military social work program and is working on a model that will better enable the school to train future military social workers.

- **Mental Health Specialist:** The Army's web site states army mental health specialists collect psychosocial and physical data, assist with care of psychiatric and drug and alcohol patients, and counsel patients with personal, behavioral, or psychological problems.

Serving as a mental health specialist in the army requires 10 weeks of basic combat training, and 20 weeks of advanced individual training practicing in-patient care.

The army does not offer any specifics on its public website about what the 20 weeks of advanced in-patient care entails. If this bill were to go into effect, the Board would likely need the assistance of the Department of Veterans Affairs to determine the exact scope of this training.

- 4) Effect on Board.** The Board does not accredit or approve schools offering education course credit. Instead, it relies on the accreditations and approvals of other specified entities. However, the Board does review a school's curriculum, and determines whether or not that curriculum meets all of the Board's requirements for licensure.

The army itself requires its social workers to have a state license, and master's in social work from an accredited entity just as the Board does. It is unclear how the training of a mental health specialist would apply to Board experience and education for licensure. Currently, if the Board were to receive such an application, it would evaluate that application using current licensing requirements.

- 5) Previous Legislation.** There were two successful legislative efforts last year to make licensing easier for military members and their spouses.

- AB 1588 (Chapter 742, Statutes of 2012) requires the Board to waive continuing education requirements and renewal fees for a licensee or registrant while he or she is called to active military duty.
- AB 1904 (Chapter 399, Statutes of 2012) requires the Board to expedite the licensing process of an applicant who is a spouse of an active duty military member assigned to California, if they hold a current license for that profession in another state.

6) Current Legislation.

- AB 186 (Maienschein) would require a board to issue a temporary license to a military spouse if he or she is eligible for an expedited license.

- AB 1057 (Medina) would require a board to inquire on all licensure applications if the applicant serves or has served in the military.

7) Recommended Position. At its April 18, 2013 meeting, the Policy and Advocacy Committee decided not to take a position on this bill.

8) Support and Opposition.

Support:

- American Legion-Department of California
- AMVETS - Department of California
- Association of California Healthcare Districts
- California Association of County Veterans Service Officers
- California Association for Health Services at Home
- California State Commanders Veterans Council
- Office of the Deputy Assistant Secretary of Defense, Military
- Community and Family Policy
- VFW Department of California
- Vietnam Veterans of America - California State Council

Opposition:

- California Society of Radiologic Technologists

9) History

2013

May 1	From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0.) (April 30). Re-referred to Com. on APPR.
Apr. 22	Re-referred to Com. on V.A.
Apr. 18	From committee chair, with author's amendments: Amend, and re-refer to Com. on V.A. Read second time and amended.
Apr. 16	Re-referred to Com. on V.A.
Apr. 15	Read second time and amended.
Apr. 11	From committee: Do pass as amended and re-refer to Com. on V.A. (Ayes 13. Noes 0.) (April 9).
Apr. 2	Re-referred to Com. on B.,P. & C.P.
Apr. 1	From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Feb. 7	Referred to Coms. on B.,P. & C.P. and V.A.
Feb. 1	From printer. May be heard in committee March 3.
Jan. 31	Read first time. To print.

10) Attachments

- Attachment A:** US Army Website: Careers & Jobs: Social Worker (73A)
- Attachment B:** US Army Article: "Soldiers Can Earn Master's Degree in Social Work," April 21, 2008
- Attachment C:** USC Website: Military Social Work Concentration
- Attachment D:** US Army Website: Careers & Jobs: Mental Health Specialist (68X)



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SOCIAL WORKER (73A)

Enlisted
 Officer
 Active Duty
 Army Reserve
 Open to Women
 Entry Level

OVERVIEW

For the vast majority of social workers, their career choice is based on one simple ideal: a deep desire to help others help themselves. Serving as a social worker with the U.S. Army provides an environment where you can concentrate on patient care without the bureaucracy found in the private sector. In addition to providing direct services, your responsibilities could include teaching, training, supervision, research administration and policy development.

JOB DUTIES

- Provide clinical counseling, crisis intervention, disaster relief, critical event debriefing, teaching and training, supervision, research, administration, consultation and policy development in various military settings
- Enhance unit readiness and the emotional well-being of military members, their family members and other eligible beneficiaries
- Conduct and supervise direct patient care, and plan and execute disease prevention and health promotion programs
- Perform special staff functions in health support for commanders at all levels
- Conduct research on conditions of military importance, and supervise and participate in graduate medical education and training of other medical personnel needed to sustain a robust and readily available medical system

Unique duty positions include: social worker; chief, Department of Social Work; chief, Social Work Service; director, Family Advocacy Program, U.S. Army Community and Family Support Center; clinical director, Alcohol and Drug Abuse Prevention and Control Program; division social worker; social worker, Community Mental Health Service; director, Mental Health, United States Army Disciplinary Barracks; medical social work, Army medical treatment facility; director, Social Work Fellowship in Child and Family Practice Program.

REQUIREMENTS

ACTIVE:

- Master's degree in social work from a program accredited by the Council on Social Work Education
- Current, unrestricted license for practice
- Between 21 and 42 years of age (may request a waiver)
- U.S. citizenship

RESERVE:

- In addition to the above qualifications, permanent U.S. residency is required for Reserve duty officers.

TRAINING

In the U.S. Army, the case diversity social workers experience in caring for Soldiers far exceeds the medical care environment of the private sector. As an Army Medical Service Corps officer, you'll have access to the most sophisticated technology and treatments, the opportunity to consult with experts in both the military and private sector, plus exceptional professional growth opportunities, including continuing education courses, seminars and conferences.

HELPFUL SKILLS

The normal environment of an Army Medical Service Corps officer's work requires time-sensitive problem analysis with an accurate, sound and immediate decision. Ability to operate under stress, apply critical thinking skills, make decisions and translate these skills to battlefield conditions is critical to medical and mission success.

Effective patient care requires the proper balance between technical skills and the ability to apply the appropriate treatment or procedure at the right moment. Army Medical Service Corps officers possess expert knowledge in their area of concentration, patient management, and general support and coordination principles. Social workers gain this knowledge through continuing medical education and experience sustained by mentoring, additional institutional training, continuous self-development and progressive levels of assignments within their specialty.

[Learn more about the ASVAB](#) and see what jobs you could qualify for.

COMPENSATION

ACTIVE BENEFITS:

In addition to the many privileges that come with being an officer on the U.S. Army health care team, you'll be rewarded with:

- Health Professionals Loan Repayment Program provides 30 days of paid vacation earned annually
- Noncontributory retirement benefits with 20 years of qualifying service
- No-cost or low-cost medical and dental care for you and your family

RESERVE BENEFITS:

- Noncontributory retirement benefits at age 60 with 20 years of qualifying service
- Low-cost life and dental insurance
- Travel opportunities, including humanitarian missions

Both active and Reserve duty officers enjoy commissary and post exchange shopping privileges; a flexible, portable retirement savings and investment plan similar to a 401(k); paid continuing education; and specialized training to become a leader in their field.

EDUCATION BENEFITS

The U.S. Army offers opportunities for social workers in a variety of practice areas, including clinical, administrative and research roles. As a member of the Army Medical Service Corps, you'll have access to the most sophisticated technologies and treatment methods, the opportunity to consult with experts in both the military and private sector, plus exceptional professional growth opportunities, including continuing education courses, seminars and conferences.

As a commissioned officer of the U.S Army, you'll also enjoy generous education loan-repayment benefits, residency programs and ongoing initiatives to support your career development and advancement.

FUTURE CIVILIAN CAREERS

As you advance through your career, you will be looking for experiences that blend teaching, research and clinical excellence to best prepare you for unique and challenging opportunities in your field. Our social workers excel in clinical, research, academic and health administration arenas. Many have worked in more than one career track throughout their time in the U.S. Army and have held leadership positions ahead of their private sector counterparts. In fact, U.S. Army social workers are highly desired candidates for competitive private sector jobs upon leaving the Army.

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Soldiers Can Earn Master's Degree In Social Work

April 21, 2008

By **Elaine Wilson**

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FORT SAM HOUSTON, Texas -- A new graduate program at the Army Medical Department Center and School is opening doors for aspiring social workers.

Starting in June, Soldiers will have the opportunity to earn their master's degree in social work from an accredited university while still carrying out their active-duty military commitment.

"My heart is still pounding," said Col. Yvonne Tucker-Harris, social work consultant to the Army surgeon general, of the program coming to fruition. "This is such a great investment for the Army."

The program was made possible through an Army partnership with Fayetteville State University in North Carolina. As Soldiers complete the graduate course at the AMEDDC&S, they will be awarded a master's degree from FSU. While several universities sent in proposals in response to the Army's solicitation, FSU was selected as the partnering university because it represented the best fit for both the Army and the university.

"I see this as a win-win situation," said Terri Moore Brown, FSU's Social Work Department chair, in town to tour the AMEDDC&S facilities. "Our students will benefit from symposiums and workshops given by the faculty at Fort Sam Houston. We'll be able to expose our students to the wonderful resources here."

The partnership with FSU also opens the door to research collaborations, which can lead to better social work programs throughout the world, said Col. Joseph Pecko, director, Army-Fayetteville State MSW Program and Soldier and Family Support Branch.

"We're looking forward to joint efforts between the students and faculty here and at Fayetteville," Pecko said.

By starting an MSW program, Army leaders hope to boost the number of social workers, which has been depleted in the wake of the Global War on Terrorism.

Up until now, the Army relied on availability of MSW graduates from civilian universities who had gone on to acquire an independent practice license from their state of choice.

"The depletion of social workers has occurred due to the lack of available qualified, competent and committed social workers who have an understanding and desire to serve on active duty," said Dr. Dexter Freeman, assistant director, Army-Fayetteville State MSW Program. "Army social workers must ... be able to accept that their lives will involve multiple deployments in addition to helping Soldiers and Families cope with the stress of war."

The program is considered a force multiplier, Freeman said. "We're trying to increase our number of social workers," he said, adding that the social work force is undermanned by about 26 percent. "The best way to fix the problem is with our own master's of social work program that targets Soldiers who are in the force and qualified to enter the program."

The benefits clearly outweigh the cost, said Pecko. "Not only does the program take care of retention, but by recruiting and creating Army social workers, they'll know exactly what they're getting into and be more likely to stay in for a full career."

The first class of 19 Soldiers will begin in June with a faculty comprising three active-duty and four civil-service instructors, all with their doctorate in social work. The course will include two tracks: a 13-month track for Soldiers with a non-social work bachelor's degree, and an eight-month advanced standing track for students with a degree in social work from an accredited program. Students graduate with an MSW and will take their initial license before they leave Fort Sam Houston.

During the class, students will learn to understand the dynamics of human behavior in the context of their social environment, particularly in relation to the military experience. After graduation, students will be assigned to behavioral health departments throughout the world where they will conduct assessments and provide interventions to individuals and groups under the supervision of a licensed clinical social worker.

As social workers in the Army, graduates will provide individual counseling for Soldiers and their Families, whether it's concerning substance abuse, physical or emotional abuse, or just help with daily challenges. In two years, they will have the opportunity to test for their independent practitioner license to become a LCSW.

"Through curriculum development we can give students military-unique training and set them up for success in the military," said Pecko, whose branch develops the post traumatic stress disorder training for the Army. "We will incorporate lessons from Operations Iraqi and Enduring Freedom into the program curriculum, as well as our experiences with combat-related emotional issues, such as PTSD."

Tucker-Harris said the investment in the Army's own will pay dividends in the future.

"It took a lot to get to this point, but we've had amazing support from Army leadership and we're looking forward to great success."

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Military Social Work

Many war veterans suffer serious mental health disorders ranging from post-traumatic stress, anxiety and depression, which can lead to substance abuse, domestic violence, child abuse and suicide. This specialized area of study prepares individuals to provide a full range of human services to the nation's military personnel, veterans and their families, helping them cope with the stresses of military life. The military sub-concentration - which can be integrated with any of the three major concentration areas offered through the Virtual Academic Center - provides a range of placement options for students interested in learning more about working with military personnel, military retirees, spouses and other military dependants. Students will complete 550 clock hours of an internship in various types of approved settings working with veteran populations..

Military Social Work MSW Program Concentration

Practicum sites are based on the availability of the agency to accept a student and a field instructor to provide supervision; therefore, no guarantees are extended to students on a specific type of agency that would be arranged. Please note that only students residing on base are candidates for placement on base.

The school's [Center for Innovation and Research on Veterans and Military Families](#) is collaborating with the [USC Institute for Creative Technologies](#) on a new virtual reality module that will expand the ability of educators to train future military social workers. The virtual patient is an avatar-based simulation program designed to replicate the experiences of veterans exposed to combat stress and help prepare students to interact with real clients. The program is the first application of virtual reality in a social work setting and is expected to be used in USC School of Social Work classrooms in the near future. Students may also find opportunities to participate in the center's research initiatives that serve veterans and military families.

Curriculum

- [Clinical Practice with the Military Family: Understanding and Intervening](#)
- [Military Culture and the Workplace Environment](#)
- [Clinical Practice with Service Members and Veterans](#)

MSW@USC Admissions: 1.877.700.4MSW (1.877.700.4679) or sswvac@usc.edu



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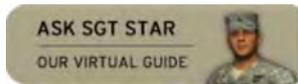
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MENTAL HEALTH SPECIALIST (68X)

Enlisted Officer Active Duty Army Reserve Open to Women Entry Level

OVERVIEW

The mental health specialist is primarily responsible for assisting with the management and treatment of inpatient and outpatient mental health activities.

JOB DUTIES

- Collect and record psychosocial and physical data
- Assist with care and treatment of psychiatric, drug and alcohol patients
- Counsel clients/patients with personal, behavioral or psychological problems

TRAINING

Job training for a mental health specialist requires 10 weeks of Basic Combat Training and 20 weeks of Advanced Individual Training, including practice in-patient care. Training length varies depending on specialty.

Some of the skills you'll learn are:

- Patient-care techniques
- Emergency medical techniques

HELPFUL SKILLS

- Enjoy helping and caring for others
- Ability to communicate effectively and work under stressful conditions
- Interest in chemistry, biology, psychology, general science and algebra
- High attention to detail

REQUIRED ASVAB SCORE(S)

Skilled Technical (ST) : 101

[Learn more about the ASVAB](#) and see what jobs you could qualify for.

COMPENSATION

Total compensation includes housing, medical, food, special pay, and vacation time. [Learn more about total compensation.](#)

EDUCATION BENEFITS

In the Army, qualified students can earn full-tuition, merit-based scholarships, allowances for books and fees, plus an annual stipend for living expenses. [Learn more about education benefits.](#)

FUTURE CIVILIAN CAREERS

The skills you learn will help prepare you for a career with hospitals, clinics, nursing homes or rehabilitation centers. With a mental health specialist background, you may consider a career as a psychiatrist's assistant, a medical assistant or a physician's aide.

RELATED JOBS



HEALTH CARE SPECIALIST (68W)

The health care specialist is primarily responsible for providing emergency medical treatment, limited primary care, and health protection and evacuation from a point of injury or illness.

Active/Reserve: Both

Officer/Enlisted: Enlisted

Restrictions: None



OPERATING ROOM SPECIALIST (68D)

The operating room specialist assists the nursing staff in preparing the patient and the operating room environment for surgery and for providing assistance to the medical staff during surgical procedures.

Active/Reserve: Both

Officer/Enlisted: Enlisted

Restrictions: None



PREVENTIVE MEDICINE SPECIALIST (68S)

Preventive medicine specialists are primarily responsible for conducting or assisting with preventive medicine inspections, surveys and preventative medicine laboratory procedures. They also supervise preventive medicine facilities or serve on preventive medicine staffs.

Active/Reserve: Both

Officer/Enlisted: Enlisted

Restrictions: None



RADIOLOGY SPECIALIST (68P)

The radiology specialist is primarily responsible for operating X-ray and related equipment used in diagnosing and treating injuries and diseases.

Active/Reserve: Both

Officer/Enlisted: Enlisted

Restrictions: None

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AMENDED IN ASSEMBLY APRIL 18, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 213

**Introduced by Assembly Member Logue
(Principal coauthor: Assembly Member Pan)
(Coauthors: Assembly Members Conway, Beth Gaines, Harkey,
Jones, Morrell, Nestande, and Wilk)**

January 31, 2013

An act to add Section 712 to the Business and Professions Code, and to add Section 131136 to the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 213, as amended, Logue. Healing arts: licensure and certification requirements: military experience.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Existing law requires the rules and regulations of these healing arts boards to provide for methods of evaluating education, training, and experience obtained in military service if such training is applicable to the requirements of the particular profession or vocation regulated by the board. Under existing law, specified other healing arts professions and vocations are licensed or certified and regulated by the State Department of Public Health. In some instances, a board with the Department of Consumer Affairs or the State Department of Public

Health approves schools offering educational course credit for meeting licensing or certification qualifications and requirements.

This bill would require the State Department of Public Health, upon the presentation of evidence by an applicant for licensure or certification, to accept education, training, and practical experience completed by an applicant in military service toward the qualifications and requirements to receive a license or certificate for specified professions and vocations if that education, training, or experience is equivalent to the standards of the department. If a board within the Department of Consumer Affairs or the State Department of Public Health accredits or otherwise approves schools offering educational course credit for meeting licensing and certification qualifications and requirements, the bill would, not later than January 1, 2015, require those schools seeking accreditation or approval to have procedures in place to evaluate an applicant’s military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification, as specified.

Under existing law, the Department of Veterans Affairs has specified powers and duties relating to various programs serving veterans. Under existing law, the Chancellor of the California State University and the Chancellor of the California Community Colleges have specified powers and duties relating to statewide health education programs.

With respect to complying with the bill’s requirements and obtaining specified funds to support compliance with these provisions, this bill would require the Department of Veterans Affairs, the Chancellor of the California State University, and the Chancellor of the California Community Colleges to provide technical assistance to the healing arts boards within the Department of Consumer Affairs, the State Department of Public Health, and to the schools offering, or seeking to offer, educational course credit for meeting licensing qualifications and requirements.

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

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

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Veterans Health Care Workforce Act of 2013.
- 3 SEC. 2. (a) The Legislature finds and declares all of the
- 4 following:

1 (1) Lack of health care providers continues to be a significant
2 barrier to access to health care services in medically underserved
3 urban and rural areas of California.

4 (2) Veterans of the United States Armed Forces and the
5 California National Guard gain invaluable education, training, and
6 practical experience through their military service.

7 (3) According to the federal Department of Defense, as of June
8 2011, one million veterans were unemployed nationally and the
9 jobless rate for post-9/11 veterans was 13.3 percent, with young
10 male veterans 18 to 24 years of age experiencing an unemployment
11 rate of 21.9 percent.

12 (4) According to the federal Department of Defense, during the
13 2011 federal fiscal year, 8,854 enlisted service members with
14 medical classifications separated from active duty.

15 (5) According to the federal Department of Defense, during the
16 2011 federal fiscal year, 16,777 service members who separated
17 from active duty listed California as their state of residence.

18 (6) It is critical, both to veterans seeking to transition to civilian
19 health care professions and to patients living in underserved urban
20 and rural areas of California, that the Legislature ensures that
21 veteran applicants for licensure by healing arts boards within the
22 Department of Consumer Affairs or the State Department of Public
23 Health are expedited through the qualifications and requirements
24 process.

25 (b) It is the intent of the Legislature to ensure that boards within
26 the Department of Consumer Affairs and the State Department of
27 Public Health and schools offering educational course credit for
28 meeting licensing qualifications and requirements fully and
29 expeditiously recognize and provide credit for an applicant's
30 military education, training, and practical experience.

31 SEC. 3. Section 712 is added to the Business and Professions
32 Code, to read:

33 712. (a) Not later than January 1, 2015, if a board under this
34 division accredits or otherwise approves schools offering
35 educational course credit for meeting licensing qualifications and
36 requirements, the board shall require a school seeking accreditation
37 or approval to submit to the board proof that the school has
38 procedures in place to evaluate, upon presentation of satisfactory
39 evidence by the applicant, the applicant's military education,
40 training, and practical experience toward the completion of an

1 educational program that would qualify a person to apply for
2 licensure if the school determines that the education, training, or
3 practical experience is equivalent to the standards of the board. A
4 board that requires a school to be accredited by a national
5 organization shall not impose requirements on the school that
6 conflict with the standards of the national organization.

7 (b) With respect to ~~complying~~ *compliance* with the requirements
8 of this section, including the determination of equivalency between
9 the education, training, or practical experience of an applicant and
10 the board's standards, and obtaining state, federal, or private funds
11 to support compliance with this section, the Department of Veterans
12 Affairs, the Chancellor of the California State University, and the
13 Chancellor of the California Community Colleges shall provide
14 technical assistance to the boards under this division and to the
15 schools under this section.

16 (c) *Nothing in this section shall interfere with an educational,*
17 *certification, or licensing requirement or standard set by a*
18 *licensing entity or certification board or other appropriate healing*
19 *arts regulatory agency or entity, to practice health care in the*
20 *state.*

21 SEC. 4. Section 131136 is added to the Health and Safety Code,
22 to read:

23 131136. (a) Notwithstanding any other provision of law, the
24 department shall, upon the presentation of satisfactory evidence
25 by an applicant for licensure or certification in one of the
26 professions described in subdivision (b), accept the education,
27 training, and practical experience completed by the applicant as a
28 member of the United States Armed Forces or Military Reserves
29 of the United States, the national guard of any state, the military
30 reserves of any state, or the naval militia of any state, toward the
31 qualifications and requirements for licensure or certification by
32 the department if the department determines that the education,
33 training, or practical experience is equivalent to the standards of
34 the department.

35 (b) The following professions are subject to this section:

36 (1) Medical laboratory technician as described in Section 1260.3
37 of the Business and Professions Code.

38 (2) Clinical laboratory scientist as described in Section 1261 of
39 the Business and Professions Code.

1 (3) Radiologic technologist as described in Chapter 6
2 (commencing with Section 114840) of Part 9 of Division 104.

3 (4) Nuclear medicine technologist as described in Chapter 4
4 (commencing with Section 107150) of Part 1 of Division 104.

5 (5) Certified nurse assistant as described in Article 9
6 (commencing with Section 1337) of Chapter 2 of Division 2.

7 (6) Certified home health aide as described in Section 1736.1.

8 (7) Certified hemodialysis technician as described in Section
9 1247.61 of the Business and Professions Code.

10 (8) Nursing home administrator as described in Section 1416.2.

11 (c) Not later than January 1, 2015, if the department accredits
12 or otherwise approves schools offering educational course credit
13 for meeting licensing and certification qualifications and
14 requirements, the department shall require a school seeking
15 accreditation or approval to submit to the board proof that the
16 school has procedures in place to fully accept an applicant's
17 military education, training, and practical experience toward the
18 completion of an educational program that would qualify a person
19 to apply for licensure or certification if the school determines that
20 the education, training, or practical experience is equivalent to the
21 standards of the department. If the department requires a school
22 to be accredited by a national organization, the requirement of the
23 department shall not, in any way, conflict with standards set by
24 the national organization.

25 (d) With respect to complying with the requirements of this
26 section including the determination of equivalency between the
27 education, training, or practical experience of an applicant and the
28 department's standards, and obtaining state, federal, or private
29 funds to support compliance with this section, the Department of
30 Veterans Affairs, the Chancellor of the California State University,
31 and the Chancellor of the California Community Colleges shall
32 provide technical assistance to the department, to the State Public
33 Health Officer, and to the schools described in this section.

34 (e) *Nothing in this section shall interfere with an educational,*
35 *certification, or licensing requirement or standard set by a*
36 *licensing entity or certification board or other appropriate healing*
37 *arts regulatory agency or entity, to practice health care in*
38 *California.*

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 252 **VERSION:** AMENDED APRIL 2, 2013

AUTHOR: YAMADA AND EGGMAN **SPONSOR:** AUTHORS

RECOMMENDED POSITION: SUPPORT IF AMENDED

SUBJECT: SOCIAL WORKERS

Summary:

This bill would limit the use of the title “social worker” to only those who hold a degree from an accredited school of social work.

Existing Law:

- 1) Defines the term “accredited school of social work” as a school that is accredited by the Commission on Accreditation of the Council on Social Work Education. (Business and Professions Code (BPC) §4991.2)
- 2) Defines the practice of clinical social work as a service in which special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people achieve more adequate, satisfying, and productive social adjustments. (BPC §4996.9)
- 3) States the application of social work methods include the following (BPC §4996.9):
 - a) Counseling and using applied psychotherapy;
 - b) Providing information and referral services;
 - c) Arranging for social services;
 - d) Explaining/interpreting psychosocial aspects of individuals, families, or groups;
 - e) Helping communities organize, provide or improve social or health services; and
 - f) Research related to social work.
- 4) Requires the Board of Behavioral Sciences (Board) to issue a clinical social worker license to an applicant who qualifies under the Clinical Social Worker Practice Act, and who passes the required examinations. (BPC §§4991, 4996.1)
- 5) Allows only licensed individuals to use the title “Licensed Clinical Social Worker.” (BPC §4996(a))
- 6) Prohibits the practice of clinical social work unless a person holds a valid license (BPC §4996(b))

- 7) States that the clinical social worker licensing requirements do not apply to an employee or volunteer under supervision, when he or she is working in one of the following settings (BPC §4996.14):
 - a) A government entity;
 - b) A school, college, or university; or
 - c) An institution that is both nonprofit and charitable.

This Bill:

- 1) Only allows the title “social worker” to be used by a person who has a degree from an accredited school of social work. (BPC §4998.90(a))
- 2) States this title restriction does not apply to a person who held a “social worker” job classification prior to January 1, 2014. (BPC §4998.90(b))
- 3) States that a social worker shall not use the titles “Licensed Clinical Social Worker” or “Associate Clinical Social Worker” unless they hold the appropriate license or registration with the Board. (BPC §4998.90(d))
- 4) Applies this protection of the “social worker” title to all individuals, even those who work in exempt settings (a governmental entity, school, college, or university, and an institution that is both nonprofit and charitable). (BPC §4996.14(a))
- 5) Restricts an employer from representing employees as social workers unless the workers have degrees from an accredited school of social work. (BPC §4998.95(a))
- 6) States that this restriction does not apply to a person classified as a social worker prior to January 1, 2014. (BPC §4998.95(b))
- 7) States that an employer shall not use the titles “Licensed Clinical Social Worker” or “Associate Clinical Social Worker” for its employees unless they hold the appropriate license or registration with the Board. (BPC §4998.95(d))
- 8) States that an employer who hires someone without a degree in social work from an accredited school of social work to fulfill duties similar to a social worker must give them a different title than “social worker.”
- 9) States that use of the title “social worker” without the appropriate degree is considered an unfair business practice, and is a misdemeanor punishable by imprisonment in county jail for up to six months, and/or a fine of up to \$1,000. (BPC §§4998.90(f), 4998.95(f)(1), 4996.12)
- 10) States that the Board of Behavioral Sciences, the Attorney General, or the district attorney of a county may apply for a superior court to issue an injunction against an employer who uses, or is about to use, the social worker title for someone who does not have a degree from an accredited school of social work. (BPC §4998.95(f)(2))

Comments:

- 1) **Author’s Intent.** According to the author’s office, many public agencies, such as child welfare and adult protective services, and even some private agencies, refer to and classify

their caseworkers as social workers, even if the employee does not have a degree in social work from a school accredited by the Council on Social Work Education (CSWE). Hiring individuals as caseworkers who do not have an accredited degree in social work allows the agencies to cope with their large workloads and limited resources. However, they note that giving these caseworkers a “social worker” title is misleading to consumers, because it implies that the individual has completed the extensive education and experience that an accredited degree in social work requires.

- 2) **Accredited Degree in Social Work Includes Bachelor’s and Master’s Degrees.** This bill states that an individual who uses the “social worker” title must have a degree from an accredited school of social work, which means that the school must be accredited by the CSWE. The author’s office has stated that the intent of this bill is for the degree to be a either a bachelor’s degree or a master’s degree. They note that the bachelor’s degree students are required to complete at least 400 hours of supervised practicum in the field.

According to the CSWE’s web site, there are currently 483 accredited baccalaureate social work programs and 223 accredited master’s social work programs.

- 3) **Policies of Other States.** Other states have a variety of policies regarding use of the social worker title. Some restrict use of the title to those with specified degrees. Some do not require a degree but workers in specific positions must pass a test. Several states license social workers at a bachelor’s, master’s, and clinical level. A summary of some of the policies of other states, prepared by NASW-CA, is provided in **Attachment A**.
- 4) **Social Work Positions Held Prior to January 1, 2014.** This bill contains a provision that allows a person who held a “social worker” title or job classification prior to January 1, 2014, to continue to use that title, even if they do not hold a degree from an accredited school of social work. This may conflict with the intent of the bill, which is to make it clear to consumers that someone who uses the “social work” title has an accredited degree in social work.
- 5) **Title Act Versus Practice Act.** This bill offers title protection only; it is not a practice act. Title protection only restricts use of a certain title. A practice act restricts the practice of a designated profession unless certain requirements are met. The Board’s four current license types each originate from a practice act.

This bill would not prohibit unlicensed individuals from working as social workers. It would simply prohibit the use of the title unless they held an accredited degree in social work.

- 6) **Anticipated Role of the Board** According to the author’s office, this bill would give the board the authority to enforce title protection for social workers, because it is written under a code that is within the Board’s jurisdiction. However, the language is permissive – it states that the Board may apply for an injunction with superior court. As written, the bill does not require any enforcement of the social work title by the Board.

The author’s main intent of this bill is to focus on agencies, not individuals, misusing the social worker title, because it is the agencies employing these workers and giving them the title. Therefore, the bill prohibits individuals and entities from using the social work title if the employee does not have the appropriate education. The bill would allow, but not require, the District Attorney or Attorney General to apply for an injunction to stop any misuse of the social worker title by these agencies. The author’s office notes that in other states, just having this in law is usually enough to stop employers from misusing the title; typically, little enforcement is needed.

- 7) Recommended Position.** At its April 18, 2013 meeting, the Policy and Advocacy Committee recommended that the Board take a “support if amended” position on this bill. The Committee recommended the following amendments:
- a) Include a delayed implementation date to allow agencies time to revise position titles;
 - b) Include language stating that it is not the intent of this bill to exclude the hiring of other professionals such as LPCCs and LMFTs. (This was based on a concern that agencies may simply decide to hire only applicants with degrees from an accredited school of social work.);
 - c) Clarify that an employer who gives an employee a prohibited job title would be the one subject to disciplinary action. In such a case, the employee would not be subject to any adverse action because they did not choose the job title;
 - d) Remove the “grandfather clause” stating that the law would not apply to a person who held a “social worker” job title prior to January 1, 2014. (This was based on concerns that such a clause is contrary to consumer protection, as consumers would not be able to differentiate between employees that had the title because of their degree, and employees that held the title because of the grandfathering clause.);
 - e) Include language clarifying that the “social worker” title does not necessarily refer to a Board licensee; and
 - f) Remove the Board from the enforcement element of the bill. Although the Board may apply to superior court for an injunction against an employer for the incorrect use of the social work title, the Board has very limited enforcement resources. Therefore this type of enforcement will not be possible unless the Board is granted additional resources.

8) Support and Opposition.

Support:

- AFSCME
- California Association for Health Services at Home
- California Association of Deans and Directors of Schools of Social Work
- California Association of School Social Workers
- California Commission on Aging
- California Society for Clinical Social Work
- California State University, Sacramento Division of Social Work
- CommuniCare Health Centers
- Gender Health Center
- Legal Advocates for Children and Youth
- National Association of Social Workers, California Chapter
- Reed Behavioral Solutions

- Social Work Student Association at Sacramento State University
- Social Worker Occupational Committee for AFSCME Local 2620
- University of Southern California School of Social Work
- 95 private individuals

Oppose:

- California Association for Licensed Professional Clinical Counselors
- California Association of Marriage and Family Therapists
- County Welfare Directors Association of California
- SEIU California

9) History

2013

- Apr. 24 From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 1.) (April 23). Re-referred to Com. on APPR.
- Apr. 3 Re-referred to Com. on B.,P. & C.P.
- Apr. 2 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
- Feb. 15 Referred to Com. on B.,P. & C.P.
- Feb. 7 From printer. May be heard in committee March 9.
- Feb. 6 Read first time. To print.

10) Attachments

Attachment A: Policies in Other States (*Provided by NASW-CA*)

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**ATTACHMENT A
POLICIES IN OTHER STATES
(Provided by NASW-CA)**

STATE:	Social Work Degree Required for Child/Adult Protective Services?	Worker Titles:
Alabama	No	Social Service Caseworkers
Alaska	No	Child Protective Service Workers
Arizona	No	Child Protective Service Specialists
Arkansas	No	Family Service Workers
California	No; Working on a title protection bill this session	Counties work independently from each other and the state, so some choose to limit the title of "social worker" for those with a SW degree while others do not
Colorado	No	Several titles excluding "social workers"
Connecticut	No, but DSS will be giving preference to BSWs and MSWs and will be communicating with the Commissioner of the Department of Administrative Services to modify the Social Worker job class to only accept those with social work degrees	Social Workers
Delaware	No	Family Service Specialists
Florida	No	Child Protection Workers, Case Managers, Family Coordinators, etc. Exception: You can use "social worker" if it was in your job title prior to July 1st, 2008
Georgia	No	Social Services Protection and Placement Specialists; Case Worker, Social Services Worker
Hawaii	No	Human Services Professionals
Idaho	Yes	Child Welfare Social Workers
Illinois	No	Child Protection Associate Specialist, Child Protection Specialists, Child Protection Advanced Specialists
Indiana	No	Case Managers, Assessment Specialists
Iowa	No	Social Worker II
Kansas	Yes	Social Workers
Kentucky	No	Social Service Workers
Louisiana	No	Case Managers, Investigators, Foster Care Workers, Human Service Providers, etc.
Maine	No	Human Services Caseworkers

Legend:
State that does NOT call individuals without SW degrees "social workers"
State that does call people without SW degrees "social workers"
State that is in transition. Will eventually NOT call individuals without SW degrees "social workers"

**ATTACHMENT A
POLICIES IN OTHER STATES
(Provided by NASW-CA)**

STATE:	Social Work Degree Required for Child/Adult Protective Services?	Worker Titles:
Maryland	Yes (A master's in social work is required)	Casework Specialists, Social Worker I & Social Worker II (depending on experience level)
Massachusetts	No; Department of Children and Families' Supervisors must, however, pass a social work licensing test	Social Workers
Michigan	No	Services Specialists
Minnesota	No	Social Workers
Mississippi	No	Family Protection Specialists
Missouri	No. But, workers without a degree have to pass a merit test.	Children Service Workers or Family Service Workers
Montana	No	Child and Adult Protective Specialists
Nebraska	No	Not called social workers unless they have a degree and are certified.
Nevada	Yes	Social worker I, II & III
New Hampshire	No	Child Protective Service Workers I-IV
New Jersey	No	Several titles excluding "social workers"
New Mexico	No	Social Workers
New York	No. Some counties require it, but others do not; Most only receive on-the-job training	Social Worker I and II and Social Work Supervisor I and II usually require an MSW; Social Work Assistant I and II do not
North Carolina	No	Social worker I's, II's & III's
North Dakota	Yes	Social Workers
Ohio	No; Working on a title protection bill this session	Social services workers, Case managers; Only one county calls them social workers, because they only hire those with social work degrees for those positions.
Oklahoma	No	Adult Protective Services Specialists & Child Welfare Specialists
Oregon	No	Social Service Specialists
Pennsylvania	No. But you have to have 12 social science credits.	Case workers if they don't have an MSW degree.
Rhode Island	No; Almost obtained 'social worker' title protection last year; will pursue again with likely success next year	Have to have an MSW and license to be called a "Clinical Social Worker"; The state department union classification of "social worker" does not require a SW degree and uses titles other than "clinical social worker"

**ATTACHMENT A
POLICIES IN OTHER STATES
(Provided by NASW-CA)**

STATE:	Social Work Degree Required for Child/Adult Protective Services?	Worker Titles:
South Carolina	No	Human Service Specialist II's
South Dakota	No	CPS - Family Services Specialists; APS - Adult Services and Aging Specialists
Tennessee	No	CPS - Case Managers; APS - Social Counselors
Texas	No; preference in statute, but not required by law	Child Protective Services Specialists or Adult Protective Services Specialists.
Utah	No	Case Managers or Protective Services Workers.
Vermont	No	Social Workers
Virginia	No	Social workers until 2013, when their titles will change.
Washington	No	Several titles excluding "social workers"
Wisconsin	No	Those called 'social workers' are required to have a license; there are other titles for those who do not have a social work license
West Virginia	No	CPS Workers and APS Workers
Wyoming	No	Social Services Workers

Source: Provided by NASW-CA.

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AMENDED IN ASSEMBLY APRIL 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 252

Introduced by Assembly Members Yamada and Eggman

February 6, 2013

An act to amend Section 4996.14 of, and to add Article 6 (commencing with Section 4998.90) to Chapter 14 of Division 2 of, the Business and Professions Code, relating to social workers.

LEGISLATIVE COUNSEL'S DIGEST

AB 252, as amended, Yamada. Social workers.

Existing law provides for the regulation of licensed clinical social workers. Existing law makes an individual who styles himself or herself as a licensed clinical social worker, without holding a license in good standing, guilty of a misdemeanor. Existing law exempts an individual employed by a government entity, certain academic institutions, an institution that is both nonprofit and charitable, and other specified individuals from that prohibition.

Existing law defines an approved school of social work to mean a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.

This bill would prohibit an individual from representing himself or herself as a social worker, unless he or she possesses certain academic ~~qualifications~~. *qualifications from an accredited school, as specified.* This bill would prohibit an employer from representing his or her employee as a social worker, unless that employee possesses certain academic qualifications. This bill would apply ~~that prohibition~~ those prohibitions to an individual employed by a governmental entity, certain

academic institutions, an institution that is both nonprofit and charitable, and other individuals.

~~Existing law defines an approved school of social work to mean a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.~~

Because a violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) The profession of social work is over 100 years old and is
- 3 practiced worldwide. Its mission is to enhance and meet the basic
- 4 needs of all people, with particular attention to the state’s most
- 5 vulnerable consumers, including families; adults and children
- 6 suffering from abuse, addiction, mental illness, and disabilities;
- 7 veterans; the elderly; and all people living in poverty and
- 8 experiencing oppression who have the right to expect that a person
- 9 with the title of social worker has the appropriate education,
- 10 experience, and training.
- 11 (b) A social worker possesses a specific body of professional
- 12 knowledge, training, and experience that is gained when the social
- 13 worker acquires his or her social work degree from a school
- 14 accredited by the Commission on Accreditation of the Council on
- 15 Social Work Education.
- 16 (c) A social work degree is based on scientific theory and
- 17 evidence-based practice.
- 18 (d) While this act protects the title of social worker, it does not
- 19 limit any other health care or social service title.
- 20 (e) The public confidence and the consumer’s security are
- 21 paramount, and protecting the social worker title is critical to
- 22 successful social work for individuals, families, and communities.

1 SEC. 2. Section 4996.14 of the Business and Professions Code
2 is amended to read:

3 4996.14. (a) This chapter, except for Article 6 (commencing
4 with Section 4998.90), shall not apply to an employee who is
5 working in any of the following settings if his or her work is
6 performed solely under the supervision of the employer:

- 7 (1) A governmental entity.
- 8 (2) A school, college, or university.
- 9 (3) An institution that is both nonprofit and charitable.

