



1625 North Market Blvd.  
Suite S-200  
Sacramento, CA 95834  
(916) 574-7830  
TDD (800) 326-2297  
Fax (916) 574-8625  
www.bbs.ca.gov

## **BOARD MEETING NOTICE** **March 5–6, 2014**

Department of Consumer Affairs  
First Floor Hearing Room  
1625 North Market Blvd.  
Sacramento, CA 95834

***Wednesday, March 5<sup>th</sup>***  
***8:30 a.m.***

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

- I. Petition for Reinstatement of License for Mimi Shevitz, MFC 25839
- II. Petition for Early Termination of Probation for Graham Danzer, ASW 29082
- III. Petition for Modification of Probation for Douglas Meyer, IMF 73370
- IV. Petition for Modification of Probation for Jennifer Weeks, MFC 47271
- V. Suggestions for Future Agenda Items
- VI. Public Comment for Items not on the Agenda

### **FULL BOARD CLOSED SESSION**

- VII. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters
- VIII. Pursuant to Section 11126(a) of the Government Code, the Board Will Meet in Closed Session to Discuss Revision of the Board's Executive Officer Performance Evaluation Tool

### **FULL BOARD OPEN SESSION**

- IX. Adjournment



Governor  
Edmund G. Brown Jr.  
State of California

Business, Consumer Services  
and Housing Agency

Department of  
Consumer Affairs

**Thursday, March 6<sup>th</sup>**  
**9:00 a.m.**

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

- X. Introductions\*
- XI. Approval of the November 20-21, 2013, Board Meeting Minutes
- XII. Executive Officer's Report
  - a. Budget Report
  - b. Operations Report
  - c. Personnel Update
- XIII. BreEZe Update
- XIV. Strategic Plan Update
- XV. Policy and Advocacy Committee Report
  - a. Recommendation #1 – Regarding Proposed Additional Items to the Omnibus Bill Amending Business and Professions Code Sections 4980.36, 4980.399, 4992.09, 4999.55, 4989.16, 4989.22, and 4996.17
  - b. Recommendation #2 – Regarding Possible Action Regarding Proposed Revisions to Requirements for Out-of-State Licensed Marriage and Family Therapists
  - c. Recommendation #3 – Regarding Possible Action Regarding Proposed Revisions to Requirements for Out-of-State Licensed Professional Clinical Counselors
  - d. Recommendation #4 – Regarding Possible Rulemaking Action Regarding Revisions to the California Code of Regulations, Title 16, Section 1820.5 and 1822; Add New Sections 1820.6 and 1820.7 Licensed Professional Clinical Counselors: Requirements to Work with Couples and Families and Supervisory Plan
  - e. Recommendation #5 – Regarding Possible Rulemaking Action to Implement Senate Bill 704, Statutes of 2011, Chapter 387 – Examination Restructure
- XVI. Discussion and Possible Action Regarding Possible Rulemaking Action to Implement Senate Bill 1441, Statutes of 2008, Chapter 548, Uniform Standards for Substance Abusing Licensees
- XVII. Legislative Update
- XVIII. Rulemaking Update
- XIX. Suggestions for Future Agenda Items
- XX. Public Comment for Items not on the Agenda
- XXI. 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. 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](http://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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**2013/2014 Budget**

The 2013/2014 budget for the Board is \$8,240,648. As of January 31, 2014, the Board has spent \$3,963,791 reflecting 48% of the total budget. The chart