10 (b) This chapter shall not apply to a volunteer who is working
11 in any of the settings described in subdivision (a) if his or her work
12 is performed solely under the supervision of the entity, school,
13 college, university, or institution.

14 (c) This chapter shall not apply to a person using hypnotic
15 techniques by referral from any of the following persons if his or
16 her practice is performed solely under the supervision of the
17 employer:

- 18 (1) A person licensed to practice medicine.
- 19 (2) A person licensed to practice dentistry.
- 20 (3) A person licensed to practice psychology.

21 (d) This chapter shall not apply to a person using hypnotic
22 techniques that offer vocational self-improvement, and the person
23 is not performing therapy for emotional or mental disorders.

24 SEC. 3. Article 6 (commencing with Section 4998.90) is added
25 to Chapter 14 of Division 2 of the Business and Professions Code,
26 to read:

27

28 Article 6. Use of the Designation Social Worker

29

30 4998.90. (a) Except as provided in subdivisions (b), (c), and
31 (d), on or after January 1, 2014, only an individual who possesses
32 a degree from an accredited school of social work, as defined in
33 Section 4991.2, may represent himself or herself as a social worker.

34 (b) This article shall not be construed to apply to an individual
35 who is classified by his or her employer as a social worker if the
36 individual held that classification prior to January 1, 2014.

37 (c) A graduate of a school in candidacy status, as determined
38 by the Commission on Accreditation of the Council on Social
39 Work Education, or that was in candidacy status at the time the
40 graduate began attending the school, ~~may~~ shall not represent

1 himself or herself as a social worker if the school does not obtain
2 accreditation from the council.

3 (d) A social worker shall not use the title “Licensed Clinical
4 Social Worker” or “Associate Clinical Social Worker” unless the
5 individual meets the criteria specified under Article 4 (commencing
6 with Section 4996).

7 (e) It is not the intent of this section to limit the use of any other
8 health care or social service title.

9 (f) A violation of this ~~chapter~~ *section* is an unfair business
10 practice and is subject to Section 4996.12.

11 *4998.95. (a) Except as provided in subdivisions (b), (c), and*
12 *(d), on or after January 1, 2014, an employer or principal may*
13 *only represent his or her employee or agent as a social worker if*
14 *that employee or agent possesses a degree from an accredited*
15 *school of social work, as defined in Section 4991.2.*

16 *(b) This article shall not be construed to apply to an individual*
17 *who is classified by his or her employer or principal as a social*
18 *worker if the individual held that classification prior to January*
19 *1, 2014.*

20 *(c) An employer or principal shall not represent an employee*
21 *or agent as a social worker if that employee or agent is a graduate*
22 *of a school in candidacy status, as determined by the Commission*
23 *on Accreditation of the Council on Social Work Education, or a*
24 *graduate of a school that was in candidacy status at the time the*
25 *graduate began attending the school, until the school has obtained*
26 *accreditation from the council.*

27 *(d) (1) An employer or principal shall not represent an*
28 *employee or agent by the title “Licensed Clinical Social Worker”*
29 *or “Associate Clinical Social Worker” unless the employee or*
30 *agent meets the criteria specified under Article 4 (commencing*
31 *with Section 4996).*

32 *(2) An employer or principal, who hires an individual who does*
33 *not possess a degree from an accredited school of social work to*
34 *perform similar duties to that of a social worker, shall represent*
35 *that employee or agent with a title other than “social worker” or*
36 *any other term that implies or suggests that the individual possesses*
37 *a degree from an accredited school of social work.*

38 *(e) It is not the intent of this section to limit the use of any other*
39 *health care or social services title.*

1 (f) (1) A violation of this section is an unfair business practice
2 and is subject to Section 4996.12.

3 (2) In addition to other proceedings provided in this section, if
4 an employer or principal has engaged, or is about to engage, in
5 an act that constitutes an offense against this section, the superior
6 court in and for the county where the act takes place, or is about
7 to take place, may issue an injunction, or other appropriate order,
8 restraining that conduct on application of the board, Attorney
9 General, or the district attorney of the county.

10 (g) The proceedings under this section shall be governed by
11 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
12 the Code of Civil Procedure.

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 376 **VERSION:** INTRODUCED FEBRUARY 14, 2013

AUTHOR: DONNELLY **SPONSOR:** AUTHOR

RECOMMENDED POSITION: OPPOSE

SUBJECT: REGULATIONS: NOTICE

Summary:

Beginning January 1, 2014, this bill would require a state agency enforcing a new regulation to notify all affected businesses 30 days before the regulation goes into effect.

Existing Law:

- 1) Establishes the Office of Administrative Law (OAL) in order to review and approve proposed state regulations (Government Code (GC) §11340.1(a))
- 2) Requires a state entity proposing a regulation to provide a 45-day public comment period, before which notice of the proposed regulation must be mailed to the following (GC §11346.4(a):
 - a) Every person who has filed a request for such a notice;
 - b) Mailed to a representative number of small business enterprises or their representatives, who are likely to be affected by the proposal;
 - c) Mailed to any person or group of persons the state agency believes to be interested in the proposed action;
 - d) Published in the California Regulatory Notice Register; and
 - e) Posted on the state agency's website.
- 3) Requires that once a proposed regulation has been approved by OAL, a state entity must post the regulation on its website in an easily marked and identifiable location within 15 days of it being filed with the Secretary of State. (GC §11343(c))
- 4) Requires the newly adopted regulation to remain posted on the state entity's web site for at least six months. (GC §11343(c))

This Bill:

- 1) Would require a state agency enforcing a regulation that is promulgated on or after January 1, 2014, to notify a business that is required to comply thirty days before its effective date. (BPC §11344.5(a))

- 2) Requires the state agency to send notice via email, or if that is not possible, via U.S. Mail. (BPC §11344.5(b))
- 3) Requires the state agency to cooperate with the Secretary of State to access business records to obtain the business contact information needed to provide the notice. (BPC §11344.5(c))

Comments:

- 1) **Author's Intent.** The author notes that a number of businesses are leaving this state, and California is ranked as having one of the worst business climates in the country. This bill is an attempt to ease the regulatory burden on businesses by notifying affected businesses of any new regulations ahead of time, thus giving them time to comply.
- 2) **Board Procedure.** The Board already puts considerable effort into ensuring that affected licensees (who may be considered a "business" as they are often in private practice) are notified of pending regulations that affect them. All regulatory proposals currently go before the Board, and the Board's Policy and Advocacy Committee before they are approved, which allows feedback from the Board's professional associations, as well as any interested parties would like to attend and provide feedback.

Once a regulatory proposal is approved by the Board, a 45-day public comment period is held. The Board mails a notice to interested parties who have notified the Board they want to be on the mailing list for these proposals, as well as contacts at the Board's professional associations and contacts at the educational institutions within California that offer degree programs intended to lead to licensure. The notice is also posted on the Board's website, and an email notification is sent to those who subscribe to the Board's notification service through its website.

Once a regulation is adopted and is to become effective, the Board posts information regarding the changes on the website, and sends an email alert to everyone who subscribes to the Board's notification service.

- 3) **Collection of Email Addresses.** The Board has the ability to send email alerts of major changes to persons who visit its website and sign up for email notifications (called a "subscriber list"). Applicants are not currently required to provide an email address to the Board, and the Board does not track applicant or licensee emails. Therefore, even if the Board started collecting emails of new licensees, there would be a large number of those for which an email address had not been obtained.

Staff has concerns this bill would affect the Board's ability to run regulations when they are needed, because the bill requires a notification email be sent to all affected parties. First, it would require a significant amount of staff resources to collect and maintain current email addresses for all license types. Second, as currently written, if staff found that upon sending, an email address was no longer valid, a letter would need to be mailed. Tracking this effort would require a significant amount of staff time, at a time when the Board is already short on staff resources.

- 4) **Concerns About Cost.** The chart below shows the number of valid licenses and registrants with the Board as of February 1, 2013:

License Type	Total Number
Associate Clinical Social Worker (ASW)	10,412
MFT Interns (IMF)	15,683
Licensed Clinical Social Workers (LCSW)	19,688
Licensed Educational Psychologists (LEP)	1,809
Licensed Marriage and Family Therapists (LMFT)	33,073
Licensed Professional Clinical Counselor (LPCC)	281
Professional Clinical Counselor Interns (PCCI)	<u>173</u>
Total	81,119

If the Board ran a regulation package that affected all of its license and registration types, postage costs to mail a letter to all those affected would be approximately 81,119 x \$0.46 = \$37,314. This does not include costs of materials, printing, or staff time. The Board currently has seven pending regulatory proposals which will likely be approved within the next year.

- 5) **Two-Year Bill.** This bill is now a two-year bill, meaning it will be considered early next year.
- 6) **Recommended Position.** At its meeting on April 18, 2013, the Policy and Advocacy Committee recommended that the Board take an “oppose” position on this bill.

7) **Support and Opposition.**

Support:

None on file.

Opposition:

California Labor Federation
 California Nurses Association
 Health Access California
 Sierra Club California

8) **History**

2013

Apr. 3 In committee: Hearing postponed by committee.
 Mar. 11 Referred to Com. on A. & A.R.
 Feb. 15 From printer. May be heard in committee March 17.
 Feb. 14 Read first time. To print.

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ASSEMBLY BILL

No. 376

Introduced by Assembly Member Donnelly

February 14, 2013

An act to add Section 11344.5 to the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 376, as introduced, Donnelly. Regulations: notice.

The Administrative Procedure Act requires the Office of Administrative Law to provide for the official compilation, printing, and publication of adoption, amendment, or repeal of regulations, which is known as the California Code of Regulations, provide for a weekly update of the California Code of Regulations, and provide for the publication of the California Regulatory Notice Register, which includes, but is not limited to, a summary of all proposed regulations filed with the Secretary of State in the previous week.

This bill would require a state agency enforcing a regulation promulgated on or after January 1, 2014, to notify a business that is required to comply with that regulation of the existence of the regulation 30 days before its effective date, and to cooperate with the Secretary of State to access business records to obtain the business contact information necessary to provide that notice.

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

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

- 1 SECTION 1. Section 11344.5 is added to the Government
- 2 Code, to read:
- 3 11344.5. (a) An agency enforcing a regulation promulgated
- 4 on or after January 1, 2014, shall notify a business that is required
- 5 to comply with that regulation of the existence of the regulation
- 6 30 days before the effective date of the regulation.
- 7 (b) If possible, an agency shall provide the notice required
- 8 pursuant to subdivision (a) by electronic mail, and if not possible,
- 9 then by written letter through the United States mail.
- 10 (c) An agency required to provide notice pursuant to this section
- 11 shall cooperate with the Secretary of State to access business
- 12 records to obtain the business contact information necessary to
- 13 provide the notice.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 512 **VERSION:** INTRODUCED FEBRUARY 20, 2013

AUTHOR: RENDON **SPONSOR:** LOS ANGELES COUNTY

RECOMMENDED POSITION: OPOSE UNLESS AMENDED

SUBJECT: HEALING ARTS: LICENSURE EXEMPTION

Summary

This bill would extend provisions allowing a health care practitioner who is licensed out-of-state to participate in a free, sponsored health care event in California. The provisions currently expire January 1, 2014 and would be extended to January 1, 2018.

Existing Law:

- 1) Allows a health care provider who is not licensed in this state to participate in a health care sponsored event in this state without a California license if the following conditions are met (BPC §901(b):
 - a) He or she is licensed or certified in good standing in the other state; and
 - b) Submits a copy of his or her valid license from each state he or she is licensed, along with a photo identification, to applicable California licensing board; and
 - c) Obtains authorization from the applicable California licensing board to participate in the event; and
 - d) Has not committed any act or been convicted of a crime constituting grounds for denial of licensure in California; and
 - e) Has appropriate education and experience to participate in a sponsored event, as determined by the California licensing board.
- 2) The health care services provided pursuant to the provisions of this bill must meet the following conditions: (BPC §901(b))
 - a) The services are provided to uninsured or underinsured persons;
 - b) The services are on a short-term, voluntary basis not to exceed 10 days per sponsored event;
 - c) It is in association with a non-profit or community based sponsoring entity; and,
 - d) It is without charge to the recipient or to a third party on behalf of the recipient.

- 3) A “health care practitioner” is defined as any healing arts professional who is licensed and regulated by DCA. (BPC §901(a)(3))
- 4) Defines a “sponsoring entity” as a nonprofit organization or a community-based organization. (BPC §901(a)(4))
- 5) Defines a “sponsored event” as an event of less than 10 days that is administered either by a sponsoring entity or a local government, that provides health care to the public without compensation to the health care practitioner. (BPC §901(a)(3))
- 6) Requires the sponsoring entity providing or arranging the health care services to do the following:
 - a) Register with each applicable board for which an out-of-state health care practitioner is participating (BPC §901 (d)); and
 - b) Maintain a copy of each health care practitioner’s current license or certificate and require each practitioner to attest in writing that the license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. (BPC §901 (g))
- 7) These provisions remain in effect until January 1, 2014.

This Bill:

- 1) This bill extends the above provisions in law until January 1, 2018.

Comments:

1) Author’s Intent.

This bill would extend the provisions of AB 2699 (Chapter 270, Statutes of 2010), which expire on January 1, 2014, until January 1, 2018. AB 2699 became effective on January 1, 2011, and its intent was to allow out-of-state healing arts practitioners to participate in government or non-profit sponsored health care events to provide health care services to the uninsured.

The author notes that there are two million uninsured people living in Los Angeles County. At a recent four-day annual health care event, approximately 4,900 people received free medical, vision, and dental care, which was provided by 800 doctors, dentists, optometrists, nurses, and other volunteers.

In the past, events like these have experienced a shortage of volunteer medical, dental and vision providers because of restrictions in state licensing laws which prohibit volunteer out-of-state medical personnel from providing short-term services. As a result, thousands of residents needing service were turned away. The intent of AB 2699 was to resolve this issue by allowing out-of-state practitioners to volunteer for this type of event.

As part of AB 2699, healing arts boards were required to promulgate regulations in order to implement this program. As of August 2012, the medical board’s regulations were not yet in effect, and therefore out of state physicians were not able to volunteer at last fall’s event. As the provisions of AB 2699 are set to expire before many boards have had a chance to promulgate regulations, the author’s office is seeking to extend its provisions to allow more time to demonstrate the potential for the program’s success.

2) Status of Board Regulations.

Due to the immediate staffing needs related to the Board’s new LPCC license, the examination restructure, and the new Breeze database system, staff has not been able to complete the AB 2699 regulations at this time. However, the Board anticipates submitting the regulations to the Office of Administrative Law (OAL) in April 2013.

3) Utilization of Mental Health Professionals.

The Board has not had any requests from out-of-state practitioners for permission to participate in any non-profit health care events. A representative from the sponsor of the bill, Los Angeles County, noted that on occasion, prior events have utilized the services of the Los Angeles County Department of Mental Health, which qualifies as an exempt setting, as well as a substance abuse agency located in Los Angeles. There is currently no license in California for individuals who serve as substance abuse counselors.

4) Recommended Position.

At its April 18, 2013 meeting, the Policy and Advocacy Committee recommended that the Board take an “oppose unless amended” position on this bill, and request that the Board be removed from this bill.

5) Support and Opposition.

Support:

- Los Angeles County (Sponsor)
- Association of California Healthcare Districts

Opposition:

- California Nurses Association
- American Nurses Association of California

6) History

2013

Apr. 25	In Senate. Read first time. To Com. on RLS. for assignment.
Apr. 25	Read third time. Passed. Ordered to the Senate.
Apr. 18	Read second time. Ordered to third reading.
Apr. 17	From committee: Do pass. (Ayes 16. Noes 0.) (April 17).
Apr. 9	From committee: Do pass and re-refer to Com. on APPR. (Ayes 13. Noes 0.) (April 9). Re-referred to Com. on APPR.
Mar. 4	Referred to Com. on B.,P. & C.P.
Feb. 21	From printer. May be heard in committee March 23.
Feb. 20	Read first time. To print.

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ASSEMBLY BILL

No. 512

Introduced by Assembly Member Rendon

February 20, 2013

An act to amend Section 901 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 512, as introduced, Rendon. Healing arts: licensure exemption.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs. Existing law provides an exemption from these requirements for a health care practitioner licensed in another state who offers or provides health care for which he or she is licensed during a state of emergency, as defined, and upon request of the Director of the Emergency Medical Services Authority, as specified.

Existing law provides, until January 1, 2014, an exemption from the licensure and regulation requirements for a health care practitioner, as defined, licensed or certified in good standing in another state or states, who offers or provides health care services for which he or she is licensed or certified through a sponsored event, as defined, (1) to uninsured or underinsured persons, (2) on a short-term voluntary basis, (3) in association with a sponsoring entity that registers with the applicable healing arts board, as defined, and provides specified information to the county health department of the county in which the health care services will be provided, and (4) without charge to the recipient or a 3rd party on behalf of the recipient, as specified. Existing law also requires an exempt health care practitioner to obtain prior authorization to provide these services from the applicable licensing

board, as defined, and to satisfy other specified requirements, including payment of a fee as determined by the applicable licensing board.

This bill would delete the January 1, 2014, date of repeal, and instead allow the exemption to operate until January 1, 2018.

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

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

1 SECTION 1. Section 901 of the Business and Professions Code
2 is amended to read:

3 901. (a) For purposes of this section, the following provisions
4 apply:

5 (1) “Board” means the applicable healing arts board, under this
6 division or an initiative act referred to in this division, responsible
7 for the licensure or regulation in this state of the respective health
8 care practitioners.

9 (2) “Health care practitioner” means any person who engages
10 in acts that are subject to licensure or regulation under this division
11 or under any initiative act referred to in this division.

12 (3) “Sponsored event” means an event, not to exceed 10 calendar
13 days, administered by either a sponsoring entity or a local
14 government, or both, through which health care is provided to the
15 public without compensation to the health care practitioner.

16 (4) “Sponsoring entity” means a nonprofit organization
17 organized pursuant to Section 501(c)(3) of the Internal Revenue
18 Code or a community-based organization.

19 (5) “Uninsured or underinsured person” means a person who
20 does not have health care coverage, including private coverage or
21 coverage through a program funded in whole or in part by a
22 governmental entity, or a person who has health care coverage,
23 but the coverage is not adequate to obtain those health care services
24 offered by the health care practitioner under this section.

25 (b) A health care practitioner licensed or certified in good
26 standing in another state, district, or territory of the United States
27 who offers or provides health care services for which he or she is
28 licensed or certified is exempt from the requirement for licensure
29 if all of the following requirements are met:

30 (1) Prior to providing those services, he or she does all of the
31 following:

1 (A) Obtains authorization from the board to participate in the
2 sponsored event after submitting to the board a copy of his or her
3 valid license or certificate from each state in which he or she holds
4 licensure or certification and a photographic identification issued
5 by one of the states in which he or she holds licensure or
6 certification. The board shall notify the sponsoring entity, within
7 20 calendar days of receiving a request for authorization, whether
8 that request is approved or denied, provided that, if the board
9 receives a request for authorization less than 20 days prior to the
10 date of the sponsored event, the board shall make reasonable efforts
11 to notify the sponsoring entity whether that request is approved or
12 denied prior to the date of that sponsored event.

13 (B) Satisfies the following requirements:

14 (i) The health care practitioner has not committed any act or
15 been convicted of a crime constituting grounds for denial of
16 licensure or registration under Section 480 and is in good standing
17 in each state in which he or she holds licensure or certification.

18 (ii) The health care practitioner has the appropriate education
19 and experience to participate in a sponsored event, as determined
20 by the board.

21 (iii) The health care practitioner shall agree to comply with all
22 applicable practice requirements set forth in this division and the
23 regulations adopted pursuant to this division.

24 (C) Submits to the board, on a form prescribed by the board, a
25 request for authorization to practice without a license, and pays a
26 fee, in an amount determined by the board by regulation, which
27 shall be available, upon appropriation, to cover the cost of
28 developing the authorization process and processing the request.

29 (2) The services are provided under all of the following
30 circumstances:

31 (A) To uninsured or underinsured persons.

32 (B) On a short-term voluntary basis, not to exceed a
33 10-calendar-day period per sponsored event.

34 (C) In association with a sponsoring entity that complies with
35 subdivision (d).

36 (D) Without charge to the recipient or to a third party on behalf
37 of the recipient.

38 (c) The board may deny a health care practitioner authorization
39 to practice without a license if the health care practitioner fails to

1 comply with this section or for any act that would be grounds for
2 denial of an application for licensure.

3 (d) A sponsoring entity seeking to provide, or arrange for the
4 provision of, health care services under this section shall do both
5 of the following:

6 (1) Register with each applicable board under this division for
7 which an out-of-state health care practitioner is participating in
8 the sponsored event by completing a registration form that shall
9 include all of the following:

10 (A) The name of the sponsoring entity.

11 (B) The name of the principal individual or individuals who are
12 the officers or organizational officials responsible for the operation
13 of the sponsoring entity.

14 (C) The address, including street, city, ZIP Code, and county,
15 of the sponsoring entity's principal office and each individual listed
16 pursuant to subparagraph (B).

17 (D) The telephone number for the principal office of the
18 sponsoring entity and each individual listed pursuant to
19 subparagraph (B).

20 (E) Any additional information required by the board.

21 (2) Provide the information listed in paragraph (1) to the county
22 health department of the county in which the health care services
23 will be provided, along with any additional information that may
24 be required by that department.

25 (e) The sponsoring entity shall notify the board and the county
26 health department described in paragraph (2) of subdivision (d) in
27 writing of any change to the information required under subdivision
28 (d) within 30 calendar days of the change.

29 (f) Within 15 calendar days of the provision of health care
30 services pursuant to this section, the sponsoring entity shall file a
31 report with the board and the county health department of the
32 county in which the health care services were provided. This report
33 shall contain the date, place, type, and general description of the
34 care provided, along with a listing of the health care practitioners
35 who participated in providing that care.

36 (g) The sponsoring entity shall maintain a list of health care
37 practitioners associated with the provision of health care services
38 under this section. The sponsoring entity shall maintain a copy of
39 each health care practitioner's current license or certification and
40 shall require each health care practitioner to attest in writing that

1 his or her license or certificate is not suspended or revoked pursuant
2 to disciplinary proceedings in any jurisdiction. The sponsoring
3 entity shall maintain these records for a period of at least five years
4 following the provision of health care services under this section
5 and shall, upon request, furnish those records to the board or any
6 county health department.

7 (h) A contract of liability insurance issued, amended, or renewed
8 in this state on or after January 1, 2011, shall not exclude coverage
9 of a health care practitioner or a sponsoring entity that provides,
10 or arranges for the provision of, health care services under this
11 section, provided that the practitioner or entity complies with this
12 section.

13 (i) Subdivision (b) shall not be construed to authorize a health
14 care practitioner to render care outside the scope of practice
15 authorized by his or her license or certificate or this division.

16 (j) (1) The board may terminate authorization for a health care
17 practitioner to provide health care services pursuant to this section
18 for failure to comply with this section, any applicable practice
19 requirement set forth in this division, any regulations adopted
20 pursuant to this division, or for any act that would be grounds for
21 discipline if done by a licensee of that board.

22 (2) The board shall provide both the sponsoring entity and the
23 health care practitioner with a written notice of termination
24 including the basis for that termination. The health care practitioner
25 may, within 30 days after the date of the receipt of notice of
26 termination, file a written appeal to the board. The appeal shall
27 include any documentation the health care practitioner wishes to
28 present to the board.

29 (3) A health care practitioner whose authorization to provide
30 health care services pursuant to this section has been terminated
31 shall not provide health care services pursuant to this section unless
32 and until a subsequent request for authorization has been approved
33 by the board. A health care practitioner who provides health care
34 services in violation of this paragraph shall be deemed to be
35 practicing health care in violation of the applicable provisions of
36 this division, and be subject to any applicable administrative, civil,
37 or criminal fines, penalties, and other sanctions provided in this
38 division.

39 (k) The provisions of this section are severable. If any provision
40 of this section or its application is held invalid, that invalidity shall

1 not affect other provisions or applications that can be given effect
2 without the invalid provision or application.
3 (l) This section shall remain in effect only until January 1, ~~2014,~~
4 2018, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, ~~2014,~~ 2018, deletes or extends
6 that date.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 790 **VERSION:** INTRODUCED FEBRUARY 21, 2013

AUTHOR: GOMEZ **SPONSOR:** CALIFORNIA POLICE CHIEFS
ASSOCIATION

RECOMMENDED POSITION: NONE

SUBJECT: CHILD ABUSE: REPORTING

Existing Law:

- 1) Specifies that licensees of the Board of Behavioral Sciences (Board) are mandated reporters under the Child Abuse and Neglect Reporting Act and as such, he or she must submit a report whenever in their professional capacity, they have knowledge of, or observe a child who is known, or reasonably suspected to have been, a victim of child abuse or neglect. (Penal Code (PC) §§11165.7(a)(21) – (25) and 11166(a))
- 2) Requires mandated reports of suspected child abuse or neglect be made to any police or sheriff's department, the county probation department, or the county welfare department. (PC §11165.9)
- 3) Requires the initial mandated report to be made via telephone immediately or as soon as practicably possible. A written follow-up report must then be sent within 36 hours of receipt of information about the incident. (PC §11166(a))
- 4) States that when two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect and are in agreement, that the telephone report may be made by a mutually designated reporter on behalf of the group. One written report may then be made and signed by that designated member. If any members learn that the member designated to make the mandated report did not do so, then they must make the report. (PC §11166(h))

This Bill:

- 1) Deletes the provision that allows a team of mandated reporters to designate one member to make a single mandated report. Therefore, all mandated reporters who obtain knowledge of suspected child abuse or neglect would be required to make their own report.

Comment:

- 1) **Author's Intent.** The author's office reports that allowing a team of mandated reporters to make a single report about a case of suspected child abuse creates an opportunity for such abuse to go unreported. They note that this reporting exemption also delays immediate reporting, by implying that the team of mandated reporters may first meet to discuss the situation and decide who is to report it. This would be harmful to the child who is potentially being abused.

In addition, the author indicates that agencies that receive the mandated reports benefit from multiple reports, because it allows them to compile a list of all witnesses, and provides different perspectives from the various mandated reporters that can be helpful in an investigation.

Finally, there is a concern that having only one designated reporter may allow that reporter, if he or she is personally involved in the abuse or has a personal relationship with the abuser, an opportunity to conceal or cover up that involvement.

2) Recent Example.

In its analysis of this bill, the Assembly Committee on Public Safety cites a recent case where a teacher pulled a 5-year old student from his chair and kicked him. School employees reported the incident to their superiors; however, they decided to investigate the incident internally instead of making a mandated report. Eventually, the child's parents learned of the incident and called the police.

3) Recommended Position. At its April 18, 2013 meeting, the Policy and Advocacy Committee decided not to take a position on this bill.

4) Support and Opposition.

Support:

American Federation of State, County and Municipal Employees
California Police Chiefs Association
County Welfare Directors Association of California

Opposition:

California Public Defenders Association
California Association of Marriage and Family Therapists

5) History

2013

Apr. 29	In Senate. Read first time. To Com. on RLS. for assignment.
Apr. 29	Read third time. Passed. Ordered to the Senate.
Apr. 11	Read second time. Ordered to third reading.
Apr. 10	From committee: Do pass. (Ayes 17. Noes 0.) (April 10).
Apr. 3	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 2). Re-referred to Com. on APPR.
Mar. 4	Referred to Com. on PUB. S.
Feb. 22	From printer. May be heard in committee March 24.
Feb. 21	Read first time. To print.

ASSEMBLY BILL

No. 790

Introduced by Assembly Member Gomez

February 21, 2013

An act to amend Section 11166 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 790, as introduced, Gomez. Child abuse: reporting.

The Child Abuse and Neglect Reporting Act requires a mandated reporter, as defined, to make a report to a specified agency 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. Existing law further requires the mandated reporter to make an initial report by telephone to the agency immediately or as soon as is practicably possible, and to prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident.

Existing law additionally provides that, when 2 or more mandated reporters have joint knowledge of suspected child abuse or neglect, they may select a member of the team by mutual agreement to make and sign a single report. Any member who has knowledge that the member designated to report has failed to do so is required to thereafter make the report.

This bill would delete these latter provisions, thus requiring every mandated reporter who has knowledge of suspected child abuse or neglect to make a report, as specified.

Because this bill would expand the definition of a crime, it would impose a state-mandated program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 11166 of the Penal Code is amended to
2 read:

3 11166. (a) Except as provided in subdivision (d), and in
4 Section 11166.05, a mandated reporter shall make a report to an
5 agency specified in Section 11165.9 whenever the mandated
6 reporter, in his or her professional capacity or within the scope of
7 his or her employment, has knowledge of or observes a child whom
8 the mandated reporter knows or reasonably suspects has been the
9 victim of child abuse or neglect. The mandated reporter shall make
10 an initial report by telephone to the agency immediately or as soon
11 as is practicably possible, and shall prepare and send, fax, or
12 electronically transmit a written followup report within 36 hours
13 of receiving the information concerning the incident. The mandated
14 reporter may include with the report any nonprivileged
15 documentary evidence the mandated reporter possesses relating
16 to the incident.

17 (1) For purposes of this article, “reasonable suspicion” means
18 that it is objectively reasonable for a person to entertain a suspicion,
19 based upon facts that could cause a reasonable person in a like
20 position, drawing, when appropriate, on his or her training and
21 experience, to suspect child abuse or neglect. “Reasonable
22 suspicion” does not require certainty that child abuse or neglect
23 has occurred nor does it require a specific medical indication of
24 child abuse or neglect; any “reasonable suspicion” is sufficient.
25 For purposes of this article, the pregnancy of a minor does not, in
26 and of itself, constitute a basis for a reasonable suspicion of sexual
27 abuse.

1 (2) The agency shall be notified and a report shall be prepared
2 and sent, faxed, or electronically transmitted even if the child has
3 expired, regardless of whether or not the possible abuse was a
4 factor contributing to the death, and even if suspected child abuse
5 was discovered during an autopsy.

6 (3) Any report made by a mandated reporter pursuant to this
7 section shall be known as a mandated report.

8 (b) If after reasonable efforts a mandated reporter is unable to
9 submit an initial report by telephone, he or she shall immediately
10 or as soon as is practicably possible, by fax or electronic
11 transmission, make a one-time automated written report on the
12 form prescribed by the Department of Justice, and shall also be
13 available to respond to a telephone followup call by the agency
14 with which he or she filed the report. A mandated reporter who
15 files a one-time automated written report because he or she was
16 unable to submit an initial report by telephone is not required to
17 submit a written followup report.

18 (1) The one-time automated written report form prescribed by
19 the Department of Justice shall be clearly identifiable so that it is
20 not mistaken for a standard written followup report. In addition,
21 the automated one-time report shall contain a section that allows
22 the mandated reporter to state the reason the initial telephone call
23 was not able to be completed. The reason for the submission of
24 the one-time automated written report in lieu of the procedure
25 prescribed in subdivision (a) shall be captured in the Child Welfare
26 Services/Case Management System (CWS/CMS). The department
27 shall work with stakeholders to modify reporting forms and the
28 CWS/CMS as is necessary to accommodate the changes enacted
29 by these provisions.

30 (2) This subdivision shall not become operative until the
31 CWS/CMS is updated to capture the information prescribed in this
32 subdivision.

33 (3) This subdivision shall become inoperative three years after
34 this subdivision becomes operative or on January 1, 2009,
35 whichever occurs first.

36 (4) On the inoperative date of these provisions, a report shall
37 be submitted to the counties and the Legislature by the State
38 Department of Social Services that reflects the data collected from
39 automated one-time reports indicating the reasons stated as to why

1 the automated one-time report was filed in lieu of the initial
2 telephone report.

3 (5) Nothing in this section shall supersede the requirement that
4 a mandated reporter first attempt to make a report via telephone,
5 or that agencies specified in Section 11165.9 accept reports from
6 mandated reporters and other persons as required.

7 (c) Any mandated reporter who fails to report an incident of
8 known or reasonably suspected child abuse or neglect as required
9 by this section is guilty of a misdemeanor punishable by up to six
10 months confinement in a county jail or by a fine of one thousand
11 dollars (\$1,000) or by both that imprisonment and fine. If a
12 mandated reporter intentionally conceals his or her failure to report
13 an incident known by the mandated reporter to be abuse or severe
14 neglect under this section, the failure to report is a continuing
15 offense until an agency specified in Section 11165.9 discovers the
16 offense.

17 (d) (1) A clergy member who acquires knowledge or a
18 reasonable suspicion of child abuse or neglect during a penitential
19 communication is not subject to subdivision (a). For the purposes
20 of this subdivision, “penitential communication” means a
21 communication, intended to be in confidence, including, but not
22 limited to, a sacramental confession, made to a clergy member
23 who, in the course of the discipline or practice of his or her church,
24 denomination, or organization, is authorized or accustomed to hear
25 those communications, and under the discipline, tenets, customs,
26 or practices of his or her church, denomination, or organization,
27 has a duty to keep those communications secret.

28 (2) Nothing in this subdivision shall be construed to modify or
29 limit a clergy member’s duty to report known or suspected child
30 abuse or neglect when the clergy member is acting in some other
31 capacity that would otherwise make the clergy member a mandated
32 reporter.

33 (3) (A) On or before January 1, 2004, a clergy member or any
34 custodian of records for the clergy member may report to an agency
35 specified in Section 11165.9 that the clergy member or any
36 custodian of records for the clergy member, prior to January 1,
37 1997, in his or her professional capacity or within the scope of his
38 or her employment, other than during a penitential communication,
39 acquired knowledge or had a reasonable suspicion that a child had
40 been the victim of sexual abuse that the clergy member or any

1 custodian of records for the clergy member did not previously
2 report the abuse to an agency specified in Section 11165.9. The
3 provisions of Section 11172 shall apply to all reports made pursuant
4 to this paragraph.

5 (B) This paragraph shall apply even if the victim of the known
6 or suspected abuse has reached the age of majority by the time the
7 required report is made.

8 (C) The local law enforcement agency shall have jurisdiction
9 to investigate any report of child abuse made pursuant to this
10 paragraph even if the report is made after the victim has reached
11 the age of majority.

12 (e) (1) Any commercial film, photographic print, or image
13 processor who has knowledge of or observes, within the scope of
14 his or her professional capacity or employment, any film,
15 photograph, videotape, negative, slide, or any representation of
16 information, data, or an image, including, but not limited to, any
17 film, filmstrip, photograph, negative, slide, photocopy, videotape,
18 video laser disc, computer hardware, computer software, computer
19 floppy disk, data storage medium, CD-ROM, computer-generated
20 equipment, or computer-generated image depicting a child under
21 16 years of age engaged in an act of sexual conduct, shall
22 immediately, or as soon as practically possible, telephonically
23 report the instance of suspected abuse to the law enforcement
24 agency located in the county in which the images are seen. Within
25 36 hours of receiving the information concerning the incident, the
26 reporter shall prepare and send, fax, or electronically transmit a
27 written followup report of the incident with a copy of the image
28 or material attached.

29 (2) Any commercial computer technician who has knowledge
30 of or observes, within the scope of his or her professional capacity
31 or employment, any representation of information, data, or an
32 image, including, but not limited, to any computer hardware,
33 computer software, computer file, computer floppy disk, data
34 storage medium, CD-ROM, computer-generated equipment, or
35 computer-generated image that is retrievable in perceivable form
36 and that is intentionally saved, transmitted, or organized on an
37 electronic medium, depicting a child under 16 years of age engaged
38 in an act of sexual conduct, shall immediately, or as soon as
39 practicably possible, telephonically report the instance of suspected
40 abuse to the law enforcement agency located in the county in which

1 the images or material are seen. As soon as practicably possible
2 after receiving the information concerning the incident, the reporter
3 shall prepare and send, fax, or electronically transmit a written
4 followup report of the incident with a brief description of the
5 images or materials.

6 (3) For purposes of this article, “commercial computer
7 technician” includes an employee designated by an employer to
8 receive reports pursuant to an established reporting process
9 authorized by subparagraph (B) of paragraph (41) of subdivision
10 (a) of Section 11165.7.

11 (4) As used in this subdivision, “electronic medium” includes,
12 but is not limited to, a recording, CD-ROM, magnetic disk memory,
13 magnetic tape memory, CD, DVD, thumbdrive, or any other
14 computer hardware or media.

15 (5) As used in this subdivision, “sexual conduct” means any of
16 the following:

17 (A) Sexual intercourse, including genital-genital, oral-genital,
18 anal-genital, or oral-anal, whether between persons of the same or
19 opposite sex or between humans and animals.

20 (B) Penetration of the vagina or rectum by any object.

21 (C) Masturbation for the purpose of sexual stimulation of the
22 viewer.

23 (D) Sadomasochistic abuse for the purpose of sexual stimulation
24 of the viewer.

25 (E) Exhibition of the genitals, pubic, or rectal areas of any
26 person for the purpose of sexual stimulation of the viewer.

27 (f) Any mandated reporter who knows or reasonably suspects
28 that the home or institution in which a child resides is unsuitable
29 for the child because of abuse or neglect of the child shall bring
30 the condition to the attention of the agency to which, and at the
31 same time as, he or she makes a report of the abuse or neglect
32 pursuant to subdivision (a).

33 (g) Any other person who has knowledge of or observes a child
34 whom he or she knows or reasonably suspects has been a victim
35 of child abuse or neglect may report the known or suspected
36 instance of child abuse or neglect to an agency specified in Section
37 11165.9. For purposes of this section, “any other person” includes
38 a mandated reporter who acts in his or her private capacity and
39 not in his or her professional capacity or within the scope of his
40 or her employment.

1 ~~(h) When two or more persons, who are required to report,~~
2 ~~jointly have knowledge of a known or suspected instance of child~~
3 ~~abuse or neglect, and when there is agreement among them, the~~
4 ~~telephone report may be made by a member of the team selected~~
5 ~~by mutual agreement and a single report may be made and signed~~
6 ~~by the selected member of the reporting team. Any member who~~
7 ~~has knowledge that the member designated to report has failed to~~
8 ~~do so shall thereafter make the report.~~

9 (i)

10 (h) (1) The reporting duties under this section are individual,
11 and no supervisor or administrator may impede or inhibit the
12 reporting duties, and no person making a report shall be subject
13 to any sanction for making the report. However, internal procedures
14 to facilitate reporting and apprise supervisors and administrators
15 of reports may be established provided that they are not inconsistent
16 with this article.

17 (2) The internal procedures shall not require any employee
18 required to make reports pursuant to this article to disclose his or
19 her identity to the employer.

20 (3) Reporting the information regarding a case of possible child
21 abuse or neglect to an employer, supervisor, school principal,
22 school counselor, coworker, or other person shall not be a substitute
23 for making a mandated report to an agency specified in Section
24 11165.9.

25 (j)

26 (i) A county probation or welfare department shall immediately,
27 or as soon as practicably possible, report by telephone, fax, or
28 electronic transmission to the law enforcement agency having
29 jurisdiction over the case, to the agency given the responsibility
30 for investigation of cases under Section 300 of the Welfare and
31 Institutions Code, and to the district attorney's office every known
32 or suspected instance of child abuse or neglect, as defined in
33 Section 11165.6, except acts or omissions coming within
34 subdivision (b) of Section 11165.2, or reports made pursuant to
35 Section 11165.13 based on risk to a child which relates solely to
36 the inability of the parent to provide the child with regular care
37 due to the parent's substance abuse, which shall be reported only
38 to the county welfare or probation department. A county probation
39 or welfare department also shall send, fax, or electronically transmit
40 a written report thereof within 36 hours of receiving the information

1 concerning the incident to any agency to which it makes a
2 telephone report under this subdivision.

3 ~~(k)~~

4 (j) A law enforcement agency shall immediately, or as soon as
5 practicably possible, report by telephone, fax, or electronic
6 transmission to the agency given responsibility for investigation
7 of cases under Section 300 of the Welfare and Institutions Code
8 and to the district attorney’s office every known or suspected
9 instance of child abuse or neglect reported to it, except acts or
10 omissions coming within subdivision (b) of Section 11165.2, which
11 shall be reported only to the county welfare or probation
12 department. A law enforcement agency shall report to the county
13 welfare or probation department every known or suspected instance
14 of child abuse or neglect reported to it which is alleged to have
15 occurred as a result of the action of a person responsible for the
16 child’s welfare, or as the result of the failure of a person responsible
17 for the child’s welfare to adequately protect the minor from abuse
18 when the person responsible for the child’s welfare knew or
19 reasonably should have known that the minor was in danger of
20 abuse. A law enforcement agency also shall send, fax, or
21 electronically transmit a written report thereof within 36 hours of
22 receiving the information concerning the incident to any agency
23 to which it makes a telephone report under this subdivision.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1057 **VERSION:** AMENDED APRIL 9, 2013

AUTHOR: MEDINA **SPONSOR:** AUTHOR

RECOMMENDED POSITION: SUPPORT

SUBJECT: PROFESSIONS AND VOCATIONS: LICENSES: MILITARY SERVICE

Summary

This bill would require all boards under the Department of Consumer Affairs (DCA) to ask on licensing applications if the applicant is serving in or has served in the military.

Existing Law:

- 1) Requires healing arts boards under DCA to provide methods of evaluating education, training, and experience obtained in military service if the training is applicable to the requirements of the profession. (Business and Professions Code (BPC) §710)
- 2) Allows a licensee or registrant of any board, commission, or bureau within DCA to reinstate his or her license without examination or penalty if the license expired while he or she was on active duty with the California National Guard or the United States Armed Forces. The following conditions must be met (Business and Professions Code (BPC) §114(a)):
 - a) The license or registration must have been valid at the time of entrance into the California National Guard or the United States Armed Forces.
 - b) The application for reinstatement must be made while actively serving, or no later than one year from the date of discharge from active service or return to inactive military status; and
 - c) The applicant must submit an affidavit stating the date of entrance into the service, whether still in the service or the date of discharge, and he or she must also submit the renewal fee for the current renewal period.
- 3) The application for reinstatement must be filed within one year of discharge or return to inactive military status, otherwise, the licensing agency may require the applicant to pass an exam. (BPC §114(b)).
- 4) The licensing agency may also require the applicant to pass an exam if the applicant has not practiced his or her profession while on active duty. (BPC §114(c))
- 5) Requires boards under DCA to waive continuing education requirements and renewal fees for a licensee or registrant while he or she is called to active duty as a military member if he or she held a valid license or registration upon being called to active duty, and substantiates the active duty service. (BPC §114.3)

This Bill:

- 1) Requires boards within DCA to ask, on all licensing applications, if the applicant is serving in or previously had served in the military. This requirement would begin on January 1, 2015. (BPC §114.5)

Comments:

- 1) **Author's Intent.** While licensing boards under DCA are required to have a process for methods of evaluating education, training, and experience obtained in the military, the boards do not ask on the licensing application whether or not the applicant is or has been in the military. The intent of this bill is to make it easier for boards to identify applicants who may have applicable military training or experience.
- 2) **Current Board Process.** The Board evaluates military education and experience on a case-by-case basis. The Board reviews the applicant's education and experience to determine if it meets the licensure requirements currently in statute.

The Board does not currently have the ability to track the number of licensees who are members of the military. However, for the past several years, the Board has tracked the number of licensees who have requested a continuing education exemption due to military service. This is typically a very small number, as summarized below:

Year	Number of Licensees Requesting a CE Exemption Due to Military Service
2012	2
2011	0
2010	1
2009	1
2008	0
2007	1
2006	5

- 3) **New DCA Breeze Database System.** DCA is in the process of converting its boards and bureaus to a new database system, called Breeze. This system will easily accommodate this new information, allowing the Board to keep data on how many of its applicants are in the military or are veterans. This bill has a delayed implementation date of January 1, 2015 to accommodate the BreEZe system.
- 4) **Related Legislation.**

AB 186 (Maienschein) would require a board within DCA to issue a temporary license to an applicant who is eligible for an expedited license. Such an applicant must be married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, and must hold a current license in the same profession in another state.

AB 213 (Logue) would require a board that accredits or approves schools offering education course credits toward licensing requirements to require a school seeking such an approval to prove it has procedures in place to evaluate military education, training, and experience.

- 5) **Recommended Position.** At its April 18, 2013 meeting, the Policy and Advocacy Committee recommended that the Board take a "support" position on this bill.

6) Support and Opposition.

Support:

None on file.

Opposition:

None on file.

7) History

2013

Apr. 29 In Senate. Read first time. To Com. on RLS. for assignment.

Apr. 29 Read third time. Passed. Ordered to the Senate.

Apr. 25 From consent calendar. Ordered to third reading.

Apr. 18 Read second time. Ordered to consent calendar.

Apr. 17 From committee: Do pass. To consent calendar. (Ayes 17. Noes 0.)
(April 17).

Apr. 10 Re-referred to Com. on APPR.

Apr. 9 Read second time and amended.

Apr. 8 From committee: Do pass as amended and re-refer to Com. on APPR.
(Ayes 13. Noes 0.) (April 2).

Mar. 7 Referred to Com. on B.,P. & C.P.

Feb. 25 Read first time.

Feb. 24 From printer. May be heard in committee March 26.

Feb. 22 Introduced. To print.

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AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1057

Introduced by Assembly Member Medina

February 22, 2013

An act to add Section 114.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1057, as amended, Medina. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a licensee or registrant whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces to, upon application, reinstate his or her license without penalty and without examination, if certain requirements are satisfied, unless the licensing agency determines that the applicant has not actively engaged in the practice of his or her profession while on active duty, as specified.

This bill would require each board, *commencing January 1, 2015*, to inquire in every application for licensure if the applicant is serving in, or has previously served in, the military.

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

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

- 1 SECTION 1. Section 114.5 is added to the Business and
- 2 Professions Code, to read:
- 3 114.5. ~~Each~~ *Commencing January 1, 2015, each* board shall
- 4 inquire in every application for licensure if the applicant is serving
- 5 in, or has previously served in, the military.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 22

VERSION: AMENDED APRIL 2, 2013

AUTHOR: BEALL

SPONSOR: CALIFORNIA PSYCHIATRIC
ASSOCIATION

RECOMMENDED POSITION: SUPPORT

SUBJECT: HEALTH COVERAGE: MENTAL HEALTH PARITY

Summary

This bill requires health care plans and insurers to submit an annual report certifying that the plan is compliant with the mental health parity act. The report is submitted to the Department of Managed Health Care or the Department of Insurance.

Existing Law:

- 1) Requires health care service plan contracts and disability insurance policies that provide hospital, medical or surgical coverage to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, regardless of age, and of serious emotional disturbances of a child. (Health and Safety Code §1374.72(a), Insurance Code 10144.5(a)).
- 2) Defines “severe mental illnesses” as follows (HSC §1374.72(d), IC §10144.5(d)):
 - Schizophrenia.
 - Schizoaffective disorder.
 - Bipolar disorder (manic-depressive illness).
 - Major depressive disorders.
 - Panic disorder.
 - Obsessive-compulsive disorder.
 - Pervasive developmental disorder or autism.
 - Anorexia nervosa.
 - Bulimia nervosa.
- 3) Defines “serious emotional disturbances of a child” as a child who has one or more mental disorders as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders IV (DSM IV) (other than a primary substance use disorder or development disorder) that results in age-inappropriate behavior (HSC §1374.72(e), IC §10144.5(e)). One or more of the following criteria must also be met (HSC §5600.3(a)(2)):
 - (A) As a result of the mental disorder, the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:
 - (i) The child is at risk of removal from home or has already been removed from the home.

(ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.

(B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder.

(C) The child meets special education eligibility requirements under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

- 4) Requires the benefits provided to include outpatient services, inpatient hospital services, partial hospital services, and prescription drugs (if the plan includes prescription drug coverage). (HSC §1374.72(b), IC §10144.5(b)).
- 5) Requires that maximum lifetime benefits, copayments, and individual and family deductibles that apply to these benefits have the same terms and conditions as they do for any other benefits under the plan contract. (HSC §1374.72(c), IC §10144.5(c)).
- 6) The Pall Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), known as MHPAEA, is a federal law that requires group health plans that offer mental health or substance use disorder benefits to ensure financial requirements (i.e. copays and deductibles) and treatment limitations (i.e. visit limits) for mental health or substance use disorders are not more restrictive than the requirements on all other covered medical benefits.
- 7) The federal MHPAEA applies to insurance plans with more than 50 employees.

This Bill:

- 1) Beginning January 1, 2014, requires every health care service plan and contractor of a health care service plan, and health insurer to submit an annual report to the Department of Managed Health Care or Department of Insurance, as applicable. The report must certify that the plan is compliant with applicable state law, and the MHPAEA. (HSC §1374.18, IC §10144.53)
- 2) Requires the annual report submitted by the health plan or insurer to be a public record that is available upon request, and also posted on the Department of Managed Health Care or Department of Insurance's web site. (HSC §1374.18, IC §10144.53)
- 3) Requires the report to contain an analysis of the plan's compliance with state law and the MHPAEA regarding mental health parity, as well as the plan's compliance with specified standards set forth in the American Accreditation HealthCare Commission's (URAC) Health Plan Accreditation Guide. (HSC §1374.18, IC §10144.53)
- 4) Requires the report to contain a survey of plan enrollees regarding their experiences with mental health and substance use care, and a survey of plan providers regarding their experience with providing mental health and substance use care. (HSC §1374.18, IC §10144.53)
- 5) Does not apply to contracts between the Department of Health Care Services and a health plan for enrolled Medi-Cal beneficiaries. (HSC §1374.18, IC §10144.53)

Comments:

- 1) **Author's Intent.** The author's office notes that state and federal parity laws that mandate mental health coverage are a good first step, but that in California, these laws are not being enforced sufficiently. This is because enforcement of the laws is based on complaints. If mental health providers and patients don't complain, there is no way to ensure compliance.

The purpose of this bill is to require health plans and insurers to submit annual reports to regulators. These reports will demonstrate the plan's compliance with parity laws. They will include feedback from consumers and mental health providers regarding their ability to access or provide mental health care under the plan.

- 2) **General Information About Mental Health Parity Laws.** Parity laws require insurance coverage for mental health to be equal to or better than insurance already provided for other medical and surgical benefits, including maximum lifetime benefits, co-payments, and deductibles. Currently, there are both federal and state parity laws.

The federal 2010 Patient Protection and Affordable Care Act (PPACA, also known as national health care reform) requires private insurance plans to include certain mental health and substance use disorder treatment beginning in 2014. The mental health and substance use disorders covered are to be determined through rulemaking.

California's current mental health parity law, AB 88, was enacted in 2000. The bill requires health plans to provide coverage for mental health services that are equal to medical services. However, they are required to cover only certain diagnoses that are defined as a severe mental illness or a serious emotional disturbance of a child.

- 3) **Federal Mental Health Parity Act.** The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) was enacted in October 2008. The Act amended the Mental Health Parity Act of 1996. The MHPAEA banned differences in co-pays, deductibles, coinsurance, out of network coverage, out of pocket expenses and treatment limitations such as caps on visits, limits on days, and limits on duration of treatment for mental health or addiction therapy. This law does not apply to employers with fewer than 50 employees.

The passage of the MHPAEA did not mandate mental health or substance use disorder benefit coverage but only stated that if mental health/substance use disorder benefits are offered through a health insurance plan, that those benefits must not be more restrictive or limiting than those offered for medical and surgical coverage under the plan.

This bill requires the annual report that a health care provider or insurer must complete, to include an analysis of compliance with the MHPAEA.

- 4) **Utilization Review Accreditation Commission (URAC) Mental Health Parity Standards.** The Utilization Review Accreditation Commission (URAC) is a nonprofit organization that develops quality measures and provides health plan accreditation. It is the first such organization to add compliance with the MHPAEA to its accreditation standards.

This bill incorporates certain URAC accreditation standards into the report a health care provider or insurer must complete. The standards that must be considered in each annual report are summarized as follows:

- a) **URAC Standard P-MHP 1:** Analysis of Compliance with Mental Health Parity Law

- b) **URAC Standard P-MHP 2:** Utilization Management Protocols Applied to Mental Health/Substance Use Disorder Benefits
- c) **URAC Standard P-MHP 3:** Mental Health/Substance Use Disorder Parity Addressed in Contractor Written Agreements.

These standards are defined in more detail in **Attachment B**.

- 5) **Related Legislation.** AB 154 (Beall, 2012) would have required a health care plan to provide coverage for the diagnosis and medically necessary treatment of a mental illness under the same terms and conditions applied to other medical conditions. Current mental health parity laws only require coverage for severe mental illness and a child's severe emotional disturbance. The Board supported this bill, but it failed passage in the Senate Health Committee.

AB 423 (Beall, 2007), AB 1887 (Beall, 2008) and AB 244 (Beall, 2009) were all very similar to AB 154. All three were vetoed by Governor Schwarzenegger. The Board took a position of "support" on these bills as well.

- 6) **Recommended Position.** At its April 18, 2013 meeting, the Policy and Advocacy Committee recommended that the Board take a "support" position on this bill.

7) **Support and Opposition.**

Support:

- California Psychiatric Association (sponsor)
- California Alliance
- California Black Health Network
- California Council of Community Mental Health Agencies
- California Division of American Association for Marriage and Family Therapy
- California Mental Health Directors Association
- California Narcotics Officers' Association
- County Alcohol and Drug Program Administrators Association of California
- Drug Policy Alliance
- EMQ Families First
- Health Access California
- Henrietta Weill Memorial Child Guidance Clinic
- Latino Coalition for a Health California
- Mental Health America of California
- National Alliance on Mental Illness
- Pacific Clinics
- Phoenix House
- Santa Clara County Board of Supervisors

Oppose:

- Association of California Life and Health Insurance Companies
- California Association of Health Plans

8) History

2013

Apr. 29 Placed on APPR. suspense file.
Apr. 19 Set for hearing April 29.
Apr. 18 Re-referred to Com. on APPR.
Apr. 15 Withdrawn from committee. Re-referred to Com. on RLS.
Apr. 11 From committee: Do pass and re-refer to Com. on JUD. (Ayes 9. Noes 0. Page 506.) (April 10). Re-referred to Com. on JUD.
Apr. 2 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH. Set for hearing April 10.
Mar. 27 Hearing postponed by committee.
Mar. 15 Set for hearing April 3.
Mar. 11 Re-referred to Coms. on HEALTH and JUD.
Feb. 26 From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
Jan. 10 Referred to Com. on RLS.
2012
Dec. 4 From printer. May be acted upon on or after January 3.
Dec. 3 Introduced. Read first time. To Com. on RLS. for assignment. To print.

9) Attachments.

Attachment A: Fact Sheet: The Mental Health Parity and Addiction Equity Act of 2008 (*by the United States Department of Labor, Employee Benefits Security Administration*)

Attachment B: Summary of URAC Health Plan Accreditation Guide Standards P-MHP 1, P-MHP-2, AND P-MHP-3

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Fact Sheet

U.S. Department of Labor

Employee Benefits Security Administration

January 29, 2010

The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)

MHPAEA, which amended the Public Health Service Act, the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code, generally is effective for plan years beginning on or after October 3, 2009. For calendar year plans, the effective date is January 1, 2010. The Departments of Labor (DOL), Health and Human Services (HHS), and the Treasury will publish in the Federal Register an interim final rule implementing the provisions of MHPAEA on February 2, 2010. The regulation is effective on April 5, 2010, and applicable to plan years beginning on or after July 1, 2010.

Background

- The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) requires group health plans and health insurance issuers to ensure that financial requirements (such as co-pays, deductibles) and treatment limitations (such as visit limits) applicable to mental health or substance use disorder (MH/SUD) benefits are no more restrictive than the predominant requirements or limitations applied to substantially all medical/surgical benefits.
- MHPAEA applies to plans sponsored by private and public sector employers with more than 50 employees, including self-insured as well as fully insured arrangements. MHPAEA also applies to health insurance issuers who sell coverage to employers with more than 50 employees.
- The DOL and the IRS generally have enforcement authority over private sector employment-based plans that are subject to ERISA. HHS has direct enforcement authority with respect to self-funded non-Federal governmental plans. While State insurance commissioners have primary authority over issuers in the large group market, HHS has secondary enforcement authority.
- MHPAEA supplements prior provisions under the Mental Health Parity Act of 1996 (MHPA), which required parity with respect to aggregate lifetime and annual dollar limits for mental health benefits. DOL, HHS and Treasury issued regulations under MHPA in 1997. The MHPAEA interim final rule amends and modifies certain provisions in the MHPA regulations.
- Although MHPAEA provides significant new protections to participants in group health plans, it is important to note that MHPAEA does not mandate that a plan provide MH/SUD benefits. Rather, if a plan provides medical/surgical and MH/SUD benefits,

it must comply with the MHPAEA's parity provisions. Also, MHPAEA does not apply to issuers who sell health insurance policies to employers with 50 or fewer employees or who sell health insurance policies to individuals.

MHPAEA Continues and Expands MHPA

- As noted above, MHPA required parity with respect to aggregate lifetime and annual dollar limits. However, MHPA did not apply to substance use disorder benefits. MHPAEA continued the MHPA parity rules as to limits for mental health benefits, and amended them to extend to substance use disorder benefits.
- Therefore, plans and issuers that offer substance use disorder benefits subject to aggregate lifetime and annual dollar limits must comply with the MHPAEA's parity provisions.
- The regulations demonstrate how the expanded rules apply, and update certain defined terms and examples as necessary.

Additional MHPAEA Protections Relating to Financial Requirements

- Under MHPAEA, if a plan or issuer that offers medical/surgical and MH/SUD benefits imposes "financial requirements" (such as deductibles, copayments, coinsurance and out of pocket limitations), the financial requirements applicable to MH/SUD benefits can be no more restrictive than the "predominant" financial requirements applied to "substantially all" medical/surgical benefits.
- The regulations provide that the "predominant/substantially all" test applies to six classifications of benefits on a classification-by-classification basis. The regulation also includes other rules and definitions that are necessary in order for plans, issuers and their advisers to apply this general parity test.

Additional MHPAEA Protections Relating to Treatment Limitations

- MHPAEA also provides similar protections for treatment limitations. "Treatment limitations" mean limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.
- The regulation clarifies that there may be both quantitative and non-quantitative treatment limitations, and provides rules for each. Since they are similar to financial requirements, quantitative treatment limitations are subject to the same general test as the financial requirements discussed above.
- Because non-quantitative treatment limitations (such as medical management standards, formulary design, and determination of usual/customary/reasonable amounts) apply differently, the regulation includes a separate parity requirement for them.

Parity with Respect to Out of Network Benefits

- If a plan or issuer that offers medical/surgical benefits on an out-of-network basis also offers MH/SUD benefits, it must offer the MH/SUD benefits on an out-of-network basis as well.

MHPAEA Availability of Plan Information Requirements

- MHPAEA requires that plans make certain information available with respect to MH/SUD benefits. First, the criteria for medical necessity determinations with respect to MH/SUD benefits must be made available to any current or potential participant, beneficiary, or contracting provider upon request.
- MHPAEA also provides that the reason for any denial of reimbursement or payment for services with respect to MH/SUD benefits must be made available, upon request or as otherwise required, to the participant or beneficiary.
- The regulation clarifies that, for non-Federal governmental plans (which are not subject to ERISA), and health insurance coverage offered in connection with such plans, compliance with the form and manner of the ERISA claims procedure regulations for group health plans satisfies this disclosure requirement.

Exemptions from MHPAEA

- MHPAEA retains the exemption for small employers contained in MHPA. MHPAEA modified the exemption contained in MHPA based on increased cost in several respects, which are explained in the statute.
- The MHPAEA regulation updates the small employer exemption, withdraws the MHPA regulations concerning the increased cost exemption, and reserves paragraph (g) for additional future guidance.

Additional Issues

- The MHPAEA interim final rule is intended to address the most pressing issues that affect the ability of plans and issuers to comply in the near term. The Departments noted several issues in the preamble, and specifically requested comments on:
 - Whether additional examples would be helpful to illustrate the application of the non-quantitative treatment limitation rule to other features of medical management or general plan design;
 - Whether and to what extent MHPAEA addresses the “scope of services” or “continuum of care” provided by a group health plan or health insurance coverage;
 - What additional clarifications might be helpful to facilitate compliance with the disclosure requirement for medical necessity criteria or denials of MH/SUD benefits; and
 - Implementing the new statutory requirements for the increased cost exemption under MHPAEA, as well as information on how many plans expect to use the exemption.

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Attachment B

Summary of URAC Health Plan Accreditation Guide Standards

(From URAC Regulatory Compliance Document, January 3, 2012)

P-MHP 1 - Analysis of Compliance with Mental Health Parity Law

For each *health benefit plan* product that provides mental health and/or substance use disorder (MH/SUD) services that is included in its application for this accreditation, the *organization* will provide written documentation of one of the following:

(No Weight)

(a) An affirmative declaration, signed by a principal of the organization, indicating that the identified product is in "exempt status" with regards to the applicable federal and/or state law or regulation and any binding regulatory or sub-regulatory guidance related thereto, including the statutory/regulatory basis for the exempt status; **or**

(b) If not exempt, a detailed analysis of the identified product documenting its compliance with the applicable federal and/or state law or regulation and any binding regulatory or sub-regulatory guidance related thereto, demonstrating that for the MD/SUD services provided, including applicable pharmacy benefits, the *organization* does not have more restrictive:

(No Weight)

(i) Financial requirements;

(ii) Quantitative treatment limitations; **and**

(iii) Nonquantitative treatment limitations.

P-MHP 2 - UM Protocols Applied to MH/SUD Benefits

For all of the *utilization management* protocols applied to mental health and/or substance use disorder (MH/SUD) benefits, the *organization* will provide a detailed analysis demonstrating that these *utilization management* protocols do not have more restrictive nonquantitative treatment limitations.

P-MHP 3 - MH/SUD Parity Addressed in Contractor Written Agreements

The *organization* enters into *written agreements* with *contractors* providing mental health and/or substance use disorder (MH/SUD) health care services that:

(No Weight)

(a) Meet the requirements set forth in standards P-NM 8-10; **and**

(b) Specify that the *contractor* shall comply with, and maintain parity between the MH/SUD benefits it administers and the *organization's* medical/surgical benefits pursuant to the applicable federal and/or state law or regulation and any binding regulatory or subregulatory guidance related thereto.

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AMENDED IN SENATE APRIL 2, 2013

AMENDED IN SENATE FEBRUARY 26, 2013

SENATE BILL

No. 22

Introduced by Senator Beall

(Coauthors: Senators Correa, De León, DeSaulnier, and Yee)

(Coauthors: Assembly Members Ammiano and Chesbro)

December 3, 2012

An act to add Section 1374.18 to the Health and Safety Code, and to add Section 10144.53 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 22, as amended, Beall. Health care coverage: mental health parity.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts or health insurance policies issued, amended, or renewed on or after July 1, 2000, to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, as defined, and of serious emotional disturbances of a child, as specified, under the same terms and conditions applied to other medical conditions.

Existing federal law, the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) requires group health plans and health insurance issuers to ensure that financial requirements and treatment limitations applicable to mental health or substance use disorder benefits are no more restrictive than the predominant requirements or limitations applied to substantially all

medical and surgical benefits. Existing state law requires individual and small group health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2014, to comply with MHPAEA.

This bill would, on or after July 1, 2014, require every health care service plan, contractor of a health service plan, and health insurer to submit an annual report to the Department of Managed Health Care or the Department of Insurance, as appropriate, certifying compliance with specified state laws and the MHPAEA, except as provided. The bill would require the reports to be a public record made available upon request and to be published on the respective department's Internet Web site. The bill would require a plan, contractor, and health insurer to provide an analysis of the entity's compliance with the law using certain mental health parity standards and to conduct surveys of enrollees, insureds, and providers as part of the report, as specified. *The bill would prohibit the inclusion of any information that may individually identify enrollees or insureds in the reports submitted to the respective departments pursuant to the provisions described above.*

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

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

1 SECTION 1. Section 1374.18 is added to the Health and Safety
2 Code, to read:
3 1374.18. (a) On and after July 1, 2014, every health care
4 service plan and contractor of a health care service plan shall
5 submit an annual report to the department certifying compliance
6 with Section ~~1274.72~~ 1374.72 and the federal Paul Wellstone and
7 Pete Domenici Mental Health Parity and Addiction Equity Act of
8 2008 (Public Law 110-343), hereafter referred to as the MHPAEA,
9 its implementing regulations, and all related federal guidance. The
10 annual report shall be a public record made available upon request
11 and shall be published on the department's Internet Web site. The
12 department may hold public hearings on the reports at its own
13 discretion or at the request of any person.
14 (b) The report shall provide an analysis of the plan's or
15 contractor's compliance with Section ~~1274.72~~ 1374.72 and the
16 MHPAEA using all of the elements set forth in those provisions
17 of law, as well as in standards P-MHP 1, P-MHP 2, and P-MHP

1 3 of the American Accreditation HealthCare Commission (URAC)
2 Health Plan Accreditation Guide, Version 7, or any subsequent
3 versions.

4 (c) (1) As part of the report, a plan or contractor shall conduct
5 both of the following:

6 (A) A survey of enrollees to collect responses pertaining to
7 enrollee experiences with mental health and substance use care.

8 (B) A survey of providers to collect responses pertaining to
9 provider experiences with providing mental health and substance
10 use care.

11 (2) The plan or contractor shall use the compliance criteria set
12 forth in the URAC *mental health parity* standards described in
13 subdivision (b) to structure the surveys.

14 (d) *A report submitted to the department pursuant to this section*
15 *shall not include any information that may individually identify*
16 *enrollees, including, but not limited to, medical record numbers,*
17 *names, and addresses.*

18 (e)

19 (e) This section shall not apply to contracts entered into pursuant
20 to Chapter 7 (commencing with Section 14000) or Chapter 8
21 (commencing with Section 14200) of *Part 3 of Division 9* of ~~Part~~
22 ~~3~~ of the Welfare and Institutions Code, between the State
23 Department of Health Care Services and a health care service plan
24 for enrolled Medi-Cal beneficiaries.

25 SEC. 2. Section 10144.53 is added to the Insurance Code, to
26 read:

27 10144.53. (a) On and after July 1, 2014, every health insurer
28 shall submit an annual report to the Department of Insurance
29 certifying that its health insurance policies comply with Section
30 10144.5 and the federal Paul Wellstone and Pete Domenici Mental
31 Health Parity and Addiction Equity Act of 2008 (Public Law
32 110-343), hereafter referred to as the MHPAEA, its implementing
33 regulations, and all related federal guidance. The annual report
34 shall be a public record made available upon request and shall be
35 published on the department's Internet Web site. The department
36 may hold public hearings on the reports at its own discretion or at
37 the request of any person.

38 (b) The report shall provide an analysis of the insurer's
39 compliance with Section 10144.5 and the MHPAEA using all of
40 the elements set forth in those provisions of law, as well as in

1 standards P-MHP 1, P-MHP 2, and P-MHP 3 of the American
2 Accreditation HealthCare Commission (URAC) Health Plan
3 Accreditation Guide, Version 7, or any subsequent versions.

4 (c) (1) As part of the report, an insurer shall conduct both of
5 the following:

6 (A) A survey of insureds to collect responses pertaining to
7 insured’s experiences with mental health and substance use care.

8 (B) A survey of providers to collect responses pertaining to
9 provider ~~experience~~ *experiences* with providing mental health and
10 substance use care.

11 (2) The insurer shall use the compliance criteria set forth in the
12 URAC mental health parity standards described in subdivision (b)
13 to structure the surveys.

14 (d) *A report submitted to the department pursuant to this section*
15 *shall not include any information that may individually identify*
16 *insureds, including, but not limited to, medical record numbers,*
17 *names, and addresses.*

18 ~~(e)~~

19 (e) This section shall not apply to policies or health benefit plans
20 issued pursuant to Chapter 7 (commencing with Section 14000)
21 or Chapter 8 (commencing with Section 14200) of *Part 3 of*
22 *Division 9 of Part 3 of the Welfare and Institutions Code, between*
23 *the State Department of Health Care Services and an insurance*
24 *policy or health benefit plan for enrolled Medi-Cal beneficiaries.*

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 126 **VERSION:** AS INTRODUCED, JANUARY 22, 2013

AUTHOR: STEINBERG **SPONSOR:** AUTISM SPEAKS

RECOMMENDED POSITION: SUPPORT

SUBJECT: HEALTH CARE COVERAGE- AUTISM

Existing Law:

- 1) Provides for the licensure and regulation of health care service plans by the Department of Managed Health Care.
- 2) Provides for the regulation of health insurers by the Department of Insurance.
- 3) Requires health care service plan contracts and health insurance policies to provide benefits, including coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism, except as specified.
- 4) Provides that a willful violation of these provisions with respect to health care service plans is a crime.
- 5) Makes these provisions inoperative on July 1, 2014, and repealed on January 1, 2015.

This Bill:

- 1) Extend the operation of the above provisions until July 1, 2019, and would repeal these provisions on January 1, 2020.

Comment:

- 1) **Intent.** According to the author's office, this bill is necessary to ensure that treatment for individuals with pervasive development disorder or autism (PDD/A) remains covered under insurance plans that are regulated by the state of California.
- 2) **Previous Legislation.**
 - **SB 946 (Chapter 650, Statutes of 2011)** requires, no later than July 1, 2012, that every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for PDD/A.

3) Recommended Position. At its April 18, 2013 meeting, the Policy and Advocacy Committee recommended that the Board take a “support” position on this bill.

4) Support and Opposition.

Support:

- Autism Speaks (sponsor)
- Alameda County Developmental Disabilities Planning and Advisory Council
- Alliance for California Autism Organizations
- Autism Health Insurance Project
- California Association for Behavior Analysis
- California Department of Insurance
- California Speech Language-Hearing Association
- Developmental Disabilities Area Board 10
- East Bay Developmental Disabilities Coalition
- Health Access California
- Mutual Housing California
- Occupational Therapy Association of California
- Pediatric Therapy Network
- People's Care
- Percepta
- Southwest Special Education Local Plan Area
- Special Needs Network
- The Children's Partnership
- 26 individuals

Opposition:

- None on file.

5) History

2013

May 3	Set for hearing May 13.
May 2	From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (May 1). Re-referred to Com. on APPR.
Apr. 12	Set for hearing May 1.
Apr. 2	Hearing postponed by committee.
Mar. 15	Set for hearing April 10.
Jan. 31	Referred to Com. on HEALTH.
Jan. 23	From printer. May be acted upon on or after February 22.
Jan. 22	Introduced. Read first time. To Com. on RLS. for assignment. To print.

Introduced by Senator SteinbergJanuary 22, 2013

An act to amend Section 1374.73 of the Health and Safety Code, and to amend Sections 10144.51 and 10144.52 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 126, as introduced, Steinberg. Health care coverage: pervasive developmental disorder or autism.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism, except as specified. A willful violation of these provisions with respect to health care service plans is a crime. These provisions are inoperative on July 1, 2014, and are repealed on January 1, 2015.

This bill would extend the operation of these provisions until July 1, 2019, and would repeal these provisions on January 1, 2020. By extending the operation of provisions establishing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1374.73 of the Health and Safety Code
2 is amended to read:
3 1374.73. (a) (1) Every health care service plan contract that
4 provides hospital, medical, or surgical coverage shall also provide
5 coverage for behavioral health treatment for pervasive
6 developmental disorder or autism no later than July 1, 2012. The
7 coverage shall be provided in the same manner and shall be subject
8 to the same requirements as provided in Section 1374.72.
9 (2) Notwithstanding paragraph (1), as of the date that proposed
10 final rulemaking for essential health benefits is issued, this section
11 does not require any benefits to be provided that exceed the
12 essential health benefits that all health plans will be required by
13 federal regulations to provide under Section 1302(b) of the federal
14 Patient Protection and Affordable Care Act (Public Law 111-148),
15 as amended by the federal Health Care and Education
16 Reconciliation Act of 2010 (Public Law 111-152).
17 (3) This section shall not affect services for which an individual
18 is eligible pursuant to Division 4.5 (commencing with Section
19 4500) of the Welfare and Institutions Code or Title 14
20 (commencing with Section 95000) of the Government Code.
21 (4) This section shall not affect or reduce any obligation to
22 provide services under an individualized education program, as
23 defined in Section 56032 of the Education Code, or an
24 ~~individualized~~ *individual* service plan, as described in Section
25 5600.4 of the Welfare and Institutions Code, or under the
26 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400,
27 et seq.) and its implementing regulations.
28 (b) Every health care service plan subject to this section shall
29 maintain an adequate network that includes qualified autism service
30 providers who supervise and employ qualified autism service
31 professionals or paraprofessionals who provide and administer
32 behavioral health treatment. Nothing shall prevent a health care
33 service plan from selectively contracting with providers within
34 these requirements.

1 (c) For the purposes of this section, the following definitions
2 shall apply:

3 (1) “Behavioral health treatment” means professional services
4 and treatment programs, including applied behavior analysis and
5 evidence-based behavior intervention programs, that develop or
6 restore, to the maximum extent practicable, the functioning of an
7 individual with pervasive developmental disorder or autism and
8 that meet all of the following criteria:

9 (A) The treatment is prescribed by a physician and surgeon
10 licensed pursuant to Chapter 5 (commencing with Section 2000)
11 of, or is developed by a psychologist licensed pursuant to Chapter
12 6.6 (commencing with Section 2900) of, Division 2 of the Business
13 and Professions Code.

14 (B) The treatment is provided under a treatment plan prescribed
15 by a qualified autism service provider and is administered by one
16 of the following:

17 (i) A qualified autism service provider.

18 (ii) A qualified autism service professional supervised and
19 employed by the qualified autism service provider.

20 (iii) A qualified autism service paraprofessional supervised and
21 employed by a qualified autism service provider.

22 (C) The treatment plan has measurable goals over a specific
23 timeline that is developed and approved by the qualified autism
24 service provider for the specific patient being treated. The treatment
25 plan shall be reviewed no less than once every six months by the
26 qualified autism service provider and modified whenever
27 appropriate, and shall be consistent with Section 4686.2 of the
28 Welfare and Institutions Code pursuant to which the qualified
29 autism service provider does all of the following:

30 (i) Describes the patient’s behavioral health impairments to be
31 treated.

32 (ii) Designs an intervention plan that includes the service type,
33 number of hours, and parent participation needed to achieve the
34 plan’s goal and objectives, and the frequency at which the patient’s
35 progress is evaluated and reported.

36 (iii) Provides intervention plans that utilize evidence-based
37 practices, with demonstrated clinical efficacy in treating pervasive
38 developmental disorder or autism.

1 (iv) Discontinues intensive behavioral intervention services
2 when the treatment goals and objectives are achieved or no longer
3 appropriate.

4 (D) The treatment plan is not used for purposes of providing or
5 for the reimbursement of respite, day care, or educational services
6 and is not used to reimburse a parent for participating in the
7 treatment program. The treatment plan shall be made available to
8 the health care service plan upon request.

9 (2) “Pervasive developmental disorder or autism” shall have
10 the same meaning and interpretation as used in Section 1374.72.

11 (3) “Qualified autism service provider” means either of the
12 following:

13 (A) A person, entity, or group that is certified by a national
14 entity, such as the Behavior Analyst Certification Board, that is
15 accredited by the National Commission for Certifying Agencies,
16 and who designs, supervises, or provides treatment for pervasive
17 developmental disorder or autism, provided the services are within
18 the experience and competence of the person, entity, or group that
19 is nationally certified.

20 (B) A person licensed as a physician and surgeon, physical
21 therapist, occupational therapist, psychologist, marriage and family
22 therapist, educational psychologist, clinical social worker,
23 professional clinical counselor, speech-language pathologist, or
24 audiologist pursuant to Division 2 (commencing with Section 500)
25 of the Business and Professions Code, who designs, supervises,
26 or provides treatment for pervasive developmental disorder or
27 autism, provided the services are within the experience and
28 competence of the licensee.

29 (4) “Qualified autism service professional” means an individual
30 who meets all of the following criteria:

31 (A) Provides behavioral health treatment.

32 (B) Is employed and supervised by a qualified autism service
33 provider.

34 (C) Provides treatment pursuant to a treatment plan developed
35 and approved by the qualified autism service provider.

36 (D) Is a behavioral service provider approved as a vendor by a
37 California regional center to provide services as an Associate
38 Behavior Analyst, Behavior Analyst, Behavior Management
39 Assistant, Behavior Management Consultant, or Behavior

1 Management Program as defined in Section 54342 of Title 17 of
2 the California Code of Regulations.

3 (E) Has training and experience in providing services for
4 pervasive developmental disorder or autism pursuant to Division
5 4.5 (commencing with Section 4500) of the Welfare and
6 Institutions Code or Title 14 (commencing with Section 95000)
7 of the Government Code.

8 (5) “Qualified autism service paraprofessional” means an
9 unlicensed and uncertified individual who meets all of the
10 following criteria:

11 (A) Is employed and supervised by a qualified autism service
12 provider.

13 (B) Provides treatment and implements services pursuant to a
14 treatment plan developed and approved by the qualified autism
15 service provider.

16 (C) Meets the criteria set forth in the regulations adopted
17 pursuant to Section 4686.3 of the Welfare and Institutions Code.

18 (D) Has adequate education, training, and experience, as
19 certified by a qualified autism service provider.

20 (d) This section shall not apply to the following:

21 (1) A specialized health care service plan that does not deliver
22 mental health or behavioral health services to enrollees.

23 (2) A health care service plan contract in the Medi-Cal program
24 (Chapter 7 (commencing with Section 14000) of Part 3 of Division
25 9 of the Welfare and Institutions Code).

26 (3) A health care service plan contract in the Healthy Families
27 Program (Part 6.2 (commencing with Section 12693) of Division
28 2 of the Insurance Code).

29 (4) A health care benefit plan or contract entered into with the
30 Board of Administration of the Public Employees’ Retirement
31 System pursuant to the Public Employees’ Medical and Hospital
32 Care Act (Part 5 (commencing with Section 22750) of Division 5
33 of Title 2 of the Government Code).

34 (e) Nothing in this section shall be construed to limit the
35 obligation to provide services under Section 1374.72.

36 (f) As provided in Section 1374.72 and in paragraph (1) of
37 subdivision (a), in the provision of benefits required by this section,
38 a health care service plan may utilize case management, network
39 providers, utilization review techniques, prior authorization,
40 copayments, or other cost sharing.

1 (g) This section shall become inoperative on July 1, ~~2014~~ 2019,
2 and, as of January 1, ~~2015~~ 2020, is repealed, unless a later enacted
3 statute, that becomes operative on or before January 1, ~~2015~~ 2020,
4 deletes or extends the dates on which it becomes inoperative and
5 is repealed.

6 SEC. 2. Section 10144.51 of the Insurance Code is amended
7 to read:

8 10144.51. (a) (1) Every health insurance policy shall also
9 provide coverage for behavioral health treatment for pervasive
10 developmental disorder or autism no later than July 1, 2012. The
11 coverage shall be provided in the same manner and shall be subject
12 to the same requirements as provided in Section 10144.5.

13 (2) Notwithstanding paragraph (1), as of the date that proposed
14 final rulemaking for essential health benefits is issued, this section
15 does not require any benefits to be provided that exceed the
16 essential health benefits that all health insurers will be required by
17 federal regulations to provide under Section 1302(b) of the federal
18 Patient Protection and Affordable Care Act ~~(P.L. (Public Law~~
19 ~~111-148)~~, as amended by the federal Health Care and Education
20 Reconciliation Act of 2010 ~~(P.L. (Public Law 111-152)~~.

21 (3) This section shall not affect services for which an individual
22 is eligible pursuant to Division 4.5 (commencing with Section
23 4500) of the Welfare and Institutions Code or Title 14
24 (commencing with Section 95000) of the Government Code.

25 (4) This section shall not affect or reduce any obligation to
26 provide services under an individualized education program, as
27 defined in Section 56032 of the Education Code, or an
28 ~~individualized~~ *individual* service plan, as described in Section
29 5600.4 of the Welfare and Institutions Code, or under the
30 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400
31 et seq.) and its implementing regulations.

32 (b) Pursuant to Article 6 (commencing with Section 2240) of
33 Title 10 of the California Code of Regulations, every health insurer
34 subject to this section shall maintain an adequate network that
35 includes qualified autism service providers who supervise and
36 employ qualified autism service professionals or paraprofessionals
37 who provide and administer behavioral health treatment. Nothing
38 shall prevent a health insurer from selectively contracting with
39 providers within these requirements.

1 (c) For the purposes of this section, the following definitions
2 shall apply:

3 (1) “Behavioral health treatment” means professional services
4 and treatment programs, including applied behavior analysis and
5 evidence-based behavior intervention programs, that develop or
6 restore, to the maximum extent practicable, the functioning of an
7 individual with pervasive developmental disorder or autism, and
8 that meet all of the following criteria:

9 (A) The treatment is prescribed by a physician and surgeon
10 licensed pursuant to Chapter 5 (commencing with Section 2000)
11 of, or is developed by a psychologist licensed pursuant to Chapter
12 6.6 (commencing with Section 2900) of, Division 2 of the Business
13 and Professions Code.

14 (B) The treatment is provided under a treatment plan prescribed
15 by a qualified autism service provider and is administered by one
16 of the following:

17 (i) A qualified autism service provider.

18 (ii) A qualified autism service professional supervised and
19 employed by the qualified autism service provider.

20 (iii) A qualified autism service paraprofessional supervised and
21 employed by a qualified autism service provider.

22 (C) The treatment plan has measurable goals over a specific
23 timeline that is developed and approved by the qualified autism
24 service provider for the specific patient being treated. The treatment
25 plan shall be reviewed no less than once every six months by the
26 qualified autism service provider and modified whenever
27 appropriate, and shall be consistent with Section 4686.2 of the
28 Welfare and Institutions Code pursuant to which the qualified
29 autism service provider does all of the following:

30 (i) Describes the patient’s behavioral health impairments to be
31 treated.

32 (ii) Designs an intervention plan that includes the service type,
33 number of hours, and parent participation needed to achieve the
34 plan’s goal and objectives, and the frequency at which the patient’s
35 progress is evaluated and reported.

36 (iii) Provides intervention plans that utilize evidence-based
37 practices, with demonstrated clinical efficacy in treating pervasive
38 developmental disorder or autism.

1 (iv) Discontinues intensive behavioral intervention services
2 when the treatment goals and objectives are achieved or no longer
3 appropriate.

4 (D) The treatment plan is not used for purposes of providing or
5 for the reimbursement of respite, day care, or educational services
6 and is not used to reimburse a parent for participating in the
7 treatment program. The treatment plan shall be made available to
8 the insurer upon request.

9 (2) “Pervasive developmental disorder or autism” shall have
10 the same meaning and interpretation as used in Section 10144.5.

11 (3) “Qualified autism service provider” means either of the
12 following:

13 (A) A person, entity, or group that is certified by a national
14 entity, such as the Behavior Analyst Certification Board, that is
15 accredited by the National Commission for Certifying Agencies,
16 and who designs, supervises, or provides treatment for pervasive
17 developmental disorder or autism, provided the services are within
18 the experience and competence of the person, entity, or group that
19 is nationally certified.

20 (B) A person licensed as a physician and surgeon, physical
21 therapist, occupational therapist, psychologist, marriage and family
22 therapist, educational psychologist, clinical social worker,
23 professional clinical counselor, speech-language pathologist, or
24 audiologist pursuant to Division 2 (commencing with Section 500)
25 of the Business and Professions Code, who designs, supervises,
26 or provides treatment for pervasive developmental disorder or
27 autism, provided the services are within the experience and
28 competence of the licensee.

29 (4) “Qualified autism service professional” means an individual
30 who meets all of the following criteria:

31 (A) Provides behavioral health treatment.

32 (B) Is employed and supervised by a qualified autism service
33 provider.

34 (C) Provides treatment pursuant to a treatment plan developed
35 and approved by the qualified autism service provider.

36 (D) Is a behavioral service provider approved as a vendor by a
37 California regional center to provide services as an Associate
38 Behavior Analyst, Behavior Analyst, Behavior Management
39 Assistant, Behavior Management Consultant, or Behavior

1 Management Program as defined in Section 54342 of Title 17 of
2 the California Code of Regulations.

3 (E) Has training and experience in providing services for
4 pervasive developmental disorder or autism pursuant to Division
5 4.5 (commencing with Section 4500) of the Welfare and
6 Institutions Code or Title 14 (commencing with Section 95000)
7 of the Government Code.

8 (5) “Qualified autism service paraprofessional” means an
9 unlicensed and uncertified individual who meets all of the
10 following criteria:

11 (A) Is employed and supervised by a qualified autism service
12 provider.

13 (B) Provides treatment and implements services pursuant to a
14 treatment plan developed and approved by the qualified autism
15 service provider.

16 (C) Meets the criteria set forth in the regulations adopted
17 pursuant to Section 4686.3 of the Welfare and Institutions Code.

18 (D) Has adequate education, training, and experience, as
19 certified by a qualified autism service provider.

20 (d) This section shall not apply to the following:

21 (1) A specialized health insurance policy that does not cover
22 mental health or behavioral health services or an accident only,
23 specified disease, hospital indemnity, or Medicare supplement
24 policy.

25 (2) A health insurance policy in the Medi-Cal program (Chapter
26 7 (commencing with Section 14000) of Part 3 of Division 9 of the
27 Welfare and Institutions Code).

28 (3) A health insurance policy in the Healthy Families Program
29 (Part 6.2 (commencing with Section 12693)).

30 (4) A health care benefit plan or policy entered into with the
31 Board of Administration of the Public Employees’ Retirement
32 System pursuant to the Public Employees’ Medical and Hospital
33 Care Act (Part 5 (commencing with Section 22750) of Division 5
34 of Title 2 of the Government Code).

35 (e) Nothing in this section shall be construed to limit the
36 obligation to provide services under Section 10144.5.

37 (f) As provided in Section 10144.5 and in paragraph (1) of
38 subdivision (a), in the provision of benefits required by this section,
39 a health insurer may utilize case management, network providers,

1 utilization review techniques, prior authorization, copayments, or
2 other cost sharing.

3 (g) This section shall become inoperative on July 1, ~~2014~~ 2019,
4 and, as of January 1, ~~2015~~ 2020, is repealed, unless a later enacted
5 statute, that becomes operative on or before January 1, ~~2015~~ 2020,
6 deletes or extends the dates on which it becomes inoperative and
7 is repealed.

8 SEC. 3. Section 10144.52 of the Insurance Code is amended
9 to read:

10 10144.52. (a) For purposes of this part, the terms “provider,”
11 “professional provider,” “network provider,” “mental health
12 provider,” and “mental health professional” shall include the term
13 “qualified autism service provider,” as defined in subdivision (c)
14 of Section 10144.51.

15 (b) This section shall become inoperative on July 1, ~~2014~~ 2019,
16 and, as of January 1, ~~2015~~ 2020, is repealed, unless a later enacted
17 statute, that becomes operative on or before January 1, ~~2015~~ 2020,
18 deletes or extends the dates on which it becomes inoperative and
19 is repealed.

20 SEC. 4. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 282 **VERSION:** INTRODUCED FEBRUARY 14, 2013

AUTHOR: YEE **SPONSOR:** CALIFORNIA ASSOCIATION OF
MARRIAGE AND FAMILY THERAPISTS
(CAMFT)

RECOMMENDED POSITION: SUPPORT IF AMENDED

SUBJECT: CONFIDENTIAL MEDICAL INFORMATION: REQUIRED AUTHORIZATION TO
DISCLOSE

Existing Law:

- 1) Requires that when a patient makes a complaint against a physician or surgeon that demands a settlement or includes an offer to compromise, the demand or offer must be accompanied by the patient's authorization to disclose medical information to the organizations insuring or defending the physician or surgeon. (Civil Code (CC) §56.105)
- 2) Requires an authorization for release of medical information to state the following (CC §56.11):
 - The specific uses and limitations on the types of medical information disclosed;
 - The name or functions of the provider that may disclose the medical information;
 - The name or functions of the persons/entities authorized to receive the medical information; and
 - The specific uses and limitations on the use of the medical information by the persons or entities authorized to receive it.
- 3) Requires notice be given to the patient if any medical information is requested under the authorization. The notice must include the requested subject matter, dates of materials, and must authorize the patient to request copies of the information. (CC §56.105)

This Bill:

- 1) There is a provision in law that requires a settlement or compromise offer against a physician or surgeon to be accompanied by authorization to disclose medical information. This bill proposes an amendment to also apply this requirement to settlement or compromise offers against a licensed marriage and family therapist (LMFT).

Comment:

- 1) **Author's Intent.** According to the author's office, this bill seeks to protect LMFTs from claims of breaching confidentiality under the Confidentiality of Medical Information Act when they provide patient medical information to their medical malpractice insurer in order to

defend themselves in a demand for settlement or offer of compromise. This protection is already allowed to physicians and surgeons in the law, and the author sees no reason why LMFTs should not be included as well.

The author's office further notes that requiring the patient's authorization to release these records to the insurer will allow the insurer to evaluate and respond to claims in a timely manner.

2) Recommended Position. At its April 18, 2013 meeting, the Policy and Advocacy Committee recommended that the Board take a "support if amended" position on this legislation. The Committee requested an amendment to include the Board's other license types in addition to LMFTs.

3) Support and Opposition.

Support:

- American Association for Marriage and Family Therapy-California Division

Opposition:

- None on file.

4) History

2013

Apr. 26

Set for hearing May 7.

Feb. 28

Referred to Com. on JUD.

Feb. 15

From printer. May be acted upon on or after March 17.

Feb. 14

Introduced. Read first time. To Com. on RLS. for assignment. To print.

Introduced by Senator YeeFebruary 14, 2013

An act to amend Section 56.105 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 282, as introduced, Yee. Confidential medical information: required authorization to disclose.

The Confidentiality of Medical Information Act requires, among other things, that a demand for settlement or offer to compromise issued on a patient's behalf prior to the service of a complaint in any action arising out of the professional negligence of a specifically certified physician and surgeon be accompanied by an authorization to disclose medical information to the persons or organizations insuring, responsible for, or defending the professional liability of the physician and surgeon in order to allow an evaluation of the merits of the demand for settlement or offer of compromise.

This bill would extend these provisions to require that the authorization to disclose medical information also accompany a demand for settlement or offer to compromise issued on a patient's behalf prior to the service of a complaint in any action arising out of the professional negligence of a person holding a valid license as a marriage and family therapist, as specified.

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

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

1 SECTION 1. Section 56.105 of the Civil Code is amended to
2 read:

3 56.105. Whenever, prior to the service of a complaint upon a
4 defendant in any action arising out of the professional negligence
5 of a person holding a valid physician’s and surgeon’s certificate
6 issued pursuant to Chapter 5 (commencing with Section 2000) of
7 Division 2 of the Business and Professions Code, *or a person*
8 *holding a valid license as a marriage and family therapist issued*
9 *pursuant to Chapter 13 (commencing with Section 4980) of*
10 *Division 2 of the Business and Professions Code*, a demand for
11 settlement or offer to compromise is made on a patient’s behalf,
12 the demand or offer shall be accompanied by an authorization to
13 disclose medical information to persons or organizations insuring,
14 responsible for, or defending professional liability that the
15 certificate holder may incur. The authorization shall be in
16 accordance with Section 56.11 and shall authorize disclosure of
17 that information that is necessary to investigate issues of liability
18 and extent of potential damages in evaluating the merits of the
19 demand for settlement or offer to compromise.

20 Notice of any request for medical information made pursuant to
21 an authorization as provided by this section shall be given to the
22 patient or the patient’s legal representative. The notice shall
23 describe the inclusive subject matter and dates of the materials
24 requested and shall also authorize the patient or the patient’s legal
25 representative to receive, upon request, copies of the information
26 at his or her expense.

27 Nothing in this section shall be construed to waive or limit any
28 applicable privileges set forth in the Evidence Code except for the
29 disclosure of medical information subject to the patient’s
30 authorization. Nothing in this section shall be construed as
31 authorizing a representative of any person from whom settlement
32 has been demanded to communicate in violation of the
33 physician-patient privilege with a treating physician, *or to*
34 *communicate in violation of the psychotherapist-patient privilege*
35 *with a treating licensed marriage and family therapist*, except for
36 the medical information request.

- 1 The requirements of this section are independent of the
- 2 requirements of Section 364 of the Code of Civil Procedure.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 578

VERSION: AMENDED APRIL 25, 2013

AUTHOR: WYLAND

SPONSOR: CALIFORNIA ASSOCIATION OF
MARRIAGE AND FAMILY THERAPISTS
(CAMFT)

RECOMMENDED POSITION: OPPOSE

SUBJECT: MARRIAGE AND FAMILY THERAPISTS: UNPROFESSIONAL CONDUCT

Existing Law:

- 1) Outlines several provisions that constitute unprofessional conduct of a marriage and family therapist. (Business and Professions Code (BPC) §4982)
- 2) Allows the Board to deny an application for licensure or registration as a marriage and family therapist, and allows the Board to suspend or revoke a marriage and family therapist license or registration if there is a violation of the unprofessional conduct provisions. (BPC §4982)
- 3) Provides that it is unprofessional conduct to engage in gross negligence or incompetence in the performance of marriage and family therapy. (BPC §4982(d))
- 4) Provides that it is unprofessional conduct to intentionally or recklessly cause physical or emotional harm to any client. (BPC §4982(i))
- 5) Provides that it is unprofessional conduct to engage in any type of sexual relations with a client or former client within two years of terminating therapy. (BPC §4982(k))

This Bill:

- 1) Adds engaging in certain types of dual relationships with a patient to the list of provisions that may be considered unprofessional conduct for a marriage and family therapist licensee or registrant. (BPC §4982(ac))
- 2) Clarifies that dual relationships that constitute unprofessional conduct are relationships that are likely to impair professional judgment or lead to exploitation of the client. (BPC §4982(ac))
- 3) Defines a dual relationship as one where the therapist and the client engage in a separate and distinct relationship at the same time as the therapeutic relationship, or following the termination of the therapeutic relationship. (BPC §4982(ac))
- 4) Specifies that if a dual relationship cannot be avoided, the therapist must take appropriate precautions to ensure his or her judgment is not impaired and the client is not exploited. This includes documenting the dual relationship. (BPC §4982(ac))

- 5) Specifies that a violation of this provision is not subject to BPC §4983, which states that a violation of the Licensed Marriage and Family Therapist Act is a misdemeanor punishable by imprisonment in county jail for up to six months, a fine of \$2,500, or both. (BPC §4982(ac))
- 6) Preserves the unprofessional conduct statute provision §4982(k), which prohibits engaging in sexual relations with a client, or a former client within two years following termination of therapy. (BPC §4982(ac))

Comment:

- 1) **Background.** The Board currently takes disciplinary action on LMFT licensees or registrants for unprofessional conduct if it determines that they have engaged in an inappropriate dual relationship. Current law does not define an inappropriate dual relationship; instead, the Board typically cites unprofessional conduct section 4982(d) (gross negligence or incompetence) and/or section 4982(i) (intentionally or recklessly causing physical/emotional harm to the client). If the dual relationship involved sexual conduct, the Board would cite section 4982(k) (sexual relations with a client).
- 2) **Author's Intent.** The author's office notes that since the Board takes disciplinary action against licensees for inappropriate dual relationships, the law should state specifically that certain types of dual relationships are unprofessional conduct, and should also clarify which types of dual relationships are considered inappropriate.
- 3) **Prior Case.** The author's office refers to a recent disciplinary case as an example of the need to clarify in law that certain types of dual relationships constitute unprofessional conduct. During this case, which occurred in 2011, the licensee had allegedly engaged in an inappropriate dual relationship. However, the presiding administrative law judge dismissed the case partially because the Board's subject matter expert testified that he believes all dual relationships are unethical and could not think of any dual relationship that did not harm a client. The administrative law judge stated that this testimony contradicted professional standards.
- 4) **CAMFT Code of Ethics.** The current version of the CAMFT code of ethics (dated June 11, 2011) contains language addressing dual relationships that is very similar to the language proposed by this bill. This language can be found in sections 1.2 – 1.2.2, beginning on page one of **Attachment A**.

Attachment B is the 2002 version of the CAMFT ethical standards (dated May 1, 2002). This is the version that was in effect at the time the disciplinary case referenced above was dismissed, in part due to the subject matter expert's opinion about dual relationships. The language addressing dual relationships in this version is slightly different from the current version. It can be found in sections 1.2 – 1.2.2 on page 2.

- 5) **AAMFT-CA Code of Ethics. Attachment C** contains the July 1, 2012 version of the AAMFT Code of Ethics. The definition of multiple relationships can be found in section 1.3 on page 2.
- 6) **California Board of Psychology.** The California Board of Psychology indirectly defines inappropriate dual relationships in its licensing law by incorporating the American Psychological Association's (APA's) "Ethical Principles and Code of Conduct" by reference into its law. The Psychology Board's statute states that the standards of ethical conduct

outlined in this document are to be applied by the board as the accepted standard of care in all board enforcement policies and disciplinary cases. (BPC §2936)

The APA's June 1, 2010 version of this document, Section 3.05, states the following:

"A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists. Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical."

The Board of Psychology statute that references this document, as well as Section 3.05 of the June 1, 2010 version of the APA document, which discusses multiple relationships, can be found in **Attachments D** and **E**, respectively.

7) Other State Licensing Boards. The bill's sponsor, CAMFT, has provided the following examples of other state licensing boards that address dual relationships in their unprofessional conduct statute:

- **Arizona:** Chapter 33 (Behavioral Health Professionals) Title 32-325(12) "Unprofessional conduct" includes the following: (y) Engaging in a dual relationship with a client that could impair the licensee's objectivity or professional judgment or create a risk of harm to the client. For the purposes of this subdivision, "dual relationship" means a licensee simultaneously engages in both a professional and nonprofessional relationship with a client that is avoidable and not incidental."
- **Vermont:** Chapter 61, Title 26 (Clinical Social Workers, Professions and Occupations) section 3210- "The following conduct...by a licensed social worker constitutes unprofessional conduct...: (9) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client; (10) failing to take steps to protect a client and to set clear, appropriate, and culturally sensitive boundaries, in instances where dual or multiple relationships are unavoidable.."
- **Kansas:** Board of Behavioral Sciences, Social Workers, Section 102-2-7: "Any of the following acts by a licensee or an applicant for a social work license shall constitute unprofessional conduct: (tt) engaging in a dual relationship with a client, supervisee, or student."

8) Exemption from BPC Section 4983. A recent amendment to this bill exempts a violation of this proposed dual relationship unprofessional conduct subsection from BPC Section 4983.

Section 4983 states that a violation of the Licensed Marriage and Family Therapist Act is a misdemeanor punishable by imprisonment in county jail for up to six months, a fine of \$2,500, or both.

None of the other marriage and family therapy code sections are exempt from Section 4983; therefore, it is unclear why a dual relationship violation should be.

9) Other Board Licensees. This bill clarifies inappropriate dual relationships in the unprofessional conduct provisions of marriage and family therapist licensing law, but it does not add this provision to licensing laws for the Board's other three license types (licensed educational psychologists, licensed clinical social workers, and licensed professional clinical counselors). If the Board decides to support this proposed amendment, it may wish to

consider if it would also be appropriate for inclusion in the unprofessional conduct sections of its other license categories.

10) Recommended Position. At its April 18, 2013 meeting, the Policy and Advocacy Committee recommended that the Board take an “oppose” position on this bill.

11) Support and Opposition.

Support:

- California Association of Marriage & Family Therapists (Sponsor)

Opposition:

- None on file.

12) History

2013

May 6 In Assembly. Read first time. Held at Desk.
May 6 Read third time. Passed. (Ayes 32. Noes 0.) Ordered to the Assembly.
May 1 Ordered to special consent calendar.
Apr. 25 Read second time and amended. Ordered to third reading.
Apr. 24 From committee: Do pass as amended. (Ayes 10. Noes 0. Page 638.) (April 22).
Apr. 5 Set for hearing April 22.
Apr. 1 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.
Mar. 11 Referred to Com. on B., P. & E.D.
Feb. 25 Read first time.
Feb. 24 From printer. May be acted upon on or after March 26.
Feb. 22 Introduced. To Com. on RLS. for assignment. To print.

13) Attachments

Attachment A: CAMFT Code of Ethics (June 11, 2011 version)

Attachment B: CAMFT Ethical Standards Part I (May 1, 2002 version)

Attachment C: AAMFT Code of Ethics (Effective July 1, 2012)

Attachment D: Business and Professions Code Section 2936 (Board of Psychology Statute)

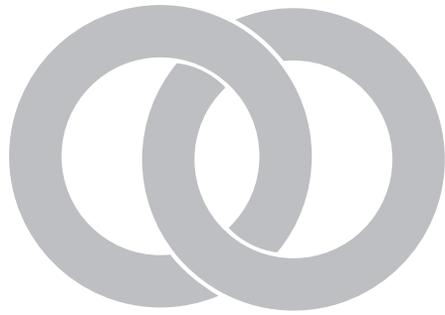
Attachment E: American Psychological Association “Ethical Principles of Psychologists and Code of Conduct,” effective June 1, 2010 (Section 3.05 – Multiple Relationships)



California Association of Marriage and Family Therapists

California Association of Marriage and Family Therapists

Code of Ethics



CAMFT Code of Ethics

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Part I—The Standards

INTRODUCTION

The Board of Directors of CAMFT hereby publishes pursuant to the Association Bylaws, a Revised *CAMFT Code of Ethics*. Members of CAMFT are expected to be familiar with and abide by these standards and by applicable California laws and regulations governing the conduct of licensed marriage, and family therapists, supervisors, educators, interns, applicants, students, and trainees. The effective date of these revised standards is June 11, 2011.

The practice of marriage, and family therapy and psychotherapyⁱ is both an art and a science. It is varied in its approach, technique, modality, and method of service delivery. These ethical standards are to be read, understood, and utilized as a guide for ethical behavior. The general principles contained in this code of conduct are also used as a basis for the adjudication of ethical issues and/or complaints (both within and outside of CAMFT) that may arise. Ethical behavior must satisfy not only the judgment of the individual marriage and family therapist, but also the judgment of his/her peers, based upon a set of recognized norms.

We recognize that the development of standards is an ongoing process, and that every conceivable situation that may occur cannot be expressly covered by any set of standards. The absence of a specific prohibition against a particular kind of conduct does not mean that such conduct is either ethical or unethical. While the specific wording of these standards is important, the spirit and intent of the principles should be taken into consideration by those utilizing or interpreting this code. The titles to the various sections of these standards are not considered a part of the actual standard. Violations of these standards may be brought to the attention of the CAMFT Ethics Committee, in writing, at CAMFT's administrative office, 7901 Raytheon Road, San Diego, CA 92111-1606, or at such other address as may be necessary because of a change in location of the administrative office.

1 Responsibility to Patientsⁱⁱ

Marriage and family therapistsⁱⁱⁱ advance the welfare of families and individuals, respect the rights of those persons seeking their assistance, and make reasonable efforts to ensure that their services are used appropriately.

- 1.1 NON-DISCRIMINATION: Marriage and family therapists do not condone or engage in discrimination, or refuse professional service to anyone on the basis of race, gender, gender identity, gender expression, religion, national origin, age, sexual orientation, disability, socioeconomic, or marital status. Marriage and family therapists make reasonable efforts to accommodate patients who have physical disabilities.
- 1.1.1 HISTORICAL AND SOCIAL PREJUDICE: Marriage and family therapists are aware of and do not perpetuate historical and social prejudices when diagnosing and treating patients because such conduct may lead to misdiagnosing and pathologizing patients.
- 1.2 DUAL RELATIONSHIPS-DEFINITION: Marriage and family therapists are aware of their influential position with respect to patients, and they avoid exploiting the trust and dependency of such persons. Marriage and family therapists therefore avoid dual relationships^{iv} with patients that are reasonably likely to impair professional judgment or lead to exploitation. A dual relationship occurs when a therapist and his/her patient engage in a separate and distinct relationship either simultaneously with the therapeutic relationship, or during a reasonable period of time following the termination of the therapeutic relationship. Not all dual relationships are unethical, and some dual relationships

cannot be avoided. When a concurrent or subsequent dual relationship occurs, marriage and family therapists take appropriate professional precautions to ensure that judgment is not impaired and that no exploitation occurs.

- 1.2.1 UNETHICAL DUAL RELATIONSHIPS: Other acts that would result in unethical dual relationships include, but are not limited to, borrowing money from a patient, hiring a patient, engaging in a business venture with a patient, or engaging in a close personal relationship with a patient. Such acts with a patient's spouse, partner or family member may also be considered unethical dual relationships.
- 1.2.2 SEXUAL CONTACT: Sexual intercourse, sexual contact or sexual intimacy with a patient, or a patient's spouse or partner, or a patient's immediate family member, during the therapeutic relationship, or during the two years following the termination of the therapeutic relationship, is unethical. Should a marriage and family therapist engage in sexual intimacy with a former patient or a patient's spouse or partner, or a patient's immediate family member, following the two years after termination or last professional contact, the therapist shall consider the potential harm to or exploitation of the former patient or to the patient's family.
- 1.2.3 PRIOR SEXUAL RELATIONSHIP: A marriage and family therapist does not enter into a therapeutic relationship with a person with whom he/she has had a sexual relationship or with a partner or the immediate family member of a person with whom he/she has had a sexual relationship.
- 1.3 TREATMENT DISRUPTION: Marriage and family therapists are aware of their professional and clinical responsibilities to provide consistent care to patients and maintain practices and procedures that assure uninterrupted care. Such practices and procedures may include, but are not limited to, providing contact information and specified procedures in case of emergency or therapist absence, conducting appropriate terminations, and providing for a professional will.
- 1.3.1 TERMINATION: Marriage and family therapists use sound clinical judgment when terminating therapeutic relationships and do so in an appropriate manner. Reasons for termination may include, but are not limited to, the patient is not benefiting from treatment; continuing treatment is not clinically appropriate; the therapist is unable to provide treatment due to the therapist's incapacity or extended absence, or in order to avoid an ethical conflict or problem.
- 1.3.2 ABANDONMENT: Marriage and family therapists do not abandon or neglect patients in treatment. If a therapist is unable or unwilling to continue to provide professional services, the therapist will assist the patient in making clinically appropriate arrangements for continuation of treatment.
- 1.3.3 FINANCIAL GAIN: Marriage and family therapists do not maintain therapeutic relationships solely for financial gain.
- 1.3.4 NON-PAYMENT OF FEES: Marriage and family therapists do not terminate patient relationships for non-payment of fees except when the termination is handled in a clinically appropriate manner.
- 1.4 PATIENT AUTONOMY: Marriage and family therapists respect the right of patients to make decisions and help them to understand the consequences of their decisions. When clinically appropriate, marriage and family therapists advise their patients that decisions on the status of their personal relationships, including dissolution, are the responsibilities of the patient(s).
- 1.4.1 PATIENT CHOICES: Marriage and family therapists respect patient choices and work jointly with patients to develop and review treatment plans that are consistent with patients' goals and that offer a reasonable likelihood of patient benefit.

- 1.4.2** ELECTRONIC THERAPY: When patients are not physically present (e.g., therapy by telephone or Internet) during the provision of therapy, marriage and family therapists take extra precautions to meet their responsibilities to patients. Prior to utilizing electronic therapy, marriage and family therapists consider the appropriateness and suitability of this therapeutic modality to the patient's needs. When therapy occurs by electronic means, marriage and family therapists inform patients of the potential risks, consequences, and benefits, including but not limited to, issues of confidentiality, clinical limitations, transmission difficulties, and ability to respond to emergencies. Marriage and family therapists ensure that such therapy complies with the informed consent requirements of the California Telemedicine Act.
- 1.5** THERAPIST DISCLOSURES: Marriage and family therapists provide adequate information to patients in clear and understandable language so that patients can make meaningful decisions about their therapy. Marriage and family therapists respect the right of patients to choose whether to enter into or remain in a therapeutic relationship.
- 1.5.1** DISCLOSURE: Where a marriage and family therapist's personal values, attitudes, and/or beliefs are a determinative factor in diagnosing or limiting treatment provided to a client, the marriage and family therapist shall disclose such information to the patient.
- 1.5.2** RISKS AND BENEFITS: Marriage and family therapists inform patients of the potential risks and benefits of therapy when utilizing novel or experimental techniques or when there is a risk of harm that could result from the utilization of any technique.
- 1.5.3** EMERGENCIES/CONTACT BETWEEN SESSIONS: Marriage and family therapists inform patients of the extent of their availability for emergencies and for other contacts between sessions. When a marriage and family therapist is not located in the same geographic area as the patient, he/she shall provide the patient with appropriate resources in the patient's locale for contact in case of emergency.
- 1.5.4** CONSENT FOR RECORDING/OBSERVATION: Marriage and family therapists obtain written informed consent from patients before videotaping, audio recording, or permitting third party observation.
- 1.5.5** LIMITS OF CONFIDENTIALITY: Marriage and family therapists are encouraged to inform patients as to certain exceptions to confidentiality such as child abuse reporting, elder and dependent adult abuse reporting, and patients dangerous to themselves or others.
- 1.5.6** THERAPIST BACKGROUND: Marriage and family therapists are encouraged to inform patients at an appropriate time and within the context of the psychotherapeutic relationship of their experience, education, specialties, and theoretical and professional orientation, and any other information deemed appropriate by the therapist.
- 1.6** EXPLOITATION: Marriage and family therapists do not use their professional relationships with patients to further their own interests and do not exert undue influence on patients.
- 1.7** PATIENT BENEFIT: Marriage and family therapists continually monitor their effectiveness and take steps to improve when necessary. Marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that patients are benefiting from the relationship.
- 1.8** EMPLOYMENT AND CONTRACTUAL TERMINATIONS: When terminating employment or contractual relationships, marriage and family therapists primarily consider the best interests of the patient when resolving issues of continued responsibility for patient care.
- 1.9** FAMILY UNIT/CONFLICTS: When treating a family unit(s), marriage and family therapists carefully

consider the potential conflict that may arise between the family unit(s) and each individual. Marriage and family therapists clarify, at the commencement of treatment, which person or persons are clients and the nature of the relationship(s) the therapist will have with each person involved in the treatment.

- 1.10 WITHHOLDING RECORDS/NON-PAYMENT: Marriage and family therapists do not withhold patient records or information solely because the therapist has not been paid for prior professional services.
- 1.11 CONSULTATION: When appropriate, marriage and family therapists consult, collaborate with, and refer to physicians, other health care professionals, and community resources in order to improve and protect the health and welfare of the patient.
- 1.12 ADVOCATE WITH THIRD PARTY PAYERS: When appropriate, marriage and family therapists advocate for mental health care they believe will benefit their patients. In appropriate circumstances, they challenge denials of care, or denials of payment for care, by managed care organizations, insurers, or other payers.
- 1.13 TREATMENT ALTERNATIVES: Marriage and family therapists discuss appropriate treatment alternatives with patients. Marriage and family therapists do not limit their discussions of treatment alternatives to what is covered by third-party payers.
- 1.14 POTENTIAL CONFLICTS: Marriage and family therapists carefully consider potential conflicts when providing concurrent or sequential individual, couple, family, and group treatment, and will take reasonable care to avoid or minimize such conflicts.
- 1.15 DOCUMENTING TREATMENT DECISIONS: Marriage and family therapists are encouraged to carefully document in their records when significant decisions are made, e.g., determining reasonable suspicion of child, elder or dependent adult abuse, determining when a patient is a danger to self or others, when making major changes to a treatment plan, or when changing the unit being treated.
- 1.16 NON-THERAPIST ROLES: When marriage and family therapists engage in professional roles other than treatment or supervision (including, but not limited to, managed care utilization review, consultation, coaching, adoption service, or behavior analysis), they act solely within that role and clarify, when necessary to avoid confusion with consumers and employers, how that role is distinguished from the practice of marriage and family therapy.
- 1.17 THIRD PARTY PAYER DISCLOSURES: Marriage and family therapists advise patients of the information that will likely be disclosed when submitting claims to managed care companies, insurers, or other third party payers, such as dates of treatment, diagnosis, prognosis, progress, and treatment plan.

2 Confidentiality

Marriage and family therapists have unique confidentiality responsibilities because the “patient” in a therapeutic relationship may be more than one person. The overriding principle is that marriage and family therapists respect the confidences of their patient(s).

- 2.1 DISCLOSURES OF CONFIDENTIAL INFORMATION: Marriage and family therapists do not disclose patient confidences, including the names or identities of their patients, to anyone except a) as mandated by law b) as permitted by law c) when the marriage and family therapist is a defendant in a civil, criminal, or disciplinary action arising from the therapy (in which case patient confidences may only be disclosed in

the course of that action), or d) if there is an authorization previously obtained in writing, and then such information may only be revealed in accordance with the terms of the authorization.

- 2.2 SIGNED AUTHORIZATIONS—RELEASE OF INFORMATION: When there is a request for information related to any aspect of psychotherapy or treatment, each member of the unit receiving such therapeutic treatment must sign an authorization before a marriage and family therapist will disclose information received from any member of the treatment unit.
- 2.3 ELECTRONIC MEDIA: Marriage and family therapists are aware of the possible adverse effects of technological changes with respect to the dissemination of patient information, and take care when disclosing such information. Marriage and family therapists are also aware of the limitations regarding confidential transmission by Internet or electronic media and take care when transmitting or receiving such information via these mediums.
- 2.4 MAINTENANCE OF PATIENT RECORDS—CONFIDENTIALITY: Marriage and family therapists store, transfer, transmit, and/or dispose of patient records in ways that protect confidentiality.
- 2.5 EMPLOYEES—CONFIDENTIALITY: Marriage and family therapists take appropriate steps to ensure, insofar as possible, that the confidentiality of patients is maintained by their employees, supervisees, assistants, and volunteers.
- 2.6 USE OF CLINICAL MATERIALS—CONFIDENTIALITY: Marriage and family therapists use clinical materials in teaching, writing, and public presentations only if a written authorization has been previously obtained in accordance with 2.1 d), or when appropriate steps have been taken to protect patient identity.
- 2.7 GROUPS—CONFIDENTIALITY: Marriage and family therapists, when working with a group, educate the group regarding the importance of maintaining confidentiality, and are encouraged to obtain written agreement from group participants to respect the confidentiality of other members of the group.

3 Professional Competence and Integrity

Marriage and family therapists maintain high standards of professional competence and integrity.

- 3.1 CONVICTION OF CRIME: Marriage and family therapists are in violation of this Code and subject to termination of membership, or other appropriate action, if they: a) are convicted of a crime substantially related to their professional qualifications or functions; b) are expelled from or disciplined by other professional organizations; c) have licenses or certificates that are lapsed, suspended, or revoked or are otherwise disciplined by regulatory bodies; d) if they continue to practice when they are no longer competent to practice because they are impaired due to physical or mental causes or the abuse of alcohol or other substances; or e) fail to cooperate with the Association or the Ethics Committee at any point from the inception of an ethical complaint through the completion of all proceedings regarding that complaint.
- 3.2 FINANCIAL INCENTIVES: Marriage and family therapists avoid contractual arrangements that provide financial incentives to withhold or limit medically/psychologically necessary care.
- 3.3 PATIENT RECORDS: Marriage and family therapists create and maintain patient records, whether written, taped, computerized, or stored in any other medium, consistent with sound clinical practice.
- 3.4 PROFESSIONAL ASSISTANCE: Marriage and family therapists seek appropriate professional assistance for their personal problems or conflicts that impair work performance or clinical judgment.

- 3.5 STAYING CURRENT: Marriage and family therapists remain abreast of developments in their field through educational activities or clinical experiences. Marriage and family therapists, when acting as teachers, supervisors, and researchers, stay abreast of changes in the field, maintain relevant standards of scholarship, and present accurate information.
- 3.6 CULTURAL SENSITIVITY: Marriage and family therapists actively strive to identify and understand the diverse cultural backgrounds of their clients by gaining knowledge, personal awareness, and developing sensitivity and skills pertinent to working with a diverse client population.
- 3.7 THERAPIST VALUES: Marriage and family therapists make continuous efforts to be aware of how their cultural/racial/ethnic identities, values, and beliefs affect the process of therapy. Marriage and family therapists do not exert undue influence on the choice of treatment or outcomes based on such identities, values and beliefs.
- 3.8 HARASSMENT OR EXPLOITATION: Marriage and family therapists do not engage in sexual or other harassment or exploitation of patients, students, supervisees, employees, or colleagues.
- 3.9 SCOPE OF COMPETENCE: Marriage and family therapists take care to provide proper diagnoses of mental and emotional disorders or conditions and do not assess, test, diagnose, treat, or advise on problems beyond the level of their competence as determined by their education, training, and experience. While developing new areas of practice, marriage and family therapists take steps to ensure the competence of their work through education, training, consultation, and/or supervision.
- 3.10 PATIENT SEEING TWO THERAPISTS: Marriage and family therapists do not generally provide professional services to a person receiving treatment or therapy from another psychotherapist, except by agreement with such other psychotherapist or after the termination of the patient's relationship with the other psychotherapist.
- 3.11 ELECTRONIC SERVICES: Marriage and family therapists provide services by Internet or other electronic media to patients located only in jurisdictions where the therapist may lawfully provide such services.
- 3.12 RESEARCH FINDINGS: Marriage and family therapists take reasonable steps to prevent the distortion or misuse of their clinical and research findings.
- 3.13 PUBLIC STATEMENTS: Marriage and family therapists, because of their ability to influence and alter the lives of others, exercise care when making public their professional recommendations and opinions through testimony or other public statements.
- 3.14 LIMITS OF PROFESSIONAL OPINIONS: Marriage and family therapists do not express professional opinions about an individual's mental or emotional condition unless they have treated or conducted an examination of the individual, or unless they reveal the limits of the information upon which their professional opinions are based, with appropriate cautions as to the effects of such limited information upon their opinions.

4 Supervisor, Student, and Supervisee Responsibilities

Marriage and family therapists do not exploit the trust and dependency of students and supervisees.

- 4.1 DUAL RELATIONSHIPS: Marriage and family therapists are aware of their influential position with respect to students and supervisees, and they avoid exploiting the trust and dependency of such

persons. Marriage and family therapists therefore avoid dual relationships that are reasonably likely to impair professional judgment or lead to exploitation. Provision of therapy to students or supervisees is unethical. Provision of marriage and family therapy supervision to clients is unethical. Sexual intercourse, sexual contact or sexual intimacy and/or harassment of any kind with students or supervisees is unethical. Other acts which could result in unethical dual relationships include, but are not limited to, borrowing money from a supervisee, engaging in a business venture with a supervisee, or engaging in a close personal relationship with a supervisee. Such acts with a supervisee's spouse, partner or family member may also be considered unethical dual relationships.

- 4.2 COMPETENCE OF SUPERVISEES: Marriage and family therapists do not permit students, employees, or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, competence, or unlicensed status.
- 4.3 MAINTAINING SKILLS OF SUPERVISORS: Marriage and family therapists who act as supervisors are responsible for maintaining the quality of their supervision skills and obtaining consultation or supervision for their work as supervisors whenever appropriate.
- 4.4 KNOWLEDGE OF SUPERVISORS: Supervisors and educators are knowledgeable about supervision, relevant laws and regulations, and the practice of marriage and family therapy. Supervisors and educators are knowledgeable about and abide by the laws and regulations governing the conduct of supervisors and supervisees.
- 4.5 CHANGES IN LAWS AND ETHICS: Supervisors and supervisees are aware of and stay abreast of changes in professional and ethical standards and legal requirements, and supervisors ensure that their supervisees are aware of professional and ethical standards and legal responsibilities.
- 4.6 CULTURAL DIVERSITY: Supervisors and educators are aware of and address the role that culture and diversity issues play in the supervisory relationship, including, but not limited to, evaluating, terminating, disciplining, or making decisions regarding supervisees or students.
- 4.7 POLICIES AND PROCEDURES: Supervisors and educators create policies and procedures that are clear and that are disclosed to supervisees and students at the commencement of supervision or education.
- 4.8 PERFORMANCE APPRAISALS: Supervisors and educators provide supervisees with periodic performance appraisals and evaluative feedback throughout the supervisory relationship and identify and address the limitations of supervisees and students that might impede their performance.
- 4.9 BUSINESS PRACTICES: Supervisors follow lawful business practices and employer policies when employing and/or supervising interns, trainees, applicants, and associates.
- 4.10 PERFORMANCE ASSISTANCE: Supervisors and educators guide supervisees and students in securing assistance when needed for the supervisee to maintain or improve performance, such as personal psychotherapy, additional education, training, or consultation.
- 4.11 DISMISSAL: Supervisors shall document their decisions to dismiss supervisees.
- 4.12 REVIEW OF TRAINEE AGREEMENTS: Supervisors are aware of and review any trainee agreements with qualified educational institutions.
- 4.13 PATIENTS ARE PATIENTS OF EMPLOYER: Supervisees understand that the patients seen by them are the patients of their employers.

- 4.14 KNOWLEDGE OF LAWS AND REGULATIONS: Supervisees have a responsibility to be knowledgeable about relevant laws and regulations pertaining to the license and practice of marriage and family therapy.
- 4.15 MAINTAIN REGISTRATIONS: Supervisees maintain registrations when required by law and/or regulation and function within this limited role as permitted by the licensing law and/or regulations.

5 Responsibility to Colleagues

Marriage and family therapists treat and communicate with and about colleagues in a respectful manner and with, courtesy, fairness, and good faith, and cooperate with colleagues in order to promote the welfare and best interests of patients.

- 5.1 RESPECT CONFIDENCE OF COLLEAGUES: Marriage and family therapists respect the confidences of colleagues that are shared in the course of their professional relationships.
- 5.2 IMPAIRED COLLEAGUES: Marriage and family therapists are encouraged to assist colleagues who are impaired due to substance abuse, emotional problems, or mental illness.
- 5.3 FRIVOLOUS COMPLAINTS: Marriage and family therapists do not file or encourage the filing of ethics or other complaints that they know, or reasonably should know, are frivolous.
- 5.4 SOLICITING OTHER THERAPISTS' PATIENTS: Marriage and family therapists do not agree to see or solicit the clients of other therapists or encourage clients to leave other therapists, except as addressed in Section 3.10.

6 Responsibility to Research Participants

Researchers respect the dignity and protect the welfare of participants in research and are aware of federal and state laws and regulations and professional standards governing the conduct of research.

- 6.1 SAFEGUARDS: Researchers are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, researchers seek the ethical advice of qualified professionals not directly involved in the research and observe safeguards to protect the rights of research participants.
- 6.2 DIMINISHED CONSENT WHEN RECEIVING SERVICES: Researchers requesting participants' involvement in research inform them of all aspects of the research that might reasonably be expected to influence willingness to participate. Researchers are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, have impairments which limit understanding and/or communication, or when participants are children.
- 6.3 DUAL RELATIONSHIPS WITH RESEARCH PARTICIPANTS: Researchers respect participants' freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when researchers or other members of the research team are in positions of authority or influence over participants. Marriage and family therapists, therefore, make every effort to avoid dual relationships with research participants that could impair professional judgment or increase the risk of exploitation.
- 6.4 CONFIDENTIALITY: Information obtained about a research participant during the course of a research

project is confidential unless there is an authorization previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained.

7 Responsibility to the Profession

Marriage and family therapists respect the rights and responsibilities of professional colleagues and participate in activities that advance the goals of the profession.

- 7.1 ACCOUNTABLE TO STANDARDS OF PROFESSION: Marriage and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations.
- 7.2 PUBLICATION CREDIT: Marriage and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication.
- 7.3 AUTHORS—CITING OTHERS: Marriage and family therapists who are the authors of books or other materials that are published or distributed appropriately cite persons to whom credit for original ideas is due.
- 7.4 AUTHORS—ADVERTISING BY OTHERS: Marriage and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable steps to ensure that the organization promotes and advertises the materials accurately.
- 7.5 PRO BONO SERVICES: Marriage and family therapists are encouraged to participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.
- 7.6 DEVELOPING PUBLIC POLICY: Marriage and family therapists are concerned with developing laws and regulations pertaining to marriage and family therapists that serve the public interest, and with altering such laws and regulations that are not in the public interest.
- 7.7 FAILURE TO COOPERATE WITH COMMITTEE: Marriage and family therapists cooperate with the Ethics Committee and truthfully represent facts to the Ethics Committee. Failure to cooperate with the Ethics Committee is itself a violation of these standards.

8 Responsibility to the Legal System

Marriage and family therapists recognize their role in the legal system and their duty to remain objective and truthful.

- 8.1 TESTIMONY: Marriage and family therapists who give testimony in legal proceedings testify truthfully and avoid making misleading statements.
- 8.2 EXPERT WITNESSES: Marriage and family therapists who act as expert witnesses base their opinions and conclusions on appropriate data, and are careful to acknowledge the limits of their data or conclusions in order to avoid providing misleading testimony or reports.
- 8.3 CONFLICTING ROLES: Whenever possible, marriage and family therapists avoid performing conflicting

roles in legal proceedings and disclose any potential conflicts. At the outset of the service to be provided and as changes occur, marriage and family therapists clarify role expectations and the extent of confidentiality to prospective clients, to the courts, or to others as appropriate.

- 8.4 DUAL ROLES: Marriage and family therapists avoid providing both treatment and evaluations for the same clients or treatment units in legal proceedings such as child custody, visitation, dependency, or guardianship proceedings, unless otherwise required by law or initially appointed pursuant to court order.
- 8.5 IMPARTIALITY: Marriage and family therapists, regardless of their role in a legal proceeding, remain impartial and do not compromise their professional judgment or integrity.
- 8.6 MINORS AND PRIVILEGE: Marriage and family therapists confirm the holder of the psychotherapist patient privilege on behalf of minor clients prior to releasing information or testifying.
- 8.7 OPINIONS ABOUT PERSONS NOT EVALUATED: Marriage and family therapists shall only express professional opinions about clients they have treated or examined. Marriage and family therapists, when expressing professional opinions, specify the limits of the information upon which their professional opinions are based. Such professional opinions include, but are not limited to, mental or emotional conditions or parenting abilities.
- 8.8 CUSTODY EVALUATORS: Marriage and family therapists who are custody evaluators (private or court-based) or special masters provide such services only if they meet the requirements established by pertinent laws, regulations, and rules of court.
- 8.9 CONSEQUENCES OF CHANGES IN THERAPIST ROLES: Marriage and family therapists inform the patient or the treatment unit of any potential consequences of therapist-client role changes. Such role changes include, but are not limited to, child's therapist, family's therapist, couple's therapist, individual's therapist, mediator, evaluator, and special master.
- 8.10 FAMILIARITY WITH JUDICIAL AND ADMINISTRATIVE RULES: Marriage and family therapists, when assuming forensic roles, are or become familiar with the judicial and administrative rules governing their roles.

9 Financial Arrangements

Marriage and family therapists make financial arrangements with patients and supervisees that are understandable, and conform to accepted professional practices and legal requirements.

- 9.1 PAYMENT FOR REFERRALS: Marriage and family therapists do not offer or accept payment for referrals, whether in the form of money or otherwise.
- 9.2 FINANCIAL EXPLOITATION: Marriage and family therapists do not financially exploit their patients.
- 9.3 DISCLOSURE OF FEES: Marriage and family therapists disclose, in advance, their fees and the basis upon which they are computed, including, but not limited to, charges for canceled or missed appointments and any interest to be charged on unpaid balances, at the beginning of treatment and give reasonable notice of any changes in fees or other charges.
- 9.4 COLLECTING ON UNPAID BALANCES: Marriage and family therapists give reasonable notice to

patients with unpaid balances of their intent to sue or to refer for collection. Whenever legal action is taken, therapists will avoid disclosure of clinical information. Whenever unpaid balances are referred to collection agencies, therapists will exercise care in selecting collection agencies and will avoid disclosure of clinical information.

- 9.5 BARTER: Marriage and family therapists ordinarily refrain from accepting goods, services, or other non-monetary remuneration from patients in return for professional services. Such arrangements often create conflicts and may lead to exploitation or distortion of the professional relationship.
- 9.6 THIRD-PARTY PAYERS: Marriage and family therapists represent facts regarding services rendered and payment for services fully and truthfully to third-party payers and others.

10 Advertising

Marriage and family therapists who advertise do so appropriately. Their advertising enables consumers to choose professional services based upon accurate information.

- 10.1 ACCURACY REGARDING QUALIFICATIONS: Marriage and family therapists accurately represent their competence, education, training, and experience relevant to their professional practice to patients and others.
- 10.2 ASSURING ACCURACY: Marriage and family therapists take reasonable steps to assure that advertisements and publications, whether in directories, announcement cards, newspapers, radio, television, Internet or any other media, are formulated to accurately convey information to the public.
- 10.3 FICTITIOUS/OTHER NAMES: Marriage and family therapists do not use a name that could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name, and do not hold themselves out as being partners or associates of a firm if they are not.
- 10.4 FALSE, MISLEADING, OR DECEPTIVE: Marriage and family therapists do not use any professional identification, including but not limited to: a business card, office sign, letterhead, telephone, or association directory listing, Internet, or any other media, if it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A statement is false, fraudulent, misleading, or deceptive if it a) contains a material misrepresentation of fact; b) fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading; or c) is intended to or is likely to create an unjustified expectation.
- 10.5 CORRECTIONS: Marriage and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.
- 10.6 SOLICITATION OF TESTIMONIALS: Marriage and family therapists do not solicit testimonials from patients.
- 10.7 EMPLOYEE—ACCURACY: Marriage and family therapists make certain that the qualifications of persons in their employ are represented in a manner that is not false, misleading, or deceptive.
- 10.8 SPECIALIZATIONS: Marriage and family therapists may represent themselves as either specializing or having expertise within a limited area of marriage and family therapy, but only if they have the education, training, and experience that meets recognized professional standards to practice in that specialty area.

- 10.9** ADVERTISING OF CAMFT MEMBERSHIP: CAMFT clinical, associate, and prelicensed members may identify such membership in CAMFT in public information or advertising materials, but they must clearly and accurately represent whether they are clinical, associate, or prelicensed members.
- 10.10** USE OF “CAMFT”: Marriage and family therapists may not use the initials CAMFT following their name in the manner of an academic degree.
- 10.11** USE OF CAMFT LOGO: Marriage and family therapists may use the CAMFT logo only after receiving permission in writing from the Association. Permission will be granted by the Association to CAMFT members in good standing in accordance with Association policy on the use of CAMFT logo. The Association (which is the sole owner of its name, logo, and the abbreviated initials CAMFT) may grant permission to CAMFT committees and chartered chapters in good standing, operating as such, to use the CAMFT logo. Such permission will be granted in accordance with Association policy on use of the CAMFT logo.
- 10.12** CAMFT MEMBERSHIP: Marriage and family therapists, when publicizing their membership in CAMFT, do not do so in a manner that implies organizational endorsement of their activities.

Violations of these standards may be brought to the attention of the CAMFT Ethics Committee, in writing, mailed to CAMFT’s administrative office at 7901 Raytheon Road, San Diego, CA 92111-1606, or at such other address as may be necessary because of a change in location of the administrative office.

References

- i. The terms psychotherapy, therapy and counseling are used interchangeably throughout the *CAMFT Code of Ethics*.
- ii. The word “patient,” as used herein, is synonymous with such words as “client,” “consumer,” or “counselee.”
- iii. The term “marriage and family therapist,” as used herein, is synonymous with the term “licensed marriage, family and child counselor,” and is intended to cover registered interns and trainees performing marriage and family therapy services under supervision.
- iv. The term “dual relationships” as used herein, is synonymous with the term “multiple relationships.”
- v. The term “supervisee” includes interns, trainees, and applicants for the license.

All known dates of ethical standards revisions: 6/11, 1/11, 9/09, 7/08, 5/02, 4/97, 4/92, 10/87, 9/78, and 3/66.

CAMFT Code of Ethics PART I (THE STANDARDS) AND PART II (THE PROCEDURES) is a publication of the California Association of Marriage and Family Therapists, headquartered in San Diego, California.

Part II—The Procedures

PREAMBLE

When accepting membership in the Association, each member agrees to abide by the *CAMFT Code of Ethics*. It is the ethical responsibility of each member to safeguard the standards of ethical practice and to see that violations of the *CAMFT Code of Ethics* are addressed. Members of the Association cooperate with duly constituted bodies of the California Association of Marriage and Family Therapists, and in particular, with the Ethics Committee, by responding to inquiries promptly, truthfully, and completely.

1 Scope of Authority of the Ethics Committee

- A. The Bylaws of the Association (Article IV, Section A) provide for three categories of membership in CAMFT:
1. clinical member
 2. prelicensed member
 3. associate member

- B. The Association has authority only over these members. This authority is derived from Article IV Section C of the Bylaws.

Except as otherwise provided in these Bylaws, membership in any category shall be upon a majority vote of the Board of Directors. The Board of Directors may refer an application for membership to the Ethics Committee when it has reasonable cause to believe that the applicant may have violated the *CAMFT Code of Ethics*. The Ethics Committee, after investigating the referral, shall make its recommendation to the Board of Directors. All members shall pay dues in accordance with the dues schedule of the Association and shall abide by the Bylaws and the *CAMFT Code of Ethics* of the Association.

The Executive Director shall make reports to licensing board(s) of membership denials, pursuant to Section 805 (c) of the Business and Professions Code.

- C. Article VII, Section B.3. of the Bylaws of the Association authorize the various functions of the Ethics Committee.

The Ethics Committee maintains and reviews the *CAMFT Code of Ethics*, interprets the *CAMFT Code of Ethics* to the membership and the public, conducts investigations of alleged ethics violations, makes recommendations to the Board of Directors regarding members alleged to have violated the *CAMFT Code of Ethics*, makes recommendations to the Board of Directors regarding acceptance or rejection of prospective members who may have violated the *CAMFT Code of Ethics*, and from time to time proposes revisions, deletions, and additions to the *CAMFT Code of Ethics* to the Board of Directors for its approval.

- D. The Bylaws of the Association, in Article IV, Section E3 provides for the expulsion or suspension of members.

Expulsion or suspension: any member who violates the *CAMFT Code of Ethics* may be expelled or suspended from membership in the Association following an investigation and report by the Ethics Committee and

a hearing before the Board of Directors. A two-thirds (2/3) majority vote of those Directors present at the hearing shall be necessary in order to expel or suspend a member. The member accused of the violation shall be given a reasonable opportunity to defend against the charge and shall be entitled to be represented at all stages of the proceedings. Any member to be expelled or suspended shall be entitled to at least fifteen (15) days prior notice of the expulsion or suspension and the reasons therefore, and shall be entitled to be heard, orally or in writing, not less than five (5) days before the effective date of expulsion or suspension by the Board of Directors. Notice may be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be given by first-class, registered, or certified mail sent to the last address of the member as shown on the Association's records. The *CAMFT Code of Ethics* shall spell out further details of the procedures for investigation and hearing of alleged violations not inconsistent with these Bylaw provisions.

2 Membership and Meetings of The Committee

- A. Article VII, Section B3 of the Bylaws defines the composition and terms of office of the Ethics Committee.

The Ethics Committee shall consist of not less than five (5) nor more than seven (7) members, all of whom shall be clinical members of the Association for at least two (2) years prior to appointment. The Committee shall not contain any directors as members. The term of office shall be two (2) years with a maximum of four terms.

- B. Article VII, Section E of the Bylaws, defines when the Ethics Committee may meet and the required notice for such meetings.

1. Meetings: Committees shall meet at such times as determined either by resolution of the Board of Directors, by resolution of the Committee with the approval of the President, or by a Committee Chair with the prior approval of the President. Meetings of Committees shall be held at the principal office of the Association or at any other place that is designated from time to time by the Board, the Committee, or the Committee Chair.
2. Notice: Meetings of the committees shall be held upon not less than ten (10) days written notice. Notice of a meeting need not be given to any committee member who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such committee member.
3. Quorum: A majority of the committee members of each committee shall constitute a quorum of the committee for the transaction of business.
4. Minutes: Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board of Directors may adopt rules for the governance of any committee consistent with the provisions of these Bylaws.

3 Initiation of Complaints

- A. The Ethics Committee shall recognize and accept written complaints received from members of the Association or non-members, or the Ethics Committee may proceed on its own initiative, as specified in Section III. F.
- B. All complaints must be in writing.

- C. Complaints must be signed by the complainant and accompanied by the complainant's address and other contact information.
- D. A member who knows of a violation of the *CAMFT Code of Ethics* is encouraged, if appropriate, to attempt to resolve the issue by bringing it to the attention of the particular therapist(s), bringing this fact to the attention of the Ethics Committee in the form of a complaint, and/or, to taking other appropriate action.
- E. Anonymous complaints shall not be recognized or accepted.
- F. Notwithstanding the provisions specified, the Ethics Committee may proceed on its own initiative when it has been presented with sufficient information, which, if proven, would constitute a violation of the *CAMFT Code of Ethics*. For example, the Committee could proceed on information received from another professional organization, a state licensing board, or a peer review committee.
- G. The Ethics Committee may, in its discretion, determine that a complaint should not be acted upon because the events complained about occurred too far in the past.
- H. The Ethics Committee shall proceed with an investigation if directed to do so by the CAMFT Board of Directors.

4 Initial Action by Executive Director

Upon receipt of a complaint, the Executive Director, or his/her designee (hereafter "Executive Director"), shall determine whether the person who is the subject of the complaint is a member or applicant for membership in the Association.

- A. If the person is not a member or an applicant for membership in the Association, the Executive Director shall so inform the complainant in writing and shall explain that the Association has no authority to proceed against the person.
- B. If the person is a member of the Association or an applicant for membership in the Association, the Executive Director shall forward a copy of the complaint to the Chair of the Ethics Committee. A letter shall be sent by the Executive Director to the complainant acknowledging receipt of the complaint and informing the complainant that the person complained against is a member. A copy of the *CAMFT Code of Ethics* shall be included with the letter.

5 Preliminary Determination by Chair of Ethics Committee with the Advice of Legal Counsel

- A. The Chair of the Ethics Committee, or his/her designee (hereafter Chair), with the advice of Legal Counsel for the Association, shall review the complaint and determine whether it states allegations which, if proven, would constitute one or more violations of the *CAMFT Code of Ethics*. In the event the Chair determines that the complaint shall be closed without further action, the complainant shall be notified of such decision and the reason for such decision. When the Chair determines the complaint should not be closed, the complaint shall be referred to the full Ethics Committee. To aid in making such determinations, the Chair, with the advice of Legal Counsel for the Association, may request, in writing, clarification from the complainant.

- B. When a complaint has been referred to the Ethics Committee, the Chair shall request the complainant's permission to disclose his/her name and/or to use any evidence provided by the complainant, for the purpose of the investigation. The Chair or his or her designee shall request that the complainant agree, in writing, to waive his/her rights of confidentiality and/or psychotherapist/patient privilege in order to permit the Ethics Committee to obtain information related to the investigation from the member and/or others.
- C. If the complainant refuses permission for the use of his/her name in the investigation or refuses permission for the disclosure of his/her name or any of the written or other matter or evidence provided by the complainant, or if the complainant refuses to sign a waiver of confidentiality and/or psychotherapist/patient privilege, then the Chair of the Ethics Committee, with the advice of Legal Counsel, may close the matter and notify the complainant in writing or refer the matter to the full Ethics Committee for its action.
- D. All correspondence to the complainant and to the member shall be marked "Confidential" or "Personal and Confidential."
- E. All actions of the Chair shall be reported to the full Ethics Committee at the next regularly scheduled meeting.

6 Investigation by Ethics Committee

- A. The Ethics Committee shall review complaints and supporting documentation/evidence to determine whether or not to investigate complaints. When the complaint warrants investigation, copies of the complaint and supporting documentation/evidence shall be sent to all members of the Ethics Committee. Investigations may be carried out by the Chair of the Committee in consultation with Legal Counsel, by the Chair's designee(s), or by the Committee. The Chair, in consultation with Legal Counsel, may act on behalf of the Committee between meetings of the Committee, to pursue investigations, and shall report such actions to the full Committee.
- B. The Chair of the Ethics Committee, in consultation with Legal Counsel, shall prepare and send a letter to the member, specifying those sections of the *CAMFT Code of Ethics* that may have been violated by the member. The letter shall inform the member of the ethical duty to cooperate with the Ethics Committee in its effort to investigate the circumstances that led to the allegations, and to provide on his/her behalf, a written statement in response to the allegations made in the complaint. The member shall be sent a copy of the *CAMFT Code of Ethics*.
- C. Investigations may be pursued by corresponding with the member and other persons involved in the dispute, or by interviewing such persons, personally or by telephone, or by any other lawful means.
- D. During the investigation stage of the proceedings, the member shall have the right to consult with his/her attorney and shall have the right to have his/her attorney present at any investigatory meeting with the member.

7 Action by the Ethics Committee

- A. After reviewing the complaint, the response of the member, and any other pertinent information, the Ethics Committee may close the case without a finding of a violation of the *CAMFT Code of Ethics*, hold the case in abeyance pending other action, continue the investigation, attempt to settle the case by mutual agreement, send a letter with cautions or recommendations, or recommend to the Board of Directors that the individual's membership be terminated, suspended, placed on probation, or that other action be taken. The Ethics Committee may appropriately impose more stringent requirements upon members previously found to have

violated the *CAMFT Code of Ethics*, or any other relevant professional or state code of professional conduct. If additional evidence of unethical conduct is brought to the attention of the Committee after a matter has been closed, the case may be reopened and acted upon under these procedures.

- B.** If the Ethics Committee decides to attempt to settle the case by mutual agreement:
1. The Committee may recommend to the member that he/she agree to the terms of a Settlement by Mutual Agreement. The terms and conditions of the Settlement by Mutual Agreement may include requiring the member to: cease and desist from specified actions, accept censure, be placed on probation and/or rehabilitation, be under supervision or monitored practice, complete education or therapy or both, agree to suspension or termination of membership in the Association, or any other terms and conditions that the Committee deems appropriate.
 2. The Settlement by Mutual Agreement shall be in writing and shall detail the specific sections of the *CAMFT Code of Ethics* that have been violated and the manner in which the agreement is to be implemented.
 3. The Committee shall supervise and oversee compliance with the Settlement by Mutual Agreement. The Committee has the final authority over the Settlement by Mutual Agreement and the meaning of the terms of the Settlement by Mutual Agreement. The Committee may alter such terms and conditions when requested by the member or as deemed necessary by the Committee with the written agreement of the member.
 4. The Agreement shall become effective and is binding as soon as it is signed by the member and the Chair of the Ethics Committee or at any other time designated in the Agreement. The Agreement shall be maintained in the Association's records.
 5. The Committee, in its sole discretion, may make a finding that the member has not complied with the terms or conditions of the Settlement by Mutual Agreement. In the event of the member's non-compliance with the Settlement by Mutual Agreement, the Committee may proceed in accordance with the provisions of the Settlement by Mutual Agreement that relate to non-compliance, or in accordance with Section D, or in any other manner not inconsistent with Section D.
 6. If no Settlement by Mutual Agreement occurs, because a settlement is offered but ultimately rejected by the member, the Ethics Committee may recommend that action be taken against the member by the Board of Directors as a result of one or more violations of the *CAMFT Code of Ethics*.
- C.** When the Ethics Committee recommends that action be taken by the Board of Directors, the Ethics Committee shall give the member written notice as specified below. Notice shall be given by personal delivery or certified mail sent to the last address of the member as shown on the Association's records. The written notice shall include, at a minimum, all of the following information: 1) the findings of the Ethics Committee, 2) the final proposed action of the Ethics Committee, 3) whether such action, if adopted by the Board of Directors, would require a report pursuant to Section 805 of the Business and Professions Code, 4) that the member has a right to request a hearing on the final proposed action, and 5) that the time limit within which a hearing must be requested is thirty days (30) from receipt of notification of the final proposed action.
- D.** If a hearing is not requested within forty (40) days from mailing of notification of the final proposed action, then the Committee's final proposed action shall be adopted, and the Ethics Committee Chair shall thereafter forward the final determination to the Executive Director for such further action as may be appropriate.
- E.** If a hearing is requested on a timely basis, the Ethics Committee shall give the member written notice. Notice shall be given by personal delivery or certified mail sent to the last address of the member as shown on the

Association's records. The written notice shall include, at a minimum, all of the following information: 1) the reasons for the final proposed action recommended, including the acts or omissions with which the member is charged, and 2) the place, time, and date of the hearing. The hearing shall be commenced within sixty (60) days after receipt of the request for a hearing.

8 Procedures for Hearings Before Board of Directors

- A. The hearing shall be conducted in accordance with the provisions of these Procedures. Should these Procedures be inconsistent with the Peer Review Fair Hearing Procedures commencing with Section 809 of the Business and Professions Code, the provisions of the Business and Professions Code shall prevail.
- B. The hearing shall be held before the Board of Directors.
- C. The Board of Directors may designate a hearing officer to preside at such hearing, who shall gain no direct financial benefit from the outcome, shall not act as a prosecuting officer or advocate, and shall not be entitled to vote.
- D. The member shall have the option of being represented by counsel, and if counsel is desired, notice shall be given by the member at the time the hearing is requested. The costs of such attorney shall be at the member's expense.
- E. All costs of attendance for the charged member at the hearing shall be borne by the charged member.
- F. The charged member shall have the right to a reasonable opportunity to voir dire the Board of Directors and any hearing officer, if selected, and the right to challenge the impartiality of any Board Member or hearing officer.
- G. The Ethics Committee, through its Chair or his/her designee, shall present the case against the member.
- H. Continuances shall be granted upon agreement of the parties on a showing of good cause by the hearing officer or if there is no hearing officer, the President or his/her designee (hereafter President).
- I. The charged member and the Ethics Committee shall have the right to inspect and copy documentary information relevant to the charges in each other's possession or under their control. Both parties shall provide access to this information at least thirty (30) days before the hearing.
- J. The parties shall exchange lists of witnesses expected to testify and copies of all documents expected to be introduced at the hearing at least thirty (30) days before the hearing.
- K. The charged member and the Ethics Committee have the following rights:
 - 1. To be provided with all of the information made available to the Board of Directors.
 - 2. To have a record made of the proceedings.
 - 3. To make opening and closing statements.
 - 4. To call, examine and cross-examine witnesses. Members of the Association have a duty to testify as to relevant information, if requested to do so by the Ethics Committee pursuant to Section 7.7 of the *CAMFT Code of Ethics*.

5. To present and rebut evidence determined by the President.
 6. To submit a written statement at the close of the hearing.
- L. All evidence, which is relevant and reliable, as determined by the President shall be admissible. The formal rules of evidence shall not apply.
 - M. The Ethics Committee shall have the burden of proving the charges by a preponderance of the evidence.
 - N. The decision of the Board shall be by majority vote of the Board of Directors present. Pursuant to the Bylaws, if the decision is to expel or suspend, a two-thirds majority vote of the Board of Directors present is required.
 - O. Upon completion of a hearing concerning a final proposed action, the member and the Ethics Committee shall receive a written decision of the Board of Directors within a reasonable time. Said decision shall include findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached. The written decision shall be delivered by personal delivery or certified mail sent to the last address of the member as shown on the Association's records.
 - P. If no violation of the *CAMFT Code of Ethics* is found, the Board of Directors shall order that the member be cleared of all charges.
 - Q. If a violation or violations of the *CAMFT Code of Ethics* is/are found, the Board shall either adopt the final proposed action recommended by the Ethics Committee or take any other action that the board deems appropriate, including, but not limited to, requiring him/her to cease and desist from specific actions; accept censure; probation and/or rehabilitation; supervision or monitored practice; education, therapy, or both; and/or suspension or termination of membership.
 - R. There shall be no appeals from decisions of the Board of Directors, but the Board, in its discretion, may reconsider its decision upon the written request of the member
 - S. Any terms or conditions ordered by the Board shall be monitored by the Ethics Committee. Any request by the member for modification of terms or conditions shall be directed to the Ethics Committee, which shall consider and act upon the requested modifications in a reasonable time.

9 Resignations and Non-Renewals

If a member resigns from membership in the Association during the investigation of the complaint or at any other time during the consideration of the complaint, the Ethics Committee, at its discretion, may continue its investigation. The Executive Director shall make reports to licensing board(s) of resignations and withdrawal or abandonment of applications, pursuant to Section 805 (c) of the Business and Professions Code.

10 Records and Disclosure of Information

- A. The permanent files of the Ethics Committee shall be maintained in the principal office of the Association.
- B. All information obtained by the Ethics Committee, including any investigating subcommittee or designee, and all proceedings of the Ethics Committee, shall be confidential except as follows:

1. Information may be disclosed by those investigating the complaint, or the investigating subcommittee or designee, as is necessary in order to pursue a thorough investigation.
2. The complainant may be informed of the status and progress of the complaint and shall be notified of the conclusion of the case.
3. The Ethics Committee may, in its discretion, authorize the Executive Director to publicize summaries of Settlements by Mutual Agreement without disclosing the name of the complainant or the charged member.
4. When an accused member resigns his/her CAMFT membership during the course of an Ethics Committee investigation, and where the Committee determines that there has been a violation of the *CAMFT Code of Ethics*, the Association may publish the fact and circumstances of the member's resignation.
5. Whenever the Board of Directors finds, after a hearing, that a member has not violated the *CAMFT Code of Ethics*, that fact shall be disclosed to the membership of the Association by publication in *The Therapist* only upon the written request of the cleared member.
6. If, after a hearing, the Board of Directors finds that a member has violated the *CAMFT Code of Ethics*, the Board of Directors may do any of the following:
 - a. Disclose the ethics violation and disciplinary action to the membership of the Association.
 - b. Inform state regulatory agencies and other professional organizations, including chapters of CAMFT.
7. The Board of Directors shall order the publication of a member's expulsion or suspension if, after a hearing by the Board of Directors, the member has been found to have violated the *CAMFT Code of Ethics*.
8. If there is to be publication of the Board of Directors' findings and actions, it will be in *The Therapist* and shall include the member's full name, any earned degree, his/her geographical location, and the section or section(s) of the *CAMFT Code of Ethics* that was/were violated.

PART II, The Procedures, was revised, effective March 2011. The previous revision was effective May 1, 2002.

CAMFT Code of Ethics PART I (THE STANDARDS) AND PART II (THE PROCEDURES) is a publication of the California Association of Marriage and Family Therapists, headquartered in San Diego, California.



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What is CAMFT

Ethical Standards Part I

PART I - STANDARDS

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The board of directors of CAMFT hereby promulgates, pursuant to Article VI, Section A 1. and 2. and Article VII, Section B 3. of the Association Bylaws, a Revised Code of Ethical Standards for Marriage and Family Therapists. Members of CAMFT are expected to be familiar with and abide by these standards and by applicable California laws and regulations governing the conduct of licensed marriage, and family therapists, interns and trainees. The effective date of these revised standards is May 1, 2002.

The practice of marriage, and family therapy and psychotherapyⁱ is both an art and a science. It is varied and often complex in its approach, technique, modality and method of service delivery. These ethical standards are to be read, understood, and utilized as a guide for ethical behavior. The general principles contained in this code of conduct are also used as a basis for the adjudication of ethical issues and/or complaints (both within and outside of CAMFT) that may arise. Ethical behavior, in a given situation, must satisfy not only the judgment of the individual marriage and family therapist, but also the judgment of his/her peers, based upon a set of recognized norms.

We recognize that the development of standards is an ongoing process, and that every conceivable situation that may occur cannot be expressly covered by any set of standards. The absence of a specific prohibition against a particular kind of conduct does not mean that such conduct is either ethical or unethical. While the specific wording of these standards is important, the spirit and intent of the principles should always be taken into consideration by those utilizing or interpreting this code. Violations of these standards should be brought to the attention of the CAMFT Ethics Committee, in writing, at CAMFT's administrative office, 7901 Raytheon Road, San Diego, CA 92111-1606, or at such other address as may be necessary because of a change in location of the administrative office.

[Overview](#)

1. RESPONSIBILITY TO PATIENTSⁱⁱ

Marriage and family therapistsⁱⁱⁱ advance the welfare of families and individuals, respect the rights of those persons seeking their assistance, and make reasonable efforts to ensure that their services are used appropriately. When patients are not physically present (e.g., therapy by telephone or Internet) during the provision of therapy, marriage and family therapists take extra precautions to meet their responsibilities to patients.

- 1.1** Marriage and family therapists do not condone, engage in discrimination, or refuse professional service to anyone on the basis of race, gender, religion, national origin, age, sexual orientation, disability, socioeconomic or marital status. Marriage and family therapists make reasonable efforts to accommodate patients who have physical disabilities.

- 1.2** Marriage and family therapists are aware of their influential position with respect to patients, and they avoid exploiting the trust and dependency of such persons. Marriage and family therapists therefore avoid dual relationships^{iv} with patients that are reasonably likely to impair professional judgment or lead to exploitation. A dual relationship occurs when a therapist and his/her patient engage in a separate and distinct relationship either simultaneously with the therapeutic relationship, or during a reasonable period of time following the termination of the therapeutic relationship. Not all dual relationships are unethical, and some dual relationships cannot be avoided. When a dual relationship cannot be avoided, therapists take appropriate professional precautions to insure that judgment is not impaired and that no exploitation occurs.
- 1.2.1** Sexual intercourse, sexual contact or sexual intimacy with a patient, or a patient's spouse or partner, during the therapeutic relationship, or during the two years following the termination of the therapeutic relationship, is unethical.
- 1.2.2** Other acts which would result in unethical dual relationships include, but are not limited to, borrowing money from a patient, hiring a patient, engaging in a business venture with a patient, or engaging in a close personal relationship with a patient. Such acts with a patient's spouse, partner or family member may also be considered unethical dual relationships.
- 1.2.3** Marriage and family therapists do not enter into therapeutic relationships with persons with whom they have had sexual relationships.
- 1.3** Marriage and family therapists are aware of their professional and clinical responsibilities to provide consistent care to patients and do not abandon or neglect patients. Marriage and family therapists, therefore, maintain practices and procedures that assure uninterrupted care. Such practices and procedures may include, but are not limited to, providing contact information and specified procedures in case of emergency, or therapist absence, conducting appropriate terminations, and providing for a professional will.
- 1.3.1** Marriage and family therapists terminate therapeutic relationships for clinically sound reasons and in an appropriate manner. Reasons for termination may include, but are not limited to, the patient is not benefiting from treatment, continuing treatment is not clinically appropriate, the therapist is unable to provide treatment due to physical or mental illness, or the treatment becomes ethically questionable.
- 1.3.2** Marriage and family therapists assist patients when terminating relationships by making reasonable arrangements for continuation of necessary treatment.
- 1.3.3** It is unethical to maintain therapeutic relationships solely for financial reasons.
- 1.3.4** It may be ethical to terminate a patient relationship for non-payment of fees.
- 1.4** Marriage and family therapists respect the right of patients to make decisions and help them to understand the consequences of these decisions. Marriage and family therapists provide adequate information to patients so that patients can make meaningful decisions about their therapy.
- 1.4.1** Marriage and family therapists inform patients of the potential risks and benefits of service consistent with sound clinical practice.
- 1.4.2** Marriage and family therapists inform patients of the extent of their availability for emergencies and for other contacts between sessions.
- 1.4.3** Marriage and family therapists advise their patient(s) that decisions on the status of their personal relationships are the responsibilities of the patient(s).
- 1.4.4** Marriage and family therapists obtain written informed consent from clients before videotaping, audio recording, or permitting third party observation.
- 1.4.5** Marriage and family therapists are encouraged to inform patients as to the limits of confidentiality.

- 1.4.6** Marriage and family therapists are encouraged to inform patients at an appropriate time and within the context of the psychotherapeutic relationship of their experience, education, specialties, theoretical and professional orientation and any other information deemed appropriate by the therapist.
- 1.4.7** When therapy occurs by electronic means, marriage and family therapists inform patients of the potential risks and benefits, including but not limited to, issues of confidentiality, clinical limitations, transmission difficulties, and ability to respond to emergencies.
- 1.4.8** Marriage and family therapists inform patients of fee and fee arrangements prior to the provision of therapy.
- 1.5** Marriage and family therapists do not use their professional relationships with patients to further their own interests.
- 1.6** Marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that patients are benefiting from the relationship.
- 1.7** Marriage and family therapists assist persons in obtaining other therapeutic services if a therapist is unable or unwilling to provide professional help.
- 1.8** Marriage and family therapists do not abandon or neglect patients in treatment. If a therapist is unable to continue to provide care, the therapist will assist the patient in making reasonable arrangements for continuation of treatment.
- 1.9** When terminating employment or contractual relationships, marriage and family therapists primarily consider the best interests of the patient when resolving issues of continued responsibility for patient care.
- 1.10** Marriage and family therapists, when treating a family unit(s), shall carefully consider the potential conflict that may arise between the family unit(s) and each individual. Marriage and family therapists clarify at the commencement of therapy which person or persons are clients and the nature of the relationship(s) the therapist will have with each person involved in the treatment.
- 1.11** Marriage and family therapists do not withhold patient records or information solely because the therapist has not been paid for prior therapy services.
- 1.12** Marriage and family therapists consult, associate, collaborate with, and refer to physicians, other health care professionals, and community resources in order to improve and protect the health and welfare of the patient.
- 1.13** Marriage and family therapists advocate for mental health care they believe will benefit their patients. In appropriate circumstances, they challenge denials of care, or denials of payment for care, by managed care organizations, insurers, or other payers.
- 1.14** Marriage and family therapists disclose treatment alternatives to patients, whether or not there is coverage for such treatment under the terms of a managed care plan, insurance policy, or other health care plan.
- 1.15** When therapy is provided by Internet or other electronic media, marriage and family therapists ensure that patients are intellectually, emotionally, and physically capable of engaging in therapy by such means.
- 1.16** When a marriage and family therapist is not located in the same geographic area as the patient, he/she shall provide a name of another qualified mental health care professional and/or entity in the patient's locale for contact in case of emergency.

2. CONFIDENTIALITY

Marriage and family therapists have unique confidentiality responsibilities because the "patient" in a therapeutic relationship may be more than one person. The overriding principle is that marriage and family therapists respect the confidences of their patient(s).

- 2.1 Marriage and family therapists do not disclose patient confidences, including the names or identities of their patients, to anyone except a) as mandated by law b) as permitted by law c) when the marriage and family therapist is a defendant in a civil, criminal or disciplinary action arising from the therapy (in which case patient confidences may only be disclosed in the course of that action), or d) if there is an authorization previously obtained in writing, and then such information may only be revealed in accordance with the terms of the authorization.
- 2.2 When there is a request for information related to any aspect of psychotherapy or treatment, each member of the unit receiving such therapeutic treatment must sign an authorization before a marriage and family therapist will disclose information received from any member of the treatment unit.
- 2.3 Marriage and family therapists are aware of the possible adverse effects of technological changes with respect to the dissemination of patient information, and take reasonable care when disclosing such information. Marriage and family therapists are also aware of the limitations regarding confidential transmission by Internet or electronic media and take extra care when transmitting or receiving such information via these mediums.
- 2.4 Marriage and family therapists store, transfer, transmit, and/or dispose of patient records in ways that protect confidentiality.
- 2.5 Marriage and family therapists take appropriate steps to ensure, insofar as possible, that the confidentiality of patients is maintained by their employees, supervisees, assistants and volunteers.
- 2.6 Marriage and family therapists use clinical materials in teaching, writing, and public presentations only if a written authorization has been previously obtained in accordance with 2.1 d, or when appropriate steps have been taken to protect patient identity.
- 2.7 Marriage and family therapists, when working with a group, explain to the group the importance of maintaining confidentiality, and are encouraged to obtain agreement from group participants to respect the confidentiality of other members of the group.

[Overview](#)

3. PROFESSIONAL COMPETENCE AND INTEGRITY

Marriage and family therapists maintain high standards of professional competence and integrity.

- 3.1 Marriage and family therapists are in violation of this Code and subject to termination of membership, or other appropriate action, if they: a) are convicted of a crime substantially related to their professional qualifications or functions; b) are expelled from or disciplined by other professional organizations; c) have their licenses or certificates suspended or revoked or are otherwise disciplined by regulatory bodies; d) if they continue to practice when they are no longer competent to practice because they are impaired due to physical or mental causes or the abuse of alcohol or other substances; or e) fail to cooperate with the Association or the Ethics Committee at any point from the inception of an ethical complaint through the completion of all proceedings regarding that complaint.
- 3.2 Marriage and family therapists avoid contractual arrangements which provide financial incentives to withhold or limit medically/psychologically necessary care.
- 3.3 Marriage and family therapists maintain patient records, whether written, taped, computerized, or stored in any other medium, consistent with sound clinical practice.
- 3.4 Marriage and family therapists seek appropriate professional assistance for their personal problems or conflicts that impair work performance or clinical judgment.

- 3.5 Marriage and family therapists as teachers, supervisors, and researchers, maintain high standards of scholarship and present accurate information.
- 3.6 Marriage and family therapists actively strive to understand the diverse cultural backgrounds of their clients by gaining knowledge, personal awareness, and developing sensitivity and skills pertinent to working with a diverse client population. Marriage and family therapists who provide therapy over the Internet or by other electronic media take extra measures to identify and understand the diversity, ethnicity, and cultural sensitivity of such patients.
- 3.7 Marriage and family therapists are aware of how their cultural/racial/ethnic identity, values and beliefs affect the process of therapy.
- 3.8 Marriage and family therapists remain abreast of developments in their field through educational activities and clinical experiences.
- 3.9 Marriage and family therapists do not engage in sexual or other harassment or exploitation of patients, students, interns, trainees, supervisees, employees or colleagues.
- 3.10 Marriage and family therapists do not assess, test, diagnose, treat, or advise on problems beyond the level of their competence as determined by their education, training and experience. While developing new areas of practice, marriage and family therapists take steps to ensure the competence of their work through education, training, consultation, and/or supervision.
- 3.11 Marriage and family therapists do not generally provide professional services to a person receiving treatment or therapy from another psychotherapist, except by agreement with such other psychotherapist or after the termination of the patient's relationship with the other psychotherapist.
- 3.12 Marriage and family therapists initiate services by Internet or other electronic media to patients located only in jurisdictions where the therapist may lawfully provide such services.
- 3.13 Marriage and family therapists take reasonable steps to prevent the distortion or misuse of their clinical and research findings.
- 3.14 Marriage and family therapists, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

[Overview](#)

4. RESPONSIBILITY TO STUDENTS AND SUPERVISEES

Marriage and family therapists do not exploit the trust and dependency of students and supervisees.

- 4.1 Marriage and family therapists are aware of their influential position with respect to students and supervisees, and they avoid exploiting the trust and dependency of such persons. Marriage and family therapists therefore avoid dual relationships that are reasonably likely to impair professional judgment or lead to exploitation. Provision of therapy to students or supervisees is unethical. Provision of marriage and family therapy supervision to clients is unethical. Sexual intercourse, sexual contact or sexual intimacy and/or harassment of any kind with students or supervisees is unethical.
- 4.2 Marriage and family therapists do not permit students, employees or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.
- 4.3 Marriage and family therapists who act as supervisors are responsible for maintaining the quality of their supervision skills, and obtaining consultation or supervision for their work as supervisors whenever appropriate.

[Overview](#)

5. RESPONSIBILITY TO COLLEAGUES

Marriage and family therapists treat colleagues with respect, courtesy, fairness, and good faith, and cooperate with colleagues in order to promote the welfare and best interests of the patient.

- 5.1 Marriage and family therapists respect the confidences of colleagues that are shared in the course of their professional relationships.

- 5.2 Marriage and family therapists are encouraged to assist colleagues who are impaired due to substance abuse, emotional problems, or mental illness.
- 5.3 Marriage and family therapists do not file or encourage the filing of ethics or other complaints that they know, or reasonably should know, are frivolous.

[Overview](#)

6. RESPONSIBILITY TO RESEARCH PARTICIPANTS

Investigators respect the dignity and protect the welfare of participants in research and are aware of federal and state laws and regulations and professional standards governing the conduct of research.

- 6.1 Investigators are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, investigators seek the ethical advice of qualified professionals not directly involved in the investigation and observe safeguards to protect the rights of research participants.
- 6.2 Investigators requesting participants' involvement in research inform them of all aspects of the research that might reasonably be expected to influence willingness to participate. Investigators are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, have impairments which limit understanding and/or communication, or when participants are children.
- 6.3 Investigators respect participants' freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the research team are in positions of authority or influence over participants. Marriage and family therapists, therefore, make every effort to avoid dual relationships with research participants that could impair professional judgment or increase the risk of exploitation.
- 6.4 Information obtained about a research participant during the course of an investigation is confidential unless there is an authorization previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

[Overview](#)

7. RESPONSIBILITY TO THE PROFESSION

Marriage and family therapists respect the rights and responsibilities of professional colleagues and participate in activities which advance the goals of the profession.

- 7.1 Marriage and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations.
- 7.2 Marriage and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.
- 7.3 Marriage and family therapists who are the authors of books or other materials that are published or distributed appropriately cite persons to whom credit for original ideas is due.
- 7.4 Marriage and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable steps to ensure that the organization promotes and advertises the materials accurately and factually.
- 7.5 Marriage and family therapists recognize a responsibility to participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.
- 7.6 Marriage and family therapists are concerned with developing laws and regulations pertaining to marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

- 7.7 Marriage and family therapists cooperate with the Ethics Committee and truthfully represent facts to the Ethics Committee. Failure to cooperate with the Ethics Committee is itself a violation of these standards.

[Overview](#)

8. RESPONSIBILITY TO THE LEGAL SYSTEM

Marriage and family therapists recognize their role in the legal system and their duty to remain objective and truthful.

- 8.1 Marriage and family therapists who give testimony in legal proceedings testify truthfully and avoid making misleading statements.
- 8.2 Marriage and family therapists who act as expert witnesses base their opinions and conclusions on appropriate data, and are careful to acknowledge the limits of their data or conclusions in order to avoid providing misleading testimony or reports.
- 8.3 Marriage and family therapists avoid, wherever possible, performing conflicting roles in legal proceedings and disclose any potential conflicts to prospective clients, to the courts, or to others as appropriate.
- 8.4 Marriage and family therapists, regardless of their role in a legal proceeding, remain objective and do not compromise their professional judgment or integrity.
- 8.5 Marriage and family therapists do not express professional opinions about an individual's mental or emotional condition unless they have conducted an examination of the individual, or unless they reveal the limits of the information upon which their professional opinions are based, with appropriate cautions as to the effects of such limited information upon their opinions.

[Overview](#)

9. FINANCIAL ARRANGEMENTS

Marriage and family therapists make financial arrangements with patients and supervisees that are understandable, and conform to accepted professional practices and legal requirements.

- 9.1 Marriage and family therapists do not offer or accept payment for referrals.
- 9.2 Marriage and family therapists do not financially exploit their patients.
- 9.3 Marriage and family therapists disclose, in advance, their fees and the basis upon which they are computed, including, but not limited to, charges for canceled or missed appointments and any interest to be charged on unpaid balances, at the beginning of treatment and give reasonable notice of any changes in fees or other charges.
- 9.4 Marriage and family therapists give reasonable notice to patients with unpaid balances of their intent to sue, or to refer for collection. Whenever legal action is taken, therapists will avoid disclosure of clinical information. Whenever unpaid balances are referred to collection agencies, therapists will exercise care in selecting collection agencies and will avoid disclosure of clinical information.
- 9.5 Marriage and family therapists ordinarily refrain from accepting goods, services, or other non-monetary remuneration from patients in return for professional services. Such arrangements often create conflicts and may lead to exploitation or distortion of the professional relationship.
- 9.6 Marriage and family therapists represent facts regarding services rendered fully and truthfully to third party payers.

[Overview](#)

10. ADVERTISING

Marriage and family therapists engage in appropriate informational activities, including those that enable lay persons to choose professional services on an informed basis.

- 10.1 Marriage and family therapists accurately represent their competence, education, training, and experience relevant to their professional practice.

- 10.2** Marriage and family therapists assure that advertisements and publications, whether in directories, announcement cards, newspapers, radio, television, Internet or any other electronic media, are formulated to accurately convey information that is necessary for the public to make an appropriate selection.
- 10.3** Marriage and family therapists do not use a name which could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name and do not hold themselves out as being partners or associates of a firm if they are not.
- 10.4** Marriage and family therapists do not use any professional identification, including but not limited to: a business card, office sign, letterhead, telephone or association directory listing, Internet or any other electronic media, if it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A statement is false, fraudulent, misleading, or deceptive if it a) contains a material misrepresentation of fact; b) fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading; or c) is intended to or is likely to create an unjustified expectation.
- 10.5** Marriage and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.
- 10.6** Marriage and family therapists do not solicit testimonials from patients.
- 10.7** Marriage and family therapists make certain that the qualifications of persons in their employ are represented in a manner that is not false, misleading, or deceptive.
- 10.8** Marriage and family therapists may represent themselves as specializing within a limited area of marriage and family therapy, but only if they have the education, training, and experience which meet recognized professional standards to practice in that specialty area.
- 10.9** CAMFT clinical, associate and prelicensed members may identify such membership in CAMFT in public information or advertising materials, but they must clearly and accurately represent whether they are clinical, associate, or prelicensed members.
- 10.10** Marriage and family therapists may not use the initials CAMFT following their name in the manner of an academic degree.
- 10.11** Marriage and family therapists may use the CAMFT logo only after receiving permission in writing from the Association. Permission will be granted by the Association to CAMFT members in good standing in accordance with Association policy on use of CAMFT logo. The Association (which is the sole owner of its name, logo, and the abbreviated initials CAMFT) may grant permission to CAMFT committees and chartered chapters in good standing, operating as such, to use the CAMFT logo. Such permission will be granted in accordance with Association policy on use of the CAMFT logo.
- 10.12** Marriage and family therapists use their membership in CAMFT only in connection with their clinical and professional activities.

Overview

Violations of these standards should be brought to the attention of the CAMFT Ethics Committee, in writing, at CAMFT's administrative office, 7901 Raytheon Road, San Diego, CA 92111-1606, or at such other address as may be necessary because of a change in location of the administrative office.

- i** The terms psychotherapy, therapy and counseling are used interchangeably throughout the Ethical Standards.
- ii** The word "patient," as used herein, is synonymous with such words as "client" or "counselee."
- iii** The term "marriage and family therapist," as used herein, is synonymous with the term "licensed marriage, family and child counselor," and is intended to cover registered interns and trainees doing marriage, family and child counseling under supervision.
- iv** Dual relationships include multiple relationships with patients.

All known dates of ethical standards revisions: 5/02, 4/97, 4/92, 10/87, 9/78, and 3/66.

Attachment D
Business and Professions Code
Board of Psychology

§2936.

The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology. The board shall establish as its standards of ethical conduct relating to the practice of psychology, the "Ethical Principles and Code of Conduct" published by the American Psychological Association (APA). Those standards shall be applied by the board as the accepted standard of care in all licensing examination development and in all board enforcement policies and disciplinary case evaluations.

To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location in their principal psychological business office, a notice which reads as follows:

"NOTICE TO CONSUMERS: The Department of Consumer Affairs's Board of Psychology receives and responds to questions and complaints regarding the practice of psychology. If you have questions or complaints, you may contact the board on the Internet at www.psychboard.ca.gov, by calling 1-866-503-3221, or by writing to the following address:
Board of Psychology
2005 Evergreen Street, Suite 1400
Sacramento, California 95815-3894"

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AMERICAN PSYCHOLOGICAL ASSOCIATION

ETHICAL PRINCIPLES OF PSYCHOLOGISTS AND CODE OF CONDUCT

Adopted August 21, 2002

Effective June 1, 2003

With the 2010 Amendments

Adopted February 20, 2010

Effective June 1, 2010

origin, religion, sexual orientation, disability, language, or socioeconomic status.

3.04 Avoiding Harm

Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

3.05 Multiple Relationships

(a) A multiple relationship occurs when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.

Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.

(b) If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with the Ethics Code.

(c) When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality and thereafter as changes occur. (See also Standards 3.04, Avoiding Harm, and 3.07, Third-Party Requests for Services.)

3.06 Conflict of Interest

Psychologists refrain from taking on a professional role when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to (1) impair their objectivity, competence, or effectiveness in performing their functions as psychologists or (2) expose the person or organization with whom the professional relationship exists to harm or exploitation.

3.07 Third-Party Requests for Services

When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist (e.g.,

therapist, consultant, diagnostician, or expert witness), an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality. (See also Standards 3.05, Multiple Relationships, and 4.02, Discussing the Limits of Confidentiality.)

3.08 Exploitative Relationships

Psychologists do not exploit persons over whom they have supervisory, evaluative, or other authority such as clients/patients, students, supervisees, research participants, and employees. (See also Standards 3.05, Multiple Relationships; 6.04, Fees and Financial Arrangements; 6.05, Barter With Clients/Patients; 7.07, Sexual Relationships With Students and Supervisees; 10.05, Sexual Intimacies With Current Therapy Clients/Patients; 10.06, Sexual Intimacies With Relatives or Significant Others of Current Therapy Clients/Patients; 10.07, Therapy With Former Sexual Partners; and 10.08, Sexual Intimacies With Former Therapy Clients/Patients.)

3.09 Cooperation With Other Professionals

When indicated and professionally appropriate, psychologists cooperate with other professionals in order to serve their clients/patients effectively and appropriately. (See also Standard 4.05, Disclosures.)

3.10 Informed Consent

(a) When psychologists conduct research or provide assessment, therapy, counseling, or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code. (See also Standards 8.02, Informed Consent to Research; 9.03, Informed Consent in Assessments; and 10.01, Informed Consent to Therapy.)

(b) For persons who are legally incapable of giving informed consent, psychologists nevertheless (1) provide an appropriate explanation, (2) seek the individual's assent, (3) consider such persons' preferences and best interests, and (4) obtain appropriate permission from a legally authorized person, if such substitute consent is permitted or required by law. When consent by a legally authorized person is not permitted or required by law, psychologists take reasonable steps to protect the individual's rights and welfare.

(c) When psychological services are court ordered or otherwise mandated, psychologists inform the individual of the nature of the anticipated services, including whether the services are court ordered or mandated and any limits of confidentiality, before proceeding.

(d) Psychologists appropriately document written or oral consent, permission, and assent. (See also Standards 8.02,

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 578

Introduced by Senator Wyland

February 22, 2013

An act to amend Section 4982 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 578, as amended, Wyland. Marriage and family therapists: unprofessional conduct.

Existing law, the Licensed Marriage and Family Therapist Act, provides for the licensure or registration and the regulation of marriage and family therapists by the Board of Behavioral Sciences, and makes a violation of the law a misdemeanor. Existing law authorizes the board to deny a license or registration or to suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct, which, among other things, includes engaging in sexual relations with a current or former client within a specified period of time.

This bill would specify that unprofessional conduct includes engaging in a dual relationship with a ~~patient~~ *client* that is likely to impair his or her professional judgment or lead to exploitation of the ~~patient~~ *client*. The bill describes a dual relationship as a separate and distinct relationship between a marriage and family therapist and his or her ~~patient~~ *client* that occurs simultaneously with the therapeutic relationship or ~~within a reasonable period of time~~ following the termination of the therapeutic relationship. *The bill would require, if a dual relationship occurs and cannot be avoided, a marriage and family therapist to take*

professional precautions, including documentation of the dual relationship, to ensure that his or her judgment is not impaired and that the client is not exploited. The bill would specify that a violation of those provisions would not be a crime.

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

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

1 SECTION 1. Section 4982 of the Business and Professions
2 Code is amended to read:
3 4982. The board may deny a license or registration or may
4 suspend or revoke the license or registration of a licensee or
5 registrant if he or she has been guilty of unprofessional conduct.
6 Unprofessional conduct includes, but is not limited to, the
7 following:
8 (a) The conviction of a crime substantially related to the
9 qualifications, functions, or duties of a licensee or registrant under
10 this chapter. The record of conviction shall be conclusive evidence
11 only of the fact that the conviction occurred. The board may inquire
12 into the circumstances surrounding the commission of the crime
13 in order to fix the degree of discipline or to determine if the
14 conviction is substantially related to the qualifications, functions,
15 or duties of a licensee or registrant under this chapter. A plea or
16 verdict of guilty or a conviction following a plea of nolo contendere
17 made to a charge substantially related to the qualifications,
18 functions, or duties of a licensee or registrant under this chapter
19 shall be deemed to be a conviction within the meaning of this
20 section. The board may order any license or registration suspended
21 or revoked, or may decline to issue a license or registration when
22 the time for appeal has elapsed, or the judgment of conviction has
23 been affirmed on appeal, or, when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a
25 subsequent order under Section 1203.4 of the Penal Code allowing
26 the person to withdraw a plea of guilty and enter a plea of not
27 guilty, or setting aside the verdict of guilty, or dismissing the
28 accusation, information, or indictment.
29 (b) Securing a license or registration by fraud, deceit, or
30 misrepresentation on any application for licensure or registration
31 submitted to the board, whether engaged in by an applicant for a

1 license or registration, or by a licensee in support of any application
2 for licensure or registration.

3 (c) Administering to himself or herself any controlled substance
4 or using of any of the dangerous drugs specified in Section 4022,
5 or of any alcoholic beverage to the extent, or in a manner, as to be
6 dangerous or injurious to the person applying for a registration or
7 license or holding a registration or license under this chapter, or
8 to any other person, or to the public, or, to the extent that the use
9 impairs the ability of the person applying for or holding a
10 registration or license to conduct with safety to the public the
11 practice authorized by the registration or license. The board shall
12 deny an application for a registration or license or revoke the
13 license or registration of any person, other than one who is licensed
14 as a physician and surgeon, who uses or offers to use drugs in the
15 course of performing marriage and family therapy services.

16 (d) Gross negligence or incompetence in the performance of
17 marriage and family therapy.

18 (e) Violating, attempting to violate, or conspiring to violate any
19 of the provisions of this chapter or any regulation adopted by the
20 board.

21 (f) Misrepresentation as to the type or status of a license or
22 registration held by the person, or otherwise misrepresenting or
23 permitting misrepresentation of his or her education, professional
24 qualifications, or professional affiliations to any person or entity.

25 (g) Impersonation of another by any licensee, registrant, or
26 applicant for a license or registration, or, in the case of a licensee,
27 allowing any other person to use his or her license or registration.

28 (h) Aiding or abetting, or employing, directly or indirectly, any
29 unlicensed or unregistered person to engage in conduct for which
30 a license or registration is required under this chapter.

31 (i) Intentionally or recklessly causing physical or emotional
32 harm to any client.

33 (j) The commission of any dishonest, corrupt, or fraudulent act
34 substantially related to the qualifications, functions, or duties of a
35 licensee or registrant.

36 (k) Engaging in sexual relations with a client, or a former client
37 within two years following termination of therapy, soliciting sexual
38 relations with a client, or committing an act of sexual abuse, or
39 sexual misconduct with a client, or committing an act punishable
40 as a sexually related crime, if that act or solicitation is substantially

1 related to the qualifications, functions, or duties of a marriage and
2 family therapist.

3 (l) Performing, or holding oneself out as being able to perform,
4 or offering to perform, or permitting any trainee or registered intern
5 under supervision to perform, any professional services beyond
6 the scope of the license authorized by this chapter.

7 (m) Failure to maintain confidentiality, except as otherwise
8 required or permitted by law, of all information that has been
9 received from a client in confidence during the course of treatment
10 and all information about the client that is obtained from tests or
11 other means.

12 (n) Prior to the commencement of treatment, failing to disclose
13 to the client or prospective client the fee to be charged for the
14 professional services, or the basis upon which that fee will be
15 computed.

16 (o) Paying, accepting, or soliciting any consideration,
17 compensation, or remuneration, whether monetary or otherwise,
18 for the referral of professional clients. All consideration,
19 compensation, or remuneration shall be in relation to professional
20 counseling services actually provided by the licensee. Nothing in
21 this subdivision shall prevent collaboration among two or more
22 licensees in a case or cases. However, no fee shall be charged for
23 that collaboration, except when disclosure of the fee has been made
24 in compliance with subdivision (n).

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

27 (q) Reproduction or description in public, or in any publication
28 subject to general public distribution, of any psychological test or
29 other assessment device, the value of which depends in whole or
30 in part on the naivete of the subject, in ways that might invalidate
31 the test or device.

32 (r) Any conduct in the supervision of any registered intern,
33 associate clinical social worker, or trainee by any licensee that
34 violates this chapter or any rules or regulations adopted by the
35 board.

36 (s) Performing or holding oneself out as being able to perform
37 professional services beyond the scope of one's competence, as
38 established by one's education, training, or experience. This
39 subdivision shall not be construed to expand the scope of the
40 license authorized by this chapter.

- 1 (t) Permitting a trainee or registered intern under one's
2 supervision or control to perform, or permitting the trainee or
3 registered intern to hold himself or herself out as competent to
4 perform, professional services beyond the trainee's or registered
5 intern's level of education, training, or experience.
- 6 (u) The violation of any statute or regulation governing the
7 gaining and supervision of experience required by this chapter.
- 8 (v) Failure to keep records consistent with sound clinical
9 judgment, the standards of the profession, and the nature of the
10 services being rendered.
- 11 (w) Failure to comply with the child abuse reporting
12 requirements of Section 11166 of the Penal Code.
- 13 (x) Failure to comply with the elder and dependent adult abuse
14 reporting requirements of Section 15630 of the Welfare and
15 Institutions Code.
- 16 (y) Willful violation of Chapter 1 (commencing with Section
17 123100) of Part 1 of Division 106 of the Health and Safety Code.
- 18 (z) Failure to comply with Section 2290.5.
- 19 (aa) (1) Engaging in an act described in Section 261, 286, 288a,
20 or 289 of the Penal Code with a minor or an act described in
21 Section 288 or 288.5 of the Penal Code regardless of whether the
22 act occurred prior to or after the time the registration or license
23 was issued by the board. An act described in this subdivision
24 occurring prior to the effective date of this subdivision shall
25 constitute unprofessional conduct and shall subject the licensee to
26 refusal, suspension, or revocation of a license under this section.
- 27 (2) The Legislature hereby finds and declares that protection of
28 the public, and in particular minors, from sexual misconduct by a
29 licensee is a compelling governmental interest, and that the ability
30 to suspend or revoke a license for sexual conduct with a minor
31 occurring prior to the effective date of this section is equally
32 important to protecting the public as is the ability to refuse a license
33 for sexual conduct with a minor occurring prior to the effective
34 date of this section.
- 35 (ab) Engaging in any conduct that subverts or attempts to subvert
36 any licensing examination or the administration of an examination
37 as described in Section 123.
- 38 (ac) Engaging in a dual relationship with a ~~patient~~ *client* that is
39 likely to impair his or her professional judgment or lead to
40 exploitation of the ~~patient~~ *client*. For purposes of this subdivision,

1 a dual relationship occurs when a marriage and family therapist
2 and his or her ~~patient~~ *client* engage in a separate and distinct
3 relationship either simultaneously with the therapeutic relationship,
4 ~~or within a reasonable period of time~~ following the termination of
5 the therapeutic relationship. *If a dual relationship occurs and*
6 *cannot be avoided, a marriage and family therapist shall take*
7 *appropriate and culturally sensitive professional precautions,*
8 *including documentation of the dual relationship, to ensure that*
9 *his or her judgment is not impaired and that the client is not*
10 *exploited. A violation of this subdivision shall not be subject to*
11 *Section 4983.* Nothing in this subdivision shall be construed to
12 alter or affect the prohibitions of subdivision (k).

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To: Board Members

Date: May 7, 2013

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Legislative Update

The Board is currently pursuing the following legislative proposals:

AB 404 (Eggman): Retired Licenses

This bill 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.

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

AB 428 (Eggman): LMFT and LCSW Applicant Remediation of Coursework

This bill 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.

Status: This bill is on third reading in the Assembly.

AB 958 (Jones): Child Custody Evaluators

This bill 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.

Status: This is a two-year bill.

SB 821 (Senate Business, Professions, and Economic Development Committee): Omnibus Legislation

This bill makes technical, and non-substantive amendments to add clarity and consistency to current Board licensing law.

Status: This bill has been referred to the Senate Appropriations Committee.

ACTION ITEMS:

AB 451 (Eggman): 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 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. The Board has formed a special committee, which met for the first time on April 26, 2013, to discuss this issue further.

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

Recommended Action

Due to delays in the implementation of DCA's new BreEZe database system, staff is recommending that the Board's examination restructure be delayed from January 1, 2014 to January 1, 2016.

The new requirements for out-of-state applicants are affected by the examination restructure. For example, the new requirements for out-of-state LMFT applicants assumes the California law and ethics examination is already in place. Therefore, staff is recommending that AB 451 be amended to change the effective date of the new out-of-state requirements from January 1, 2015 to January 1, 2016. This will also allow the special committee more time to consider solutions to the potential problems with the new out-of state requirements.

Attachments

Attachment A: AB 451 Proposed Amendments

ATTACHMENT A
AB 451 PROPOSED AMENDMENTS

Amend 4980.72.

(a) This section applies to persons who are licensed outside of California and apply for licensure on or after January 1, ~~2015~~, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license in good standing issued by a board of marriage counselor examiners, board of marriage and family therapists, or corresponding authority, of any state or country, if all of the following conditions are satisfied:

(1) The applicant's education is substantially equivalent, as defined in Section 4980.78. The applicant's degree title need not be identical to that required by Section 4980.36 or 4980.37.

(2) The applicant complies with Section 4980.76, if applicable.

(3) The applicant's supervised experience is substantially equivalent to that required for a license under this chapter. The board shall consider hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license described above.

(4) The applicant passes the California law and ethics examination.

(5) The applicant passes a clinical examination designated by the board. An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the licensing examination set forth in regulation as accepted by the board.

(B) The applicant's license or registration in that jurisdiction is in good standing at the time of his or her application and has not been revoked, suspended, surrendered, denied, or otherwise restricted or encumbered as a result of any disciplinary proceeding brought by the licensing authority of that jurisdiction.

Amend 4980.74.

(a) This section applies to persons who apply for licensure or registration on or after January 1, ~~2015~~, 2016, and who do not hold a license as described in Section 4980.72.

(b) The board shall accept education gained while residing outside of California for purposes of satisfying licensure or registration requirements if the education is substantially equivalent, as defined in Section 4980.78, and the applicant complies with Section 4980.76, if applicable. The applicant's degree title need not be identical to that required by Section 4980.36 or 4980.37.

(c) The board shall accept experience gained outside of California for purposes of satisfying licensure or registration requirements if the experience is substantially equivalent to that required by this chapter.

Amend 4980.78.

(a) This section applies to persons who apply for licensure or registration on or after January 1, ~~2015.~~ 2016.

(b) For purposes of Sections 4980.72 and 4980.74, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from a school, college, or university accredited by an accrediting agency recognized by the United States Department of Education and consists of, at a minimum, 48 semester or 72 quarter units, including, but not limited to, both of the following:

(A) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face counseling.

(B) Twelve semester or 18 quarter units in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment, as specified in subparagraph (A) of paragraph (1) of subdivision (d) of Section 4980.36.

(2) The applicant completes any units and course content requirements under subdivision (d) of Section 4980.36 not already completed in his or her education.

(3) The applicant completes credit level coursework from a degree-granting institution that provides all of the following:

(A) Instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery model practice environments.

(B) An understanding of various California cultures and the social and psychological implications of socioeconomic position.

(C) Structured meeting with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(D) Instruction in addiction and co-occurring substance abuse and mental health disorders, as specified in subparagraph (l) of paragraph (2) of subdivision (d) of Section 4980.36.

(4) The applicant completes an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to confidentiality of patient health information, 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 patients, differences in legal and ethical standards in different types of work settings, and licensing law and licensing process.

(5) The applicant's degree title need not be identical to that required by subdivision (b) of Section 4980.36.

Amend 4980.80.

(a) This section applies to persons who apply for licensure between January 1, 2010, and December 31, ~~2014~~, 2015, inclusive.

(b) The board may issue a license to a person who, at the time of application, holds a valid license issued by a board of marriage counselor examiners, marriage therapist examiners, or corresponding authority of any state, if all of the following requirements are satisfied:

(1) The person has held that license for at least two years immediately preceding the date of application.

(2) The education and supervised experience requirements are substantially the equivalent of this chapter.

(3) The person complies with Section 4980.76, if applicable.

(4) The person successfully completes the board administered licensing examinations as specified by subdivision (d) of Section 4980.40 and pays the fees specified.

(5) The person completes all of the following coursework or training:

(A) (i) An applicant who completed a two semester or three quarter unit course in law and professional ethics for marriage and family therapists that does not meet the requirements of Section 4980.41 as part of his or her qualifying degree shall complete an 18-hour course in California law and professional ethics that includes, but is not limited to, the following subjects: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to the confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to patients.

(ii) An applicant who has not completed a two semester or three quarter unit course in law and professional ethics for marriage and family therapists that included areas of study as specified in Section 4980.41 as part of his or her qualifying degree, shall complete a two semester or three quarter unit course in California law and professional ethics that includes, at minimum, the areas of study specified in Section 4980.41.

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

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

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

(E) (i) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

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

(F) A minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(G) A minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(H) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

(c) This section shall remain in effect only until January 1, ~~2015~~, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2015~~, 2016, deletes or extends that date.

Amend 4980.90.

(a) This section applies to persons who apply for licensure between January 1, 2010, and December 31, ~~2014~~, 2015, inclusive.

(b) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter, if the applicant complies with Section 4980.76, if applicable, and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board. The board shall consider hours of experience obtained in another state during the six-year period immediately preceding the applicant's initial licensure by that state as a marriage and family therapist.

(c) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:

(1) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

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

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

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

(5) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.

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

(6) A minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(7) A minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

(d) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant meets both of the following requirements:

(1) The applicant has been granted a degree in a single integrated program primarily designed to train marriage and family therapists.

(2) The applicant's education meets the requirements of Section 4980.37. The degree title need not be identical to that required by subdivision (b) of Section 4980.37. If the applicant's degree does not contain the content or the overall units required by Section 4980.37, the board may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

(A) The applicant's degree contains the required number of practicum units and coursework required in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment as specified in Section 4980.37.

(B) The applicant remediates his or her specific deficiency by completing the course content and the units required by Section 4980.37.

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

(e) This section shall remain in effect only until January 1, ~~2015~~, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2015~~, 2016, deletes or extends that date.

Amend 4999.57.

(a) This section applies to a person who applies for examination eligibility or registration between January 1, 2011, and December 31, ~~2014~~, 2015, inclusive, who does not hold a license described in subdivision (a) of Section 4999.58.

(b) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter, if the applicant complies with Section 4999.40, if applicable, and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board.

(c) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, which includes, in addition to the course described in subparagraph (l) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics for professional clinical counselors.

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

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

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

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

(e) This section shall become inoperative on January 1, ~~2015~~, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, ~~2015~~, 2016, deletes or extends that date.

Amend 4999.58.

(a) This section applies to a person who applies for examination eligibility between January 1, 2011, and December 31, ~~2014~~, 2015, inclusive, and who meets both of the following requirements:

(1) At the time of application, holds a valid license as a professional clinical counselor, or other counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction of the United States.

(2) Has held the license described in paragraph (1) for at least two years immediately preceding the date of application.

(b) The board may issue a license to a person described in subdivision (a) if all of the following requirements are satisfied:

(1) The education and supervised experience requirements of the other jurisdiction are substantially the equivalent of this chapter, as described in subdivision (e) and in Section 4999.46.

(2) The person complies with subdivision (b) of Section 4999.40, if applicable.

(3) The person successfully completes the examinations required by the board pursuant to paragraph (3) of subdivision (a) of Section 4999.50. An applicant who obtained his or her license or registration under another jurisdiction by taking a national examination that is required by the board may apply for licensure with the board without retaking that examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the national licensing examination that is required by the board.

(B) The applicant's license or registration in that jurisdiction is in good standing at the time of his or her application and has not been revoked, suspended, surrendered, denied, or otherwise restricted or encumbered as a result of any disciplinary proceeding brought by the licensing authority of that jurisdiction.

(4) The person pays the required fees.

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

(d) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, which includes, in addition to the course described in subparagraph (l) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics for professional clinical counselors.

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

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

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

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

(f) This section shall become inoperative on January 1, ~~2015~~, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, ~~2015~~, 2016, deletes or extends that date.

Amend 4999.59.

(a) This section applies to a person who applies for examination eligibility or registration between January 1, 2011, and December 31, ~~2014~~, 2015, inclusive, who meets both of the following requirements:

(1) At the time of application, holds a valid license described in paragraph (1) of subdivision (a) of Section 4999.58.

(2) Has held the license described in paragraph (1) for less than two years immediately preceding the date of application.

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

(c) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, which includes, in addition to the course described in subparagraph (l) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics for professional clinical counselors.

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

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

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

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

(e) An applicant who obtained his or her license or registration under another jurisdiction by taking a national examination that is required by the board may apply for licensure with the board without retaking that examination if both of the following conditions are met:

(1) The applicant obtained a passing score on the national licensing examination that is required by the board.

(2) The applicant's license or registration in that jurisdiction is in good standing at the time of his or her application and has not been revoked, suspended, surrendered, denied, or otherwise restricted or encumbered as a result of any disciplinary proceeding brought by the licensing authority of that jurisdiction.

(f) This section shall become inoperative on January 1, ~~2015~~, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, ~~2015~~, 2016, deletes or extends that date.

Amend 4999.60.

(a) This section applies to persons who are licensed outside of California and apply for examination eligibility on or after January 1, ~~2015~~, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license as a professional clinical counselor, or

other counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction of the United States if all of the following conditions are satisfied:

(1) The applicant's education is substantially equivalent, as defined in Section 4999.62.

(2) The applicant complies with subdivision (b) of Section 4999.40, if applicable.

(3) The applicant's supervised experience is substantially equivalent to that required for a license under this chapter. The board shall consider hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license described above.

(4) The applicant passes the examinations required to obtain a license under this chapter. An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the licensing examination set forth in regulation as accepted by the board.

(B) The applicant's license or registration in that jurisdiction is in good standing at the time of his or her application and has not been revoked, suspended, surrendered, denied, or otherwise restricted or encumbered as a result of any disciplinary proceeding brought by the licensing authority of that jurisdiction.

Amend 4999.61.

(a) This section applies to persons who apply for examination eligibility or registration on or after January 1, ~~2015~~, 2016, and who do not hold a license as described in Section 4999.60.

(b) The board shall accept education gained while residing outside of California for purposes of satisfying licensure or registration requirements if the education is substantially equivalent, as defined in Section 4999.62, and the applicant complies with subdivision (b) of Section 4999.40, if applicable.

(c) The board shall accept experience gained outside of California for purposes of satisfying licensure or registration requirements if the experience is substantially equivalent to that required by this chapter.

Amend 4999.62.

(a) This section applies to persons who apply for examination eligibility or registration on or after January 1, ~~2015~~, 2016.

(b) For purposes of Sections 4999.60 and 4999.61, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of, at a minimum, 48 semester or 72 quarter units, including, but not limited to, both of the following:

(A) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face counseling.

(B) The required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(2) The applicant completes any units and course content requirements under Section 4999.33 not already completed in his or her education.

(3) The applicant completes credit level coursework from a degree-granting institution that provides all of the following:

(A) Instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery model practice environments.

(B) An understanding of various California cultures and the social and psychological implications of socioeconomic position.

(C) Structured meeting with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(D) Instruction in behavioral addiction and co-occurring substance abuse and mental health disorders, as specified in subparagraph (K) of paragraph (1) of subdivision (c) of Section 4999.33.

(4) The applicant completes, in addition to the course described in subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33, an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients.

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To: Board Members

Date: May 7, 2013

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 became effective on **April 1, 2013.**

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 Office of Administrative Law (OAL) and filed with the Secretary of State on March 25, 2013. It becomes effective on **July 1, 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 Office of Administrative Law (OAL) and filed with the Secretary of State on April 2, 2013. It becomes effective on **July 1, 2013.**

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 the Department of Consumer Affairs for approval. Once approved by DCA, it will go to OAL for final approval.

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 has been withdrawn.

PENDING REGULATORY PROPOSALS

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 was approved by the Board at its meeting on February 28, 2013. Staff is currently preparing the documents necessary for submittal to OAL for publication in its Notice Register. This submittal will begin the 45-day public comment period.

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 1820, 1820.1, 1820.2, 1820.3, Exemptions for Sponsored Free Health Care Events

As a result of AB 2699 (Chapter 270, Statutes of 2010), beginning January 1, 2011, health care practitioners licensed or certified in good standing in another state may be temporarily exempted from California licensing requirements under certain conditions. However, before this law can be implemented, regulations must be approved by each healing arts board under DCA which specify the methods of implementation. This proposal was approved by the Board at its meeting on November 9, 2011 and will be submitted to OAL for initial notice in summer 2013.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 809

VERSION: AMENDED APRIL 29, 2013

AUTHOR: LOGUE

SPONSOR: AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: HEALING ARTS: TELEHEALTH

Existing Law:

- 1) Defines “telehealth” as a mode of delivering health care via information and communication technologies. The patient’s location is the originating site, and the health care provider’s location is the distant site. (Business and Professions Code (BPC) §2290.5)
- 2) States that prior to providing health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used. The patient must then provide a verbal consent, which must be documented in the medical record. (BPC §2290.5)
- 3) Defines an “originating site” as the site where the patient is located at the time health care services are provided. (BPC §2290.5)
- 4) Makes licensee failure to obtain consent unprofessional conduct. (BPC §§ 2290.5, 4982, 4989.54, 4992.3, and 4999.90)

This Bill:

- 1) Allows the verbal consent to telehealth given by the patient at its initial use to apply in any subsequent use of telehealth. (BPC §2290.5(b))

Comments:

- 1) **Background.** AB 415 (Logue, Chapter 547, Statutes of 2011) updated the law by removing the term “telemedicine,” and its corresponding outdated definition. In its place, the term “telehealth” was used, and telehealth was defined to include a broader, more up-to-date range of services.

Prior to AB 415 changing the telehealth law as of January 1, 2012, a practitioner performing telemedicine was required to obtain both a verbal and written informed consent from the patient. This consent was required to contain detailed information, including information about the patient’s ability to withhold or withdraw consent at any time, a description of the risks, consequences, and benefits of telemedicine, and a statement about confidentiality and existing laws regarding access to medical information. AB 415 deleted these provisions, and the law currently just requires a patient’s verbal consent to telehealth, which is documented in the medical record.

2) Intent of This Bill. Since AB 415 became effective, two unintended consequences have arisen:

- a) BPC §2290.5(b) states that “Prior to the delivery of health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use.”

The term “originating site” is defined as the location of the patient. This implies that if the health care provider does not physically go to the site where the patient is located to obtain the patient’s verbal consent, then he or she is guilty of unprofessional conduct and subject to disciplinary action on his or her license or registration. This runs counter to the purpose of telehealth, which is to use electronic means to make health care more accessible, especially for patients in rural areas.

- b) BPC §2290.5(b) is also written to require that a health care provider must obtain verbal consent for telehealth prior to every visit with the patient. Several physicians have complained that this requirement is burdensome to their treatment of patients.

3) Current Version of this Bill. The current version of this bill corrects the problem of requiring consent prior to every instance of telehealth by making an amendment that states that the initial consent applies to subsequent instances of telehealth. However, it does not correct the other problem, which requires the health care provider to obtain the verbal consent at the originating site (the location of the patient), which seems contrary to the purpose of telehealth.

In a conversation with the author’s office, a staff member noted that they are still working with stakeholders on the originating site consent issue. There are some differing opinions about who should be required to obtain consent (for example, the referring provider, or the actual provider who will provide treatment). However, the author’s office expects this issue to be resolved in a subsequent version of this bill.

4) Urgency Measure. This bill is an urgency measure, which means it would become effective immediately upon signature by the Governor.

5) Support and Opposition.

Support:

- Association of California Healthcare Districts
- California Academy of Physician Assistants
- California Association of Physician Groups
- Occupational Therapy Association of California

Oppose:

- None on file.

6) History

2013

Apr. 30 Re-referred to Com. on B.,P. & C.P.

Apr. 29 Read second time and amended.

Apr. 25 From committee: Do pass as amended and re-refer to Com. on B.,P. &

C.P. (Ayes 15. Noes 0.) (April 23).
Apr. 9 In committee: Set, first hearing. Hearing canceled at the request
of author.
Apr. 4 Re-referred to Com. on HEALTH.
Apr. 3 From committee chair, with author's amendments: Amend, and re-refer
to Com. on HEALTH. Read second time and amended.
Mar. 4 Referred to Coms. on HEALTH and B.,P. & C.P.
Feb. 22 From printer. May be heard in committee March 24.
Feb. 21 Read first time. To print.

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AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 809

Introduced by Assembly Member Logue

February 21, 2013

An act to amend ~~Sections 1626.2, Section 2290.5, 4980.01, 4982, 4989.54, 4992.3, 4996, and 4999.90~~ of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 809, as amended, Logue. Healing arts: telehealth.

Existing law requires a health care provider, as defined, prior to the delivery of health care services via telehealth, as defined, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. Existing law also provides that failure to comply with this requirement constitutes unprofessional conduct.

This bill would ~~instead require the health care provider at the originating site to provide the patient with a waiver for the course of treatment involving telehealth services to obtain informed consent for the agreed upon course of treatment. The bill would require the signed waiver to be contained in the patient's medical record. The bill would make additional conforming changes: allow the verbal consent for the use of telehealth to apply in the present instance and for any subsequent use of telehealth.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 ~~SECTION 1. Section 1626.2 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 ~~1626.2. A dentist licensed under this chapter is a licentiate for~~
4 ~~purposes of paragraph (2) of subdivision (a) of Section 805, and~~
5 ~~this is a health care practitioner subject to the provisions of Section~~
6 ~~2290.5.~~
7 ~~SEC. 2.~~
8 SECTION 1. Section 2290.5 of the Business and Professions
9 Code is amended to read:
10 2290.5. (a) For purposes of this division, the following
11 definitions shall apply:
12 (1) “Asynchronous store and forward” means the transmission
13 of a patient’s medical information from an originating site to the
14 health care provider at a distant site without the presence of the
15 patient.
16 (2) “Distant site” means a site where a health care provider who
17 provides health care services is located while providing these
18 services via a telecommunications system.
19 (3) “Health care provider” means a person who is licensed under
20 this division.
21 (4) “Originating site” means a site where a patient is located at
22 the time health care services are provided via a telecommunications
23 system or where the asynchronous store and forward service
24 originates.
25 (5) “Synchronous interaction” means a real-time interaction
26 between a patient and a health care provider located at a distant
27 site.
28 (6) “Telehealth” means the mode of delivering health care
29 services and public health via information and communication
30 technologies to facilitate the diagnosis, consultation, treatment,
31 education, care management, and self-management of a patient’s
32 health care while the patient is at the originating site and the health
33 care provider is at a distant site. Telehealth facilitates patient
34 self-management and caregiver support for patients and includes

1 synchronous interactions and asynchronous store and forward
2 transfers.

3 (b) Prior to the delivery of health care via telehealth, the health
4 care provider *initiating the use of telehealth* at the originating site
5 shall ~~provide the patient with a waiver for the course of treatment~~
6 ~~involving telehealth services to obtain informed consent for the~~
7 ~~agreed upon course of treatment~~ *verbally inform the patient about*
8 *the use of telehealth and request the patient's verbal consent, which*
9 *may apply in the present instance and for any subsequent use of*
10 *telehealth.* ~~The signed waiver verbal consent shall be contained~~
11 *documented* in the patient's medical record.

12 (c) Nothing in this section shall preclude a patient from receiving
13 in-person health care delivery services during a course of treatment
14 after agreeing to receive services via telehealth.

15 (d) The failure of a health care provider to comply with this
16 section shall constitute unprofessional conduct. Section 2314 shall
17 not apply to this section.

18 (e) This section shall not be construed to alter the scope of
19 practice of any health care provider or authorize the delivery of
20 health care services in a setting, or in a manner, not otherwise
21 authorized by law.

22 (f) All laws regarding the confidentiality of health care
23 information and a patient's rights to his or her medical information
24 shall apply to telehealth interactions.

25 (g) This section shall not apply to a patient under the jurisdiction
26 of the Department of Corrections and Rehabilitation or any other
27 correctional facility.

28 (h) (1) Notwithstanding any other provision of law and for
29 purposes of this section, the governing body of the hospital whose
30 patients are receiving the telehealth services may grant privileges
31 to, and verify and approve credentials for, providers of telehealth
32 services based on its medical staff recommendations that rely on
33 information provided by the distant-site hospital or telehealth
34 entity, as described in Sections 482.12, 482.22, and 485.616 of
35 Title 42 of the Code of Federal Regulations.

36 (2) By enacting this subdivision, it is the intent of the Legislature
37 to authorize a hospital to grant privileges to, and verify and approve
38 credentials for, providers of telehealth services as described in
39 paragraph (1).

1 (3) For the purposes of this subdivision, “telehealth” shall
2 include “telemedicine” as the term is referenced in Sections 482.12,
3 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

4 SEC. 3. Section 4980.01 of the Business and Professions Code
5 is amended to read:

6 4980.01. ~~(a) Nothing in this chapter shall be construed to~~
7 ~~constrict, limit, or withdraw the Medical Practice Act, the Social~~
8 ~~Work Licensing Law, the Nursing Practice Act, the Licensed~~
9 ~~Professional Clinical Counselor Act, or the Psychology Licensing~~
10 ~~Act.~~

11 ~~(b) This chapter shall not apply to any priest, rabbi, or minister~~
12 ~~of the gospel of any religious denomination when performing~~
13 ~~counseling services as part of his or her pastoral or professional~~
14 ~~duties, or to any person who is admitted to practice law in the state,~~
15 ~~or who is licensed to practice medicine, when providing counseling~~
16 ~~services as part of his or her professional practice.~~

17 ~~(c) (1) This chapter shall not apply to an employee working in~~
18 ~~any of the following settings if his or her work is performed solely~~
19 ~~under the supervision of the employer:~~

- 20 ~~(A) A governmental entity.~~
- 21 ~~(B) A school, college, or university.~~
- 22 ~~(C) An institution that is both nonprofit and charitable.~~

23 ~~(2) This chapter shall not apply to a volunteer working in any~~
24 ~~of the settings described in paragraph (1) if his or her work is~~
25 ~~performed solely under the supervision of the entity, school, or~~
26 ~~institution.~~

27 ~~(d) A marriage and family therapist licensed under this chapter~~
28 ~~is a licentiate for purposes of paragraph (2) of subdivision (a) of~~
29 ~~Section 805, and thus is a health care practitioner subject to the~~
30 ~~provisions of Section 2290.5.~~

31 ~~(e) Notwithstanding subdivisions (b) and (c), all persons~~
32 ~~registered as interns or licensed under this chapter shall not be~~
33 ~~exempt from this chapter or the jurisdiction of the board.~~

34 SEC. 4. Section 4982 of the Business and Professions Code is
35 amended to read:

36 4982. The board may deny a license or registration or may
37 suspend or revoke the license or registration of a licensee or
38 registrant if he or she has been guilty of unprofessional conduct.
39 Unprofessional conduct includes, but is not limited to, the
40 following:

1 ~~(a) The conviction of a crime substantially related to the~~
2 ~~qualifications, functions, or duties of a licensee or registrant under~~
3 ~~this chapter. The record of conviction shall be conclusive evidence~~
4 ~~only of the fact that the conviction occurred. The board may inquire~~
5 ~~into the circumstances surrounding the commission of the crime~~
6 ~~in order to fix the degree of discipline or to determine if the~~
7 ~~conviction is substantially related to the qualifications, functions,~~
8 ~~or duties of a licensee or registrant under this chapter. A plea or~~
9 ~~verdict of guilty or a conviction following a plea of nolo contendere~~
10 ~~made to a charge substantially related to the qualifications,~~
11 ~~functions, or duties of a licensee or registrant under this chapter~~
12 ~~shall be deemed to be a conviction within the meaning of this~~
13 ~~section. The board may order any license or registration suspended~~
14 ~~or revoked, or may decline to issue a license or registration when~~
15 ~~the time for appeal has elapsed, or the judgment of conviction has~~
16 ~~been affirmed on appeal, or, when an order granting probation is~~
17 ~~made suspending the imposition of sentence, irrespective of a~~
18 ~~subsequent order under Section 1203.4 of the Penal Code allowing~~
19 ~~the person to withdraw a plea of guilty and enter a plea of not~~
20 ~~guilty, or setting aside the verdict of guilty, or dismissing the~~
21 ~~accusation, information, or indictment.~~

22 ~~(b) Securing a license or registration by fraud, deceit, or~~
23 ~~misrepresentation on any application for licensure or registration~~
24 ~~submitted to the board, whether engaged in by an applicant for a~~
25 ~~license or registration, or by a licensee in support of any application~~
26 ~~for licensure or registration.~~

27 ~~(c) Administering to himself or herself any controlled substance~~
28 ~~or using of any of the dangerous drugs specified in Section 4022,~~
29 ~~or of any alcoholic beverage to the extent, or in a manner, as to be~~
30 ~~dangerous or injurious to the person applying for a registration or~~
31 ~~license or holding a registration or license under this chapter, or~~
32 ~~to any other person, or to the public, or, to the extent that the use~~
33 ~~impairs the ability of the person applying for or holding a~~
34 ~~registration or license to conduct with safety to the public the~~
35 ~~practice authorized by the registration or license. The board shall~~
36 ~~deny an application for a registration or license or revoke the~~
37 ~~license or registration of any person, other than one who is licensed~~
38 ~~as a physician and surgeon, who uses or offers to use drugs in the~~
39 ~~course of performing marriage and family therapy services.~~

- 1 ~~(d) Gross negligence or incompetence in the performance of~~
2 ~~marriage and family therapy.~~
- 3 ~~(e) Violating, attempting to violate, or conspiring to violate any~~
4 ~~of the provisions of this chapter or any regulation adopted by the~~
5 ~~board.~~
- 6 ~~(f) Misrepresentation as to the type or status of a license or~~
7 ~~registration held by the person, or otherwise misrepresenting or~~
8 ~~permitting misrepresentation of his or her education, professional~~
9 ~~qualifications, or professional affiliations to any person or entity.~~
- 10 ~~(g) Impersonation of another by any licensee, registrant, or~~
11 ~~applicant for a license or registration, or, in the case of a licensee,~~
12 ~~allowing any other person to use his or her license or registration.~~
- 13 ~~(h) Aiding or abetting, or employing, directly or indirectly, any~~
14 ~~unlicensed or unregistered person to engage in conduct for which~~
15 ~~a license or registration is required under this chapter.~~
- 16 ~~(i) Intentionally or recklessly causing physical or emotional~~
17 ~~harm to any client.~~
- 18 ~~(j) The commission of any dishonest, corrupt, or fraudulent act~~
19 ~~substantially related to the qualifications, functions, or duties of a~~
20 ~~licensee or registrant.~~
- 21 ~~(k) Engaging in sexual relations with a client, or a former client~~
22 ~~within two years following termination of therapy, soliciting sexual~~
23 ~~relations with a client, or committing an act of sexual abuse, or~~
24 ~~sexual misconduct with a client, or committing an act punishable~~
25 ~~as a sexually related crime, if that act or solicitation is substantially~~
26 ~~related to the qualifications, functions, or duties of a marriage and~~
27 ~~family therapist.~~
- 28 ~~(l) Performing, or holding oneself out as being able to perform,~~
29 ~~or offering to perform, or permitting any trainee or registered intern~~
30 ~~under supervision to perform, any professional services beyond~~
31 ~~the scope of the license authorized by this chapter.~~
- 32 ~~(m) Failure to maintain confidentiality, except as otherwise~~
33 ~~required or permitted by law, of all information that has been~~
34 ~~received from a client in confidence during the course of treatment~~
35 ~~and all information about the client that is obtained from tests or~~
36 ~~other means.~~
- 37 ~~(n) Prior to the commencement of treatment, failing to disclose~~
38 ~~to the client or prospective client the fee to be charged for the~~
39 ~~professional services, or the basis upon which that fee will be~~
40 ~~computed.~~

1 ~~(o) Paying, accepting, or soliciting any consideration,~~
2 ~~compensation, or remuneration, whether monetary or otherwise,~~
3 ~~for the referral of professional clients. All consideration,~~
4 ~~compensation, or remuneration shall be in relation to professional~~
5 ~~counseling services actually provided by the licensee. Nothing in~~
6 ~~this subdivision shall prevent collaboration among two or more~~
7 ~~licensees in a case or cases. However, no fee shall be charged for~~
8 ~~that collaboration, except when disclosure of the fee has been made~~
9 ~~in compliance with subdivision (n):~~

10 ~~(p) Advertising in a manner that is false, fraudulent, misleading,~~
11 ~~or deceptive, as defined in Section 651:~~

12 ~~(q) Reproduction or description in public, or in any publication~~
13 ~~subject to general public distribution, of any psychological test or~~
14 ~~other assessment device, the value of which depends in whole or~~
15 ~~in part on the naivete of the subject, in ways that might invalidate~~
16 ~~the test or device.~~

17 ~~(r) Any conduct in the supervision of any registered intern,~~
18 ~~associate clinical social worker, or trainee by any licensee that~~
19 ~~violates this chapter or any rules or regulations adopted by the~~
20 ~~board.~~

21 ~~(s) Performing or holding oneself out as being able to perform~~
22 ~~professional services beyond the scope of one's competence, as~~
23 ~~established by one's education, training, or experience. This~~
24 ~~subdivision shall not be construed to expand the scope of the~~
25 ~~license authorized by this chapter.~~

26 ~~(t) Permitting a trainee or registered intern under one's~~
27 ~~supervision or control to perform, or permitting the trainee or~~
28 ~~registered intern to hold himself or herself out as competent to~~
29 ~~perform, professional services beyond the trainee's or registered~~
30 ~~intern's level of education, training, or experience.~~

31 ~~(u) The violation of any statute or regulation governing the~~
32 ~~gaining and supervision of experience required by this chapter.~~

33 ~~(v) Failure to keep records consistent with sound clinical~~
34 ~~judgment, the standards of the profession, and the nature of the~~
35 ~~services being rendered.~~

36 ~~(w) Failure to comply with the child abuse reporting~~
37 ~~requirements of Section 11166 of the Penal Code.~~

38 ~~(x) Failure to comply with the elder and dependent adult abuse~~
39 ~~reporting requirements of Section 15630 of the Welfare and~~
40 ~~Institutions Code.~~

1 ~~(y) Willful violation of Chapter 1 (commencing with Section~~
2 ~~123100) of Part 1 of Division 106 of the Health and Safety Code.~~

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

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

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

22 ~~SEC. 5. Section 4989.54 of the Business and Professions Code~~
23 ~~is amended to read:~~

24 ~~4989.54. The board may deny a license or may suspend or~~
25 ~~revoke the license of a licensee if he or she has been guilty of~~
26 ~~unprofessional conduct. Unprofessional conduct includes, but is~~
27 ~~not limited to, the following:~~

28 ~~(a) Conviction of a crime substantially related to the~~
29 ~~qualifications, functions, and duties of an educational psychologist.~~

30 ~~(1) The record of conviction shall be conclusive evidence only~~
31 ~~of the fact that the conviction occurred.~~

32 ~~(2) The board may inquire into the circumstances surrounding~~
33 ~~the commission of the crime in order to fix the degree of discipline~~
34 ~~or to determine if the conviction is substantially related to the~~
35 ~~qualifications, functions, or duties of a licensee under this chapter.~~

36 ~~(3) A plea or verdict of guilty or a conviction following a plea~~
37 ~~of nolo contendere made to a charge substantially related to the~~
38 ~~qualifications, functions, or duties of a licensee under this chapter~~
39 ~~shall be deemed to be a conviction within the meaning of this~~
40 ~~section.~~

1 ~~(4) The board may order a license suspended or revoked, or~~
2 ~~may decline to issue a license when the time for appeal has elapsed,~~
3 ~~or the judgment of conviction has been affirmed on appeal, or~~
4 ~~when an order granting probation is made suspending the~~
5 ~~imposition of sentence, irrespective of a subsequent order under~~
6 ~~Section 1203.4 of the Penal Code allowing the person to withdraw~~
7 ~~a plea of guilty and enter a plea of not guilty or setting aside the~~
8 ~~verdict of guilty or dismissing the accusation, information, or~~
9 ~~indictment.~~

10 ~~(b) Securing a license by fraud, deceit, or misrepresentation on~~
11 ~~an application for licensure submitted to the board, whether~~
12 ~~engaged in by an applicant for a license or by a licensee in support~~
13 ~~of an application for licensure.~~

14 ~~(c) Administering to himself or herself a controlled substance~~
15 ~~or using any of the dangerous drugs specified in Section 4022 or~~
16 ~~an alcoholic beverage to the extent, or in a manner, as to be~~
17 ~~dangerous or injurious to himself or herself or to any other person~~
18 ~~or to the public or to the extent that the use impairs his or her ability~~
19 ~~to safely perform the functions authorized by the license. The board~~
20 ~~shall deny an application for a license or revoke the license of any~~
21 ~~person, other than one who is licensed as a physician and surgeon,~~
22 ~~who uses or offers to use drugs in the course of performing~~
23 ~~educational psychology.~~

24 ~~(d) Advertising in a manner that is false, fraudulent, misleading,~~
25 ~~or deceptive, as defined in Section 651.~~

26 ~~(e) Violating, attempting to violate, or conspiring to violate any~~
27 ~~of the provisions of this chapter or any regulation adopted by the~~
28 ~~board.~~

29 ~~(f) Commission of any dishonest, corrupt, or fraudulent act~~
30 ~~substantially related to the qualifications, functions, or duties of a~~
31 ~~licensee.~~

32 ~~(g) Denial of licensure, revocation, suspension, restriction, or~~
33 ~~any other disciplinary action imposed by another state or territory~~
34 ~~or possession of the United States or by any other governmental~~
35 ~~agency, on a license, certificate, or registration to practice~~
36 ~~educational psychology or any other healing art. A certified copy~~
37 ~~of the disciplinary action, decision, or judgment shall be conclusive~~
38 ~~evidence of that action.~~

39 ~~(h) Revocation, suspension, or restriction by the board of a~~
40 ~~license, certificate, or registration to practice as an educational~~

- 1 psychologist, a clinical social worker, professional clinical
2 counselor, or marriage and family therapist.
- 3 (i) Failure to keep records consistent with sound clinical
4 judgment, the standards of the profession, and the nature of the
5 services being rendered.
- 6 (j) Gross negligence or incompetence in the practice of
7 educational psychology.
- 8 (k) Misrepresentation as to the type or status of a license held
9 by the licensee or otherwise misrepresenting or permitting
10 misrepresentation of his or her education, professional
11 qualifications, or professional affiliations to any person or entity.
- 12 (l) Intentionally or recklessly causing physical or emotional
13 harm to any client.
- 14 (m) Engaging in sexual relations with a client or a former client
15 within two years following termination of professional services,
16 soliciting sexual relations with a client, or committing an act of
17 sexual abuse or sexual misconduct with a client or committing an
18 act punishable as a sexually related crime, if that act or solicitation
19 is substantially related to the qualifications, functions, or duties of
20 a licensed educational psychologist.
- 21 (n) Prior to the commencement of treatment, failing to disclose
22 to the client or prospective client the fee to be charged for the
23 professional services or the basis upon which that fee will be
24 computed.
- 25 (o) Paying, accepting, or soliciting any consideration,
26 compensation, or remuneration, whether monetary or otherwise,
27 for the referral of professional clients.
- 28 (p) Failing to maintain confidentiality, except as otherwise
29 required or permitted by law, of all information that has been
30 received from a client in confidence during the course of treatment
31 and all information about the client that is obtained from tests or
32 other means.
- 33 (q) Performing, holding himself or herself out as being able to
34 perform, or offering to perform any professional services beyond
35 the scope of the license authorized by this chapter or beyond his
36 or her field or fields of competence as established by his or her
37 education, training, or experience.
- 38 (r) Reproducing or describing in public, or in any publication
39 subject to general public distribution, any psychological test or
40 other assessment device the value of which depends in whole or

1 in part on the naivete of the subject in ways that might invalidate
2 the test or device. An educational psychologist shall limit access
3 to the test or device to persons with professional interests who can
4 be expected to safeguard its use.

5 (s) Aiding or abetting an unlicensed person to engage in conduct
6 requiring a license under this chapter.

7 (t) ~~When employed by another person or agency, encouraging,~~
8 ~~either orally or in writing, the employer's or agency's clientele to~~
9 ~~utilize his or her private practice for further counseling without~~
10 ~~the approval of the employing agency or administration.~~

11 (u) ~~Failing to comply with the child abuse reporting~~
12 ~~requirements of Section 11166 of the Penal Code.~~

13 (v) ~~Failing to comply with the elder and adult dependent abuse~~
14 ~~reporting requirements of Section 15630 of the Welfare and~~
15 ~~Institutions Code.~~

16 (w) ~~Willful violation of Chapter 1 (commencing with Section~~
17 ~~123100) of Part 1 of Division 106 of the Health and Safety Code.~~

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

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

34 (y) ~~Engaging in any conduct that subverts or attempts to subvert~~
35 ~~any licensing examination or the administration of the examination~~
36 ~~as described in Section 123.~~

37 (z) ~~Impersonation of another by any licensee or applicant for a~~
38 ~~license, or, in the case of a licensee, allowing any other person to~~
39 ~~use his or her license.~~

1 ~~(aa) Permitting a person under his or her supervision or control~~
2 ~~to perform, or permitting that person to hold himself or herself out~~
3 ~~as competent to perform, professional services beyond the level~~
4 ~~of education, training, or experience of that person.~~

5 ~~SEC. 6. Section 4992.3 of the Business and Professions Code~~
6 ~~is amended to read:~~

7 ~~4992.3. The board may deny a license or a registration, or may~~
8 ~~suspend or revoke the license or registration of a licensee or~~
9 ~~registrant if he or she has been guilty of unprofessional conduct.~~
10 ~~Unprofessional conduct includes, but is not limited to, the~~
11 ~~following:~~

12 ~~(a) The conviction of a crime substantially related to the~~
13 ~~qualifications, functions, or duties of a licensee or registrant under~~
14 ~~this chapter. The record of conviction shall be conclusive evidence~~
15 ~~only of the fact that the conviction occurred. The board may inquire~~
16 ~~into the circumstances surrounding the commission of the crime~~
17 ~~in order to fix the degree of discipline or to determine if the~~
18 ~~conviction is substantially related to the qualifications, functions,~~
19 ~~or duties of a licensee or registrant under this chapter. A plea or~~
20 ~~verdict of guilty or a conviction following a plea of nolo contendere~~
21 ~~made to a charge substantially related to the qualifications,~~
22 ~~functions, or duties of a licensee or registrant under this chapter~~
23 ~~is a conviction within the meaning of this section. The board may~~
24 ~~order any license or registration suspended or revoked, or may~~
25 ~~decline to issue a license or registration when the time for appeal~~
26 ~~has elapsed, or the judgment of conviction has been affirmed on~~
27 ~~appeal, or, when an order granting probation is made suspending~~
28 ~~the imposition of sentence, irrespective of a subsequent order under~~
29 ~~Section 1203.4 of the Penal Code allowing the person to withdraw~~
30 ~~a plea of guilty and enter a plea of not guilty, or setting aside the~~
31 ~~verdict of guilty, or dismissing the accusation, information, or~~
32 ~~indictment.~~

33 ~~(b) Securing a license or registration by fraud, deceit, or~~
34 ~~misrepresentation on any application for licensure or registration~~
35 ~~submitted to the board, whether engaged in by an applicant for a~~
36 ~~license or registration, or by a licensee in support of any application~~
37 ~~for licensure or registration.~~

38 ~~(c) Administering to himself or herself any controlled substance~~
39 ~~or using any of the dangerous drugs specified in Section 4022 or~~
40 ~~any alcoholic beverage to the extent, or in a manner, as to be~~

1 dangerous or injurious to the person applying for a registration or
2 license or holding a registration or license under this chapter, or
3 to any other person, or to the public, or, to the extent that the use
4 impairs the ability of the person applying for or holding a
5 registration or license to conduct with safety to the public the
6 practice authorized by the registration or license. The board shall
7 deny an application for a registration or license or revoke the
8 license or registration of any person who uses or offers to use drugs
9 in the course of performing clinical social work. This provision
10 does not apply to any person also licensed as a physician and
11 surgeon under Chapter 5 (commencing with Section 2000) or the
12 Osteopathic Act who lawfully prescribes drugs to a patient under
13 his or her care.

14 (d) Incompetence in the performance of clinical social work.

15 (e) An act or omission that falls sufficiently below the standard
16 of conduct of the profession as to constitute an act of gross
17 negligence.

18 (f) Violating, attempting to violate, or conspiring to violate this
19 chapter or any regulation adopted by the board.

20 (g) Misrepresentation as to the type or status of a license or
21 registration held by the person, or otherwise misrepresenting or
22 permitting misrepresentation of his or her education, professional
23 qualifications, or professional affiliations to any person or entity.
24 For purposes of this subdivision, this misrepresentation includes,
25 but is not limited to, misrepresentation of the person's
26 qualifications as an adoption service provider pursuant to Section
27 8502 of the Family Code.

28 (h) Impersonation of another by any licensee, registrant, or
29 applicant for a license or registration, or, in the case of a licensee,
30 allowing any other person to use his or her license or registration.

31 (i) Aiding or abetting any unlicensed or unregistered person to
32 engage in conduct for which a license or registration is required
33 under this chapter.

34 (j) Intentionally or recklessly causing physical or emotional
35 harm to any client.

36 (k) The commission of any dishonest, corrupt, or fraudulent act
37 substantially related to the qualifications, functions, or duties of a
38 licensee or registrant.

39 (l) Engaging in sexual relations with a client or with a former
40 client within two years from the termination date of therapy with

1 the client, soliciting sexual relations with a client, or committing
2 an act of sexual abuse, or sexual misconduct with a client, or
3 committing an act punishable as a sexually related crime, if that
4 act or solicitation is substantially related to the qualifications,
5 functions, or duties of a clinical social worker.

6 ~~(m) Performing, or holding one's self out as being able to~~
7 ~~perform, or offering to perform or permitting, any registered~~
8 ~~associate clinical social worker or intern under supervision to~~
9 ~~perform any professional services beyond the scope of one's~~
10 ~~competence, as established by one's education, training, or~~
11 ~~experience. This subdivision shall not be construed to expand the~~
12 ~~scope of the license authorized by this chapter.~~

13 ~~(n) Failure to maintain confidentiality, except as otherwise~~
14 ~~required or permitted by law, of all information that has been~~
15 ~~received from a client in confidence during the course of treatment~~
16 ~~and all information about the client that is obtained from tests or~~
17 ~~other means.~~

18 ~~(o) Prior to the commencement of treatment, failing to disclose~~
19 ~~to the client or prospective client the fee to be charged for the~~
20 ~~professional services, or the basis upon which that fee will be~~
21 ~~computed.~~

22 ~~(p) Paying, accepting, or soliciting any consideration,~~
23 ~~compensation, or remuneration, whether monetary or otherwise,~~
24 ~~for the referral of professional clients. All consideration,~~
25 ~~compensation, or remuneration shall be in relation to professional~~
26 ~~counseling services actually provided by the licensee. Nothing in~~
27 ~~this subdivision shall prevent collaboration among two or more~~
28 ~~licensees in a case or cases. However, no fee shall be charged for~~
29 ~~that collaboration, except when disclosure of the fee has been made~~
30 ~~in compliance with subdivision (o).~~

31 ~~(q) Advertising in a manner that is false, fraudulent, misleading,~~
32 ~~or deceptive, as defined in Section 651.~~

33 ~~(r) Reproduction or description in public, or in any publication~~
34 ~~subject to general public distribution, of any psychological test or~~
35 ~~other assessment device, the value of which depends in whole or~~
36 ~~in part on the naivete of the subject, in ways that might invalidate~~
37 ~~the test or device. A licensee shall limit access to that test or device~~
38 ~~to persons with professional interest who are expected to safeguard~~
39 ~~its use.~~

1 ~~(s) Any conduct in the supervision of any registered associate~~
2 ~~clinical social worker, intern, or trainee by any licensee that violates~~
3 ~~this chapter or any rules or regulations adopted by the board.~~

4 ~~(t) Failure to keep records consistent with sound clinical~~
5 ~~judgment, the standards of the profession, and the nature of the~~
6 ~~services being rendered.~~

7 ~~(u) Failure to comply with the child abuse reporting~~
8 ~~requirements of Section 11166 of the Penal Code.~~

9 ~~(v) Failure to comply with the elder and dependent adult abuse~~
10 ~~reporting requirements of Section 15630 of the Welfare and~~
11 ~~Institutions Code.~~

12 ~~(w) Willful violation of Chapter 1 (commencing with Section~~
13 ~~123100) of Part 1 of Division 106 of the Health and Safety Code.~~

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

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

30 ~~(y) Engaging in any conduct that subverts or attempts to subvert~~
31 ~~any licensing examination or the administration of the examination~~
32 ~~as described in Section 123.~~

33 ~~SEC. 7. Section 4996 of the Business and Professions Code is~~
34 ~~amended to read:~~

35 ~~4996. (a) Only individuals who have received a license under~~
36 ~~this article may style themselves as “Licensed Clinical Social~~
37 ~~Workers.” Every individual who styles himself or herself or who~~
38 ~~holds himself or herself out to be a licensed clinical social worker,~~
39 ~~or who uses any words or symbols indicating or tending to indicate~~
40 ~~that he or she is a licensed clinical social worker, without holding~~

1 his or her license in good standing under this article, is guilty of a
2 misdemeanor.

3 (b) It is unlawful for any person to engage in the practice of
4 clinical social work unless at the time of so doing that person holds
5 a valid, unexpired, and unrevoked license under this article.

6 (c) ~~A clinical social worker licensed under this chapter is a~~
7 ~~licentiate for purposes of paragraph (2) of subdivision (a) of Section~~
8 ~~805, and thus is a health care practitioner subject to the provisions~~
9 ~~of Section 2290.5.~~

10 SEC. 8. ~~Section 4999.90 of the Business and Professions Code~~
11 ~~is amended to read:~~

12 ~~4999.90. The board may refuse to issue any registration or~~
13 ~~license, or may suspend or revoke the registration or license of~~
14 ~~any intern or licensed professional clinical counselor, if the~~
15 ~~applicant, licensee, or registrant has been guilty of unprofessional~~
16 ~~conduct. Unprofessional conduct includes, but is not limited to,~~
17 ~~the following:~~

18 (a) ~~The conviction of a crime substantially related to the~~
19 ~~qualifications, functions, or duties of a licensee or registrant under~~
20 ~~this chapter. The record of conviction shall be conclusive evidence~~
21 ~~only of the fact that the conviction occurred. The board may inquire~~
22 ~~into the circumstances surrounding the commission of the crime~~
23 ~~in order to fix the degree of discipline or to determine if the~~
24 ~~conviction is substantially related to the qualifications, functions,~~
25 ~~or duties of a licensee or registrant under this chapter. A plea or~~
26 ~~verdict of guilty or a conviction following a plea of nolo contendere~~
27 ~~made to a charge substantially related to the qualifications,~~
28 ~~functions, or duties of a licensee or registrant under this chapter~~
29 ~~shall be deemed to be a conviction within the meaning of this~~
30 ~~section. The board may order any license or registration suspended~~
31 ~~or revoked, or may decline to issue a license or registration when~~
32 ~~the time for appeal has elapsed, or the judgment of conviction has~~
33 ~~been affirmed on appeal, or, when an order granting probation is~~
34 ~~made suspending the imposition of sentence, irrespective of a~~
35 ~~subsequent order under Section 1203.4 of the Penal Code allowing~~
36 ~~the person to withdraw a plea of guilty and enter a plea of not~~
37 ~~guilty, or setting aside the verdict of guilty, or dismissing the~~
38 ~~accusation, information, or indictment.~~

39 (b) ~~Securing a license or registration by fraud, deceit, or~~
40 ~~misrepresentation on any application for licensure or registration~~

1 submitted to the board, whether engaged in by an applicant for a
2 license or registration, or by a licensee in support of any application
3 for licensure or registration.

4 ~~(e) Administering to himself or herself any controlled substance
5 or using any of the dangerous drugs specified in Section 4022, or
6 any alcoholic beverage to the extent, or in a manner, as to be
7 dangerous or injurious to the person applying for a registration or
8 license or holding a registration or license under this chapter, or
9 to any other person, or to the public, or, to the extent that the use
10 impairs the ability of the person applying for or holding a
11 registration or license to conduct with safety to the public the
12 practice authorized by the registration or license. The board shall
13 deny an application for a registration or license or revoke the
14 license or registration of any person, other than one who is licensed
15 as a physician and surgeon, who uses or offers to use drugs in the
16 course of performing licensed professional clinical counseling
17 services.~~

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

20 ~~(e) Violating, attempting to violate, or conspiring to violate any
21 of the provisions of this chapter or any regulation adopted by the
22 board.~~

23 ~~(f) Misrepresentation as to the type or status of a license or
24 registration held by the person, or otherwise misrepresenting or
25 permitting misrepresentation of his or her education, professional
26 qualifications, or professional affiliations to any person or entity.~~

27 ~~(g) Impersonation of another by any licensee, registrant, or
28 applicant for a license or registration, or, in the case of a licensee
29 or registrant, allowing any other person to use his or her license
30 or registration.~~

31 ~~(h) Aiding or abetting, or employing, directly or indirectly, any
32 unlicensed or unregistered person to engage in conduct for which
33 a license or registration is required under this chapter.~~

34 ~~(i) Intentionally or recklessly causing physical or emotional
35 harm to any client.~~

36 ~~(j) The commission of any dishonest, corrupt, or fraudulent act
37 substantially related to the qualifications, functions, or duties of a
38 licensee or registrant.~~

39 ~~(k) Engaging in sexual relations with a client, or a former client
40 within two years following termination of therapy, soliciting sexual~~

1 ~~relations with a client, or committing an act of sexual abuse, or~~
2 ~~sexual misconduct with a client, or committing an act punishable~~
3 ~~as a sexually related crime, if that act or solicitation is substantially~~
4 ~~related to the qualifications, functions, or duties of a licensed~~
5 ~~professional clinical counselor.~~

6 ~~(l) Performing, or holding oneself out as being able to perform,~~
7 ~~or offering to perform, or permitting any trainee, applicant, or~~
8 ~~registrant under supervision to perform, any professional services~~
9 ~~beyond the scope of the license authorized by this chapter.~~

10 ~~(m) Failure to maintain confidentiality, except as otherwise~~
11 ~~required or permitted by law, of all information that has been~~
12 ~~received from a client in confidence during the course of treatment~~
13 ~~and all information about the client which is obtained from tests~~
14 ~~or other means.~~

15 ~~(n) Prior to the commencement of treatment, failing to disclose~~
16 ~~to the client or prospective client the fee to be charged for the~~
17 ~~professional services, or the basis upon which that fee will be~~
18 ~~computed.~~

19 ~~(o) Paying, accepting, or soliciting any consideration,~~
20 ~~compensation, or remuneration, whether monetary or otherwise,~~
21 ~~for the referral of professional clients. All consideration,~~
22 ~~compensation, or remuneration shall be in relation to professional~~
23 ~~clinical counseling services actually provided by the licensee.~~
24 ~~Nothing in this subdivision shall prevent collaboration among two~~
25 ~~or more licensees in a case or cases. However, no fee shall be~~
26 ~~charged for that collaboration, except when disclosure of the fee~~
27 ~~has been made in compliance with subdivision (n).~~

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

30 ~~(q) Reproduction or description in public, or in any publication~~
31 ~~subject to general public distribution, of any psychological test or~~
32 ~~other assessment device, the value of which depends in whole or~~
33 ~~in part on the naivete of the subject, in ways that might invalidate~~
34 ~~the test or device.~~

35 ~~(r) Any conduct in the supervision of a registered intern,~~
36 ~~associate clinical social worker, or clinical counselor trainee by~~
37 ~~any licensee that violates this chapter or any rules or regulations~~
38 ~~adopted by the board.~~

39 ~~(s) Performing or holding oneself out as being able to perform~~
40 ~~professional services beyond the scope of one's competence, as~~

1 established by one's education, training, or experience. This
2 subdivision shall not be construed to expand the scope of the
3 license authorized by this chapter.

4 (t) ~~Permitting a clinical counselor trainee or intern under one's~~
5 ~~supervision or control to perform, or permitting the clinical~~
6 ~~counselor trainee or intern to hold himself or herself out as~~
7 ~~competent to perform, professional services beyond the clinical~~
8 ~~counselor trainee's or intern's level of education, training, or~~
9 ~~experience.~~

10 (u) ~~The violation of any statute or regulation of the standards~~
11 ~~of the profession, and the nature of the services being rendered,~~
12 ~~governing the gaining and supervision of experience required by~~
13 ~~this chapter.~~

14 (v) ~~Failure to keep records consistent with sound clinical~~
15 ~~judgment, the standards of the profession, and the nature of the~~
16 ~~services being rendered.~~

17 (w) ~~Failure to comply with the child abuse reporting~~
18 ~~requirements of Section 11166 of the Penal Code.~~

19 (x) ~~Failing to comply with the elder and dependent adult abuse~~
20 ~~reporting requirements of Section 15630 of the Welfare and~~
21 ~~Institutions Code.~~

22 (y) ~~Repeated acts of negligence.~~

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

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

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

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

8 ~~(ac) Willful violation of Chapter 1 (commencing with Section~~
9 ~~123100) of Part 1 of Division 106 of the Health and Safety Code.~~

10 ~~SEC. 9.~~

11 ~~SEC. 2.~~ This act is an urgency statute necessary for the
12 ~~immediate preservation of the public peace, health, or safety within~~
13 ~~the meaning of Article IV of the Constitution and shall go into~~
14 ~~immediate effect. The facts constituting the necessity are:~~

15 ~~In order to protect the health and safety of the public due to a~~
16 ~~lack of access to health care providers in rural and urban medically~~
17 ~~underserved areas of California, the increasing strain on existing~~
18 ~~providers expected to occur with the implementation of the federal~~
19 ~~Patient Protection and Affordable Care Act, and the assistance that~~
20 ~~further implementation of telehealth can provide to help relieve~~
21 ~~these burdens, it is necessary for this act to take effect immediately.~~

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 243

VERSION: AMENDED APRIL 29, 2013

AUTHOR: WYLAND

SPONSOR: CALIFORNIA ASSOCIATION FOR
LICENSED PROFESSIONAL CLINICAL
COUNSELORS (CALPCC)

RECOMMENDED POSITION: NONE

SUBJECT: PROFESSIONAL CLINICAL COUNSELORS

Existing Law:

- 1) Designates the Board of Behavioral Sciences as the licensing and regulatory entity for professional clinical counselors. (Business and Professions Code (BPC) Chapter 16)
- 2) States that in order to assess or treat couples or families, a professional clinical counselor must complete all of the following additional training and education, beyond the minimum training and education required for licensure: (BPC §4999.20(a)(3))
 - Six semester or nine quarter units specifically focused on the theory and application of marriage and family therapy, OR a named specialization or emphasis area on the qualifying degree in marriage and family therapy; and
 - No less than 500 hours of documented supervised experience working directly with couples, families, or children; and
 - A minimum of six hours of continuing education specific to marriage and family therapy, completed in each license renewal cycle.

This Bill:

- 1) Amends the requirements for an LPCC who opts to treat couples and families so that the required training and education in order to do this does not need to be in addition to the minimum training and education required for licensure. (BPC §4999.20(a)(3))

Comments:

- 1) **Author's Intent.** Under current law, if an LPCC wants to be able to treat couples and families, he or she must complete additional training and coursework with a marriage and family therapy emphasis. As the law is written now, this coursework must be in addition to the degree requirements for licensure, and the supervised hours must be above and beyond the 3,000 supervised hours required for licensure.

The author believes this was an unintended consequence of the LPCC licensing law. Although the law says the education and experience must be in addition to, and not part of, what is required for licensure, this was not the intent when the law was drafted. The intent was that this training and coursework may be taken as part of the education and experience

required for a license. However, unless the law is changed, the Board must follow the law as written.

- 2) Additional Amendment.** Staff has provided technical assistance to CALPCC in drafting this bill. Staff has requested one additional amendment, which CALPCC has agreed to include. It is as follows:

BPC §4999.46 (b)(2) (Related to the supervised experience requirements in order to qualify for the LPCC license exam)

Not less than 1,750 hours of direct counseling with ~~individuals or groups~~ individuals, groups, couples, or families 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.

Staff believes this amendment is necessary in order to allow couples and family experience hours to be counted as part of the 1,750 required hours of direct counseling.

3) Support and Opposition.

Support:

- California Association for Licensed Professional Clinical Counselors (CALPCC)
- American Association for Marriage and Family Therapy – California Division (AAMFT-CA)
- California Association of Marriage and Family Therapists (CAMFT)

Oppose:

- None on file.

4) History

2013

- May 6 From committee: Do pass as amended. (Ayes 9. Noes 0.) (May 6).
May 3 Set for hearing May 6.
May 2 Re-referred to Com. on B., P. & E.D.
Apr. 29 From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
Feb. 21 Referred to Com. on RLS.
Feb. 13 From printer. May be acted upon on or after March 15.
Feb. 12 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE APRIL 29, 2013

SENATE BILL

No. 243

Introduced by Senator Wyland

February 12, 2013

An act to amend Section ~~17070.15 of the Education Code, 4999.20 of the Business and Professions Code~~, relating to ~~school facilities~~.
healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 243, as amended, Wyland. ~~School facilities~~. *Professional clinical counselors.*

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 provides that professional clinical counseling does not include the assessment or treatment of couples or families unless the clinical counselor has completed specified training and education in addition to the minimum training and education required for licensure.

This bill would instead provide that professional clinical counseling does not include the assessment or treatment of couples or families unless the clinical counselor has completed specified training and education.

~~Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, and defines various terms for purposes of those provisions.~~

~~This bill would make a nonsubstantive change to this provision.~~

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

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

1 SECTION 1. Section 4999.20 of the Business and Professions

2 Code is amended to read:

3 4999.20. (a) (1) “Professional clinical counseling” means the
 4 application of counseling interventions and psychotherapeutic
 5 techniques to identify and remediate cognitive, mental, and
 6 emotional issues, including personal growth, adjustment to
 7 disability, crisis intervention, and psychosocial and environmental
 8 problems. “Professional clinical counseling” includes conducting
 9 assessments for the purpose of establishing counseling goals and
 10 objectives to empower individuals to deal adequately with life
 11 situations, reduce stress, experience growth, change behavior, and
 12 make well-informed, rational decisions.

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

19 (3) “Professional clinical counseling” does not include the
 20 assessment or treatment of couples or families unless the
 21 professional clinical counselor has completed all of the following
 22 ~~additional training and education, beyond the minimum training~~
 23 ~~and education required for licensure:~~ *education:*

24 (A) One of the following:

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

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

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

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

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

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

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

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

28 ~~SECTION 1. Section 17070.15 of the Education Code is~~
29 ~~amended to read:~~

30 ~~17070.15. The following terms, wherever used or referred to~~
31 ~~in this chapter, shall have the following meanings, respectively,~~
32 ~~unless a different meaning is apparent from the context:~~

33 (a) ~~“Apportionment” means a reservation of funds for the~~
34 ~~purpose of eligible new construction, modernization, or hardship~~
35 ~~approved by the board for an applicant school district.~~

36 (b) ~~“Attendance area” means the geographical area serving an~~
37 ~~existing high school and those junior high schools and elementary~~
38 ~~schools included therein.~~

39 (c) ~~“Board” means the State Allocation Board as established by~~
40 ~~Section 15490 of the Government Code.~~

- 1 (d) ~~“Committee” means the State School Building Finance~~
2 ~~Committee established pursuant to Section 15909.~~
- 3 (e) ~~“County fund” means a county school facilities fund~~
4 ~~established pursuant to Section 17070.43.~~
- 5 (f) ~~“Department” means the Department of General Services.~~
- 6 (g) ~~“Fund” means the applicable 1998 State School Facilities~~
7 ~~Fund, the 2002 State School Facilities Fund, or the 2004 State~~
8 ~~School Facilities Fund, established pursuant to Section 17070.40.~~
- 9 (h) ~~“Good repair” has the same meaning as specified in~~
10 ~~subdivision (d) of Section 17002.~~
- 11 (i) ~~“Modernization” means any modification of a permanent~~
12 ~~structure that is at least 25 years old, or in the case of a portable~~
13 ~~classroom, that is at least 20 years old, that will enhance the ability~~
14 ~~of the structure to achieve educational purposes.~~
- 15 (j) ~~“Portable classroom” means a classroom building of one or~~
16 ~~more stories that is designed and constructed to be relocatable and~~
17 ~~transportable over public streets, and with respect to a single story~~
18 ~~portable classroom, is designed and constructed for relocation~~
19 ~~without the separation of the roof or floor from the building and~~
20 ~~when measured at the most exterior walls, has a floor area not in~~
21 ~~excess of 2,000 square feet.~~
- 22 (k) ~~“Property” includes all property, real, personal or mixed,~~
23 ~~tangible or intangible, or any interest therein necessary or desirable~~
24 ~~for carrying out the purposes of this chapter.~~
- 25 (l) ~~“School building capacity” means the capacity of a school~~
26 ~~building to house pupils.~~
- 27 (m) ~~“School district” means a school district or a county office~~
28 ~~of education. For purposes of determining eligibility under this~~
29 ~~chapter, “school district” may also mean a high school attendance~~
30 ~~area.~~

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Sacramento, CA 95834
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www.bbs.ca.gov

To: Board Members

Date: May 10, 2013

From: Christina Kitamura
Board of Behavioral Sciences

Telephone: (916) 574-7830

Subject: Revision to the Board's Continuing Education Program

A memo for this item will be provided at the Board meeting.

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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 JANUARY 1, 2015

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 JANUARY 1, 2015

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 the effective date of the license to the 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 INOPERATIVE JANUARY 1, 2015

- (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.

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 JANUARY 1, 2015

- (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.
- (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 JANUARY 1, 2015

(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 JANUARY 1, 2015

- (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 JANUARY 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) Marriage and family therapists and clinical social workers 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 for approval 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 for approval 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.
- (j) 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.
- (j) A licensee who participates in a professional organization's law and ethics review committee may be awarded up to six hours of continuing education every renewal cycle. The continuing education earned by participating in a professional organization's law ethics review committee 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
JANUARY 1, 2015**

- (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
JANUARY 1, 2015**

- 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 practice.
- (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 JANUARY 1, 2015

(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) The entity 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 policies 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 RESPONSIBILITIES; OPERATIVE JANUARY 1, 2015

(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 JANUARY 1, 2015

(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 JANUARY 1, 2015

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 JANUARY 1, 2014

- (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 JANUARY 1, 2015

- (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 JANUARY 1, 2015

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 JANUARY 1, 2015

- (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 JANUARY 1, 2015

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 JANUARY 1, 2015

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 JANUARY 1, 2015

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 JANUARY 1, 2015

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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www.bbs.ca.gov

To: Board Members

Date: May 1, 2013

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: 90 Day Rule Research

Under current law, an applicant for marriage and family therapy (MFT) or professional clinical counselor (PCC) intern registration must apply for intern registration within 90 days of the granting of his or her qualifying degree in order to be able to count supervised experience hours gained toward licensure while he or she is waiting for the Board to grant registration as an intern. This is referred to as "the 90-day rule."

There were concerns that the 90-day rule allows an applicant to practice unlicensed and outside of Board jurisdiction while temporarily bypassing the Board's enforcement process.

Under the 90-day rule, an applicant who has a previous conviction can submit an application for intern registration within 90 days of the degree being granted. They then have up to one year to submit their conviction records, considered a deficiency, to the Board for review. Although most submit the information quickly, an applicant with a serious conviction will occasionally try to delay, taking their one-year period to submit the requested information.

If a consumer or the supervisor were to file a complaint against such a practitioner during this time, the Board would have no jurisdiction to investigate the complaint and take action, as they are not yet a registered intern.

Based upon these concerns, in 2011 the Board directed staff to seek a legislative change to the current law. Board staff approached several legislative offices about authoring the 90-day proposal. Several offices expressed interest in this proposal, but also express the same concern expressed by Board stakeholders. Specifically, the lack of statistics to demonstrate how often an applicant who follows the 90-day rule and is gaining hours is referred to the Board's enforcement unit and, upon further investigation, is denied the registration or issued a restricted registration.

During the May 2012 meeting, the Board directed staff to gather data for a period of one year to determine the extent of the problem of applicants with a criminal history abusing the 90-day rule. Board staff was directed to gather data on the following circumstances.

1. Number of applicants with a criminal conviction who, while gaining hours, wait until the end of their one-year deficiency period (defined as the last two months) to submit any information requested by the Board's enforcement unit.
2. Number of instances in which an applicant follows the 90-day rule and begins gaining hours, only to have their registration denied due to the findings of the enforcement unit.

3. Number of instances in which a denial of an application, due to enforcement unit findings, is appealed and the applicant subsequently is granted a registration with restrictions.
4. In cases where a registration was denied or restricted due to enforcement unit findings, the nature of the offenses that led to each particular denial or restriction should be tracked.

The one-year review period revealed the following information:

- None of the 179 applicants tracked waited the full year to submit any information requested by the Board's enforcement staff.
- Of the 10 applications denied, nearly all the applicants responded within 54 days. One applicant responded in 57 days, but submitted follow-up information bring this applicant's response total to 141 days.
- To date, none of the cases denied that were subsequently appealed have resulted in the issuance of a registration with restrictions. These cases are either pending at the AG's office or the Board is waiting for a response from the applicant following the issuance of the denial letter.
- The nature of the offense that led to denial of the application is as follows: Driving under the Influence (6 cases), Theft/Sale of Narcotics (1 case), Transport Drugs (1 case), Disorderly Conduct (1 case), and Embezzlement (1 case).

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To: Board Members

Date: May 6, 2013

From: Steve Sodergren
Assistant Executive Officer

Telephone: (916) 574-7847

Subject: Discussion and Possible Action Regarding Revising the Board's 2010 Strategic Plan

The Board is beginning the process of developing a strategic plan that will assist in successfully guiding and managing efforts and resources in the years ahead. Since the last strategic plan was adopted in December 2010 (Attachment A) there have been several changes to the internal and external influences that impact the Board. To ensure that the planning process is coordinated efficiently and effectively, the Board will be collaborating with the Department's SOLID Planning Solutions staff.

The strategic planning process will span from May to December and will include input from Board staff, members, and outside stakeholders. After the final strategic plan is adopted, SOLID will assist Board staff in developing action plans to achieve the goals and objectives identified in the plan. It is the hopes of the executive management that this effort and the resulting plan will be the framework that will ensure the Board is successful in our mission: protect Californians by promoting consumer awareness, advocating for improved mental health services, and setting, communicating, and enforcing standards.

SOLID has provided the Board with a Strategic Planning Roadmap (Attachment B) that defines major activities in the planning process. Below is a list of the specific proposed strategic planning activities that will occur this year:

MAY	SOLID will facilitate a 3-4 hour meeting with chosen members of the Board's staff to discuss internal and external program threats and opportunities as well as gather views on the Board's strategic focus for the upcoming years.
JUNE	SOLID will schedule and conduct interviews with Board members. These interviews will take approximately 45 minutes to 1 hour in length and will cover the climate of the industry as well as their view on the Board's strategic focus for the upcoming years.
	SOLID will create an online survey to be sent to external stakeholders that the Board identifies as being able to provide valuable input on the strategic direction of the Board.
JULY	SOLID will compile and analyze the data and produce a draft document of trends and recurring themes.
AUGUST	SOLID will conduct a strategic plan development session at the Board meeting. At this meeting the Board will determine the strategic direction for the upcoming years.
SEPTEMBER	SOLID will create a draft copy of the Board's 2014-2017 strategic plan.
OCTOBER	The Board staff will work with SOLID to finalize the strategic plan document.
NOVEMBER	The finalized strategic plan will be presented to the Board for adoption at the Board meeting.

DECEMBER	SOLID will facilitate a 6-hour meeting with Board managers and staff to create an action plan for the completion of the strategic objectives by establishing due date, identifying major tasks, and assigning responsible parties.
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Attachments

- A. California Board of Behavioral Sciences Strategic Plan (December 2010)
- B. SOLID Strategic Planning Roadmap

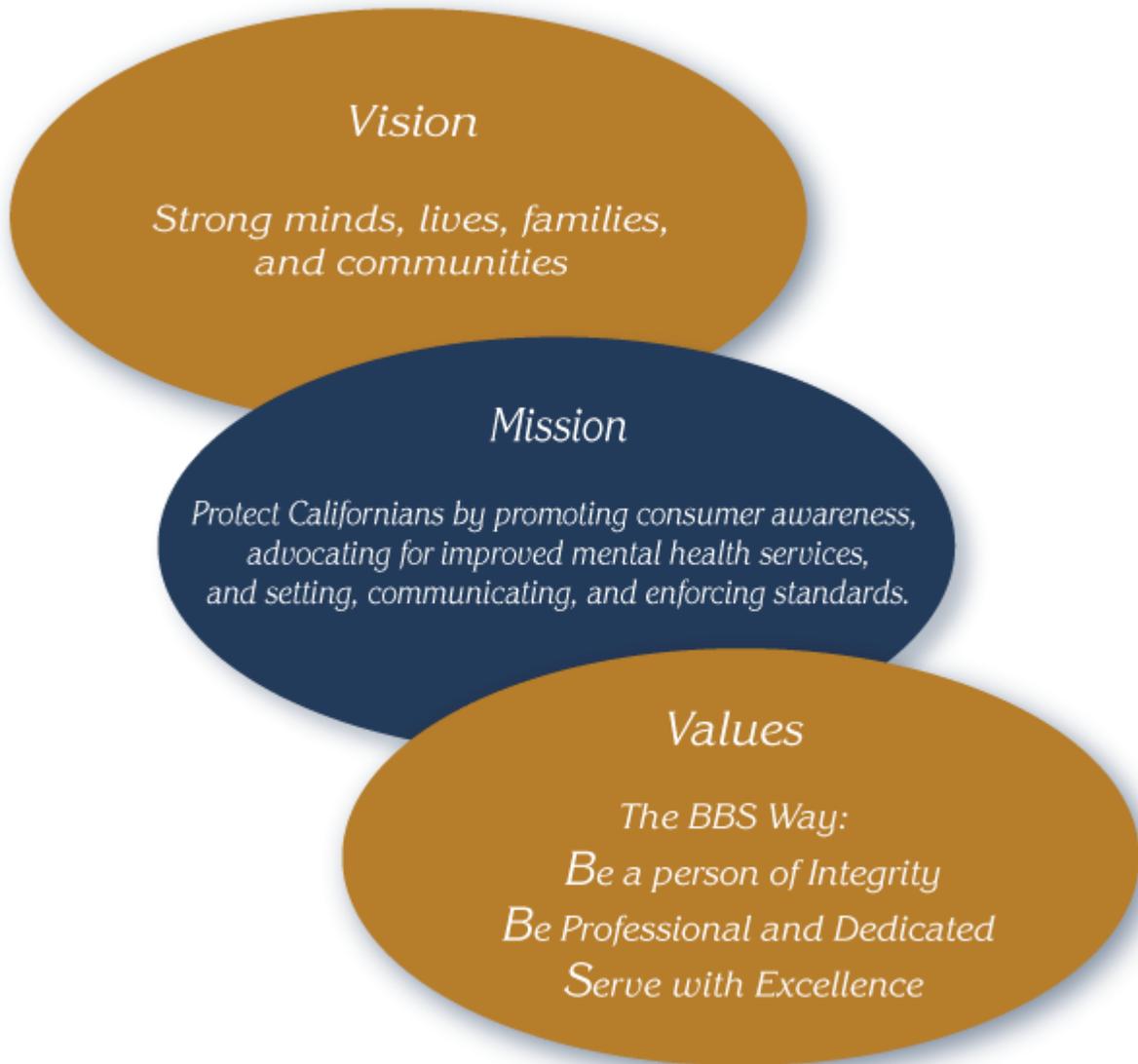
*CALIFORNIA STATE
BOARD OF BEHAVIORAL
SCIENCES*

Strategic Plan



*Strong minds, lives, families
and communities*

December 2010



Integrity - Doing the right thing makes us proud of the end result.
Professionalism – Applying our knowledge, skill, and ability.
Dedication – Committed to providing quality service.
Service – The quality way the Board meets the needs of the public.
Excellence – Striving to achieve at the highest level.

GOAL 1: Be a Model State Licensing and Regulatory Board

Objective 1: Deliver the Highest Level of Service

Performance Measure: Increased Successful Service Rating and Overall Consumer Satisfaction

1.1 Increase the Board's successful service rating from 72.5% to 80% by June 30, 2012.

- Review DCA the Seven Cs of Customer Service Policy with all BBS Staff by March 1, 2010.
- Implement the DCA Seven Cs of Customer Service Policy standards for email and telephone communications by March 1, 2010.
- Continue review of stakeholder comments received through the website for opportunities to improve service, identify issues that adversely impact successful service, and initiate action or change to correct any issues within the Board's direct control.

1.2 Conduct at least 24 outreach events per fiscal year with 5% specific to consumer education and awareness by July 1, 2012.

- Annually, identify 3 consumer outreach events throughout California to attend.
- Develop materials and publications to promote the existence of BBS and its services for consumers.
- Develop materials and publications to educate and aid consumers in the selection of a mental health provider.

1.3 Increase the Board appointee's effectiveness index 10% by July 1, 2012.

- Establish goals for board appointee effectiveness by August 2010.
- Establish mechanism to measure board appointee effectiveness by August 2010.
- Conduct first assessment of goals and determine baseline index by December 2010.

Goal 2: Establish and Maintain Model Standards for Professional Licensing and Examinations

Objective 2: Ensure that all applications meet registration, examination, and licensure qualifications. All notices to applicants, registrations, and licenses are issued accurately and promptly.

Performance Measure: Percentage of applications, notices, registrations, and licenses processed within established timelines.

2.1 Licensing

- Evaluate all Intern/Associate applications and issue a registration to registrants if the application is complete or notify the applicant of the deficiency within 15 days.
- Evaluate all LEP applications and issue a license if the application is complete or notify the applicant of the deficiency within 15 days.
- Evaluate all Continuing Education Provider applications and issue a provider approval number to the provider if the application is complete or notify the applicant of the deficiency within 15 days.
- Issue examination eligibility notices within 7 days once applicant completes all the requirements to take the examination.
- Issue all initial licenses within 2 days of receipt of completed application.

2.2 Cashiering

- Process all renewal applications within 7 days of receipt.
- Process all new applications within 3 days of receipt.

Goal 3: Ensure the Examination Process is Effective, Fair, and Legally Defensible.

Objective 3: Assess the examination process to determine if the timing, intervals, and content are appropriate.

Performance Measure: Implementation of board approved recommendations

- 3.1 Submit the Exam Program Review Committee's recommendations to the Board by January 2010.
- 3.2 Implement approved recommendations by 2012.
- 3.3 Propose and secure passage of legislation required to implement the Exam Program Review Committee's recommendations by 2012
- 3.4 Collaborate with Association of Social Work Board to consider the ASWB examination in the Board's work as it relates to licensure for clinical social work.
- 3.5 Collaborate with the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) to jointly perform the Occupational Analysis to be used for both the California MFT exam and national exam.
- 3.6 Develop strategies to increase the number of Subject Matter Experts utilized for exam development.

Goal 4: Increase Consumer Protection through Timely Investigations and Adjudication of Cases Referred for Disciplinary Action.

Objective 4: Timely resolution of consumer complaints and investigations.

Performance Measure: Number of investigations and completed disciplinary actions completed within established timelines.

- 4.1 Complete consumer complaints investigations within 180 days of receipt.
- 4.2 Upon receipt of conviction information complete criminal conviction investigations within 120 days.
- 4.3 Complete adjudication of cases referred for disciplinary action within 180 days of referral date.
- 4.4 Evaluate and assess all procedures to identify process improvements.

Goal 5: Promote Staff Development and Recognition

Objective 5: Develop an internal training and recognition program

Measure: Number of staff with training completion certificates

- 5.1 Establish BBS Way Certification Program and implement program for all staff to complete by July 1, 2012.
- 5.2 Establish a program that recognizes employee length of service, achievements, and contributions to the Board.
- 5.3 Establish a standard of training for each classification to be completed by each employee in that classification.
- 5.4 Promote enrollment in training classes that prepare employees for promotional and testing opportunities.

Strategic Development Roadmap



▶ Minimum development time: 3 months

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To: Board Members **Date:** May 1, 2013
From: Steve Sodergren **Telephone:** (916) 574-7847
Assistant Executive Officer
Subject: Discussion and Possible Action Regarding Practice in Exempt Settings

Background

Current licensing laws for Marriage and Family Therapists (MFT), Licensed Clinical Social Workers (LCSW) and Licensed Professional Clinical Counselors (LPCC) specify certain types of organizations, referred to here as “exempt settings,” whose employees are not required to have a license or a registration in order to perform clinical social work, marriage and family therapy or clinical counseling within the scope of their employment. The law also specifies certain types of professions, referred to here as “exempt professions”, which can perform counseling or work of a psychosocial nature consistent with the standards and ethics of their respective professions.

While the statutory language that defines the exempt setting/professions differs for each regulated Board license, the exempt settings/professions are the same. Under the current laws, any employee/volunteer would be considered exempt if their work was performed solely under the supervision of the employer within the following settings:

- A governmental entity
- A school, college, or university
- An institution that is both nonprofit and charitable

Any of the following persons would be exempt if they perform counseling services or work of a psychosocial nature as part of their professional duties or practice:

- Priests, rabbis, or ministers of the gospel on any religious denomination
- Any person admitted to practice law in the state
- Any person who is licensed to practice medicine

Board staff has recognized an increasing trend in individuals whom have been licensed with the Board as an intern or associate, or who have the necessary education and/or qualifications for licensure, that are opting to work within an exempt/profession instead of pursuing full licensure. Consumer complaints regarding services provided by an individual in an exempt setting are usually deemed non-jurisdictional because the oversight of individual’s practice is the responsibility of the employer and not the Board. Also, it has been difficult for Board staff to make a determination of unlicensed activity in complaints regarding individuals who claim to be practicing within an exempt profession.

Recommendation

Staff recommends that the Board conduct an open discussion as to whether Board staff should further research and analyze the issues regarding “exempt settings” and “exempt professions.”

Attachments

A. Relevant Statutes

**Attachment A
Relevant Code
Business & Professions Code**

MARRIAGE AND FAMILY THERAPISTS

Section 4980.01

(a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, the Licensed Professional Clinical Counselor Act, or the Psychology Licensing Act.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

(c) (1) This chapter shall not apply to an employee working in any of the following settings if his or her work is performed solely under the supervision of the employer:

(A) A governmental entity.

(B) A school, college, or university.

(C) An institution that is both nonprofit and charitable.

(2) This chapter shall not apply to a volunteer working in any of the settings described in paragraph (1) if his or her work is performed solely under the supervision of the entity, school, or institution.

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

(e) Notwithstanding subdivisions (b) and (c), all persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

LICENSED EDUCATIONAL PSYCHOLOGIST

Section 4989.16

(a) A person appropriately credentialed by the Commission on Teacher Credentialing may perform the functions authorized by that credential in a public school without a license issued under this chapter by the board.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Licensed Marriage and Family Therapist Practice Act (Chapter 13

(commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)).

LICENSED CLINICAL SOCIAL WORKERS

Section 4996.13

Nothing in this article shall prevent qualified members of other professional groups from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or that they shall not state or imply that they are licensed to practice clinical social work. These qualified members of other professional groups include, but are not limited to, the following:

- (a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000).
- (b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).
- (c) Members of the State Bar of California.
- (d) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980).
- (e) Licensed professional clinical counselors pursuant to Chapter 16 (commencing with Section 4999.10).
- (f) A priest, rabbi, or minister of the gospel of any religious denomination.

Section 4996.14

(a) This chapter shall not apply to an employee who is working in any of the following settings if his or her work is performed solely under the supervision of the employer:

- (1) A governmental entity.
- (2) A school, college, or university.
- (3) An institution that is both nonprofit and charitable.

(b) This chapter shall not apply to a volunteer who is working in any of the settings described in subdivision (a) if his or her work is performed solely under the supervision of the entity, school, college, university, or institution.

(c) This chapter shall not apply to a person using hypnotic techniques by referral from any of the following persons if his or her practice is performed solely under the supervision of the employer:

- (1) A person licensed to practice medicine.

(2) A person licensed to practice dentistry.

(3) A person licensed to practice psychology.

(d) This chapter shall not apply to a person using hypnotic techniques that offer vocational self-improvement, and the person is not performing therapy for emotional or mental disorders.

Section 4996.15

Nothing in this article shall restrict or prevent activities of a psychosocial nature on the part of persons employed by accredited academic institutions, public schools, government agencies, or nonprofit institutions engaged in the training of graduate students or social work interns pursuing the course of study leading to a master's degree in social work in an accredited college or university, or working in a recognized training program, provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by such titles as social work interns, social work trainees, or other titles clearly indicating the training status appropriate to their level of training. The term "social work intern," however, shall be reserved for persons enrolled in a master's or doctoral training program in social work in an accredited school or department of social work.

LICENSSED PROFESSIONAL CLINICAL COUNSELORS

Section 4999.22.

(a) Nothing in this chapter shall prevent qualified persons from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, these qualified persons shall not hold themselves out to the public by any title or description of services incorporating the words "licensed professional clinical counselor" and shall not state that they are licensed to practice professional clinical counseling, unless they are otherwise licensed to provide professional clinical counseling services.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Clinical Social Worker Practice Act, the Nursing Practice Act, the Psychology Licensing Law, or the Licensed Marriage and Family Therapist Act.

(c) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination who performs counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in this state, or who is licensed to practice medicine, who provides counseling services as part of his or her professional practice.

(d) This chapter shall not apply to an employee of a governmental entity or a school, college, or university, or of an institution both nonprofit and charitable, if his or her practice is performed solely under the supervision of the entity, school, college, university, or institution by which he or she is employed, and if he or she performs those functions as part of the position for which he or she is employed.

(e) All persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

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To: Board Members

Date: May 6, 2013

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Update: 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.

At the February 28, 2013 Board meeting, Ben Caldwell, PsyD, LMFT, professor at Alliant University, and member of the American Association for Marriage and Family Therapy – California Division (AAMFT-CA), gave a presentation on therapist mandated reporting of sexual activity of minors. He reported that 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, Mr. Caldwell believes that the law may not treat other types of sexual activity, including oral copulation and anal sex, in the same manner. He would like to sponsor legislation, with the Board's support, to correct this.

The Board directed staff to prepare a legal opinion on current law, and to research past efforts to reform CANRA. This opinion was discussed at the April 18, 2013 Policy and Advocacy Committee meeting.

DCA Legal Opinion

In its legal opinion, DCA found that CANRA does not require a mandated reporter to report incidents of consensual sex between minors of a similar age for any actions described in PC Section 11165.1, unless there is reasonable suspicion of force, exploitation, or other abuse. DCA also found the following, based on past court cases:

- Courts have found that the legislative intent of the reporting law is to leave the distinction between abusive and non-abusive sexual relations to the judgement of professionals who deal with children.
- Review of other legal cases has found that the law does not require reporting of consensual sexual activities between similarly-aged minors for any sexual acts unless there is evidence of abuse.

Attachments

- A. PowerPoint Presentation, "CANRA Reform" by Benjamin E. Caldwell, PsyD
- B. Relevant Code Sections: Penal Code Sections 261.5, 288, and 11165.1

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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
Relevant Code Sections

Penal Code Section 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) (1) Notwithstanding any other provision of this section, an adult who engages in an act of sexual intercourse with a minor in violation of this section may be liable for civil penalties in the following amounts:

(A) An adult who engages in an act of unlawful sexual intercourse with a minor less than two years younger than the adult is liable for a civil penalty not to exceed two thousand dollars (\$2,000).

(B) An adult who engages in an act of unlawful sexual intercourse with a minor at least two years younger than the adult is liable for a civil penalty not to exceed five thousand dollars (\$5,000).

(C) An adult who engages in an act of unlawful sexual intercourse with a minor at least three years younger than the adult is liable for a civil penalty not to exceed ten thousand dollars (\$10,000).

(D) An adult over the age of 21 years who engages in an act of unlawful sexual intercourse with a minor under 16 years of age is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000).

(2) The district attorney may bring actions to recover civil penalties pursuant to this subdivision. From the amounts collected for each case, an amount equal to the costs of pursuing the action shall be deposited with the treasurer of the county in which the judgment was entered, and the remainder shall be deposited in the Underage Pregnancy Prevention Fund, which is hereby created in the State Treasury. Amounts deposited in the Underage Pregnancy Prevention Fund may be used only for the purpose of preventing underage pregnancy upon appropriation by the Legislature.

(3) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

Penal Code Section 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.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person, with the intent described in subdivision (a), 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.

(d) In any arrest or prosecution under this section or Section 288.5, the peace officer, district attorney, and the court shall consider the needs of the child victim or dependent person and shall do whatever is necessary, within existing budgetary resources, and constitutionally permissible to prevent psychological harm to the child victim or to prevent psychological harm to the dependent person victim resulting from participation in the court process.

(e) Upon the conviction of any person for a violation of subdivision (a) or (b), the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed ten thousand dollars (\$10,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances of its commission, whether the defendant derived any economic gain as a result of the crime, and the extent to which the victim suffered economic losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs pursuant to Section 13837.

If the court orders a fine imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

(f) For purposes of paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c), the following definitions apply:

(1) "Caretaker" means an owner, operator, administrator, employee, independent contractor, agent, or volunteer of any of the following public or private facilities when the facilities provide care for elder or dependent persons:

(A) Twenty-four hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(B) Clinics.

(C) Home health agencies.

(D) Adult day health care centers.

(E) Secondary schools that serve dependent persons and postsecondary educational institutions that serve dependent persons or elders.

(F) Sheltered workshops.

(G) Camps.

(H) Community care facilities, as defined by Section 1402 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(I) Respite care facilities.

(J) Foster homes.

(K) Regional centers for persons with developmental disabilities.

(L) A home health agency licensed in accordance with Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

(M) An agency that supplies in-home supportive services.

(N) Board and care facilities.

(O) Any other protective or public assistance agency that provides health services or social services to elder or dependent persons, including, but not limited to, in-home supportive services, as defined in Section 14005.14 of the Welfare and Institutions Code.

(P) Private residences.

(2) "Board and care facilities" means licensed or unlicensed facilities that provide assistance with one or more of the following activities:

(A) Bathing.

(B) Dressing.

(C) Grooming.

(D) Medication storage.

(E) Medical dispensation.

(F) Money management.

(3) "Dependent person" means any person who has a physical or mental impairment that substantially restricts his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have significantly diminished because of age. "Dependent person"

includes any person who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(g) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) apply to the owners, operators, administrators, employees, independent contractors, agents, or volunteers working at these public or private facilities and only to the extent that the individuals personally commit, conspire, aid, abet, or facilitate any act prohibited by paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c).

(h) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) do not apply to a caretaker who is a spouse of, or who is in an equivalent domestic relationship with, the dependent person under care.

(i) (1) Any person convicted of a violation of subdivision (a) shall be imprisoned in the state prison for life with the possibility of parole if the defendant personally inflicted bodily harm upon the victim.

(2) The penalty provided in this subdivision shall only apply if the fact that the defendant personally inflicted bodily harm upon the victim is pled and proved.

(3) As used in this subdivision, "bodily harm" means any substantial physical injury resulting from the use of force that is more than the force necessary to commit the offense.

Penal Code Section 11165.1

As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(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).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

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To: Board Members

Date: May 1, 2013

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Election of Officers

Section 4990 of the Business and Professions Code requires the Board to elect a Chair and Vice-Chair prior to June 1 of each year. Currently, Christine Wietlisbach is the Board Chair, and Karen Pines is the Vice-Chair. Accordingly, the Board should elect both a chair and a vice-chair at this meeting for 2013/2014. Please note that although some of the members' first term expires this year, I am aware that a few have submitted their application for a second term.

Below is a list of board members and the date on which their term will expire:

Board Member	Type	Authority	Date Appointed	Reappointed	Term Expires	Grace Expires
Dr. Harry Douglas*	Public	Assembly	5/14/2009	7/11/2011	6/1/2015	6/1/2016
Dr. Christine Wietlisbach*	Public	Senate	2/4/2010	5/2011	6/1/2015	6/1/2016
Samara Ashley**	Public	Governor	1/21/2010		6/1/2013	8/1/2013
Betty Connolly	LEP	Governor	8/22/2012		6/1/2016	8/1/2016
Sarita Kohli	LMFT	Governor	6/7/2011		6/1/2014	8/1/2014
Patricia Lock-Dawson**	Public	Governor	1/13/2010		6/1/2013	8/1/2013
Renee Lonner*	LCSW	Governor	1/17/2007	7/6/2010	6/1/2014	8/1/2014
Karen Pines	LMFT	Governor	4/5/2011		6/1/2013	8/1/2013
Christina Wong**	LCSW	Governor	5/18/2011		6/1/2013	8/1/2013
Dr. Leah Brew	LPCC	Governor	8/28/2012		6/1/2016	8/1/2016
Deborah Brown	Public	Governor	8/23/2012		6/1/2013	8/1/2013
Eileen Colapinto	Public	Governor	8/23/2012		6/1/2013	8/1/2013
Vacant (Forster)	Public	Governor			6/1/2015	8/1/2015

*Serving 2nd term; not eligible for reappointment

**Seeking reappointment

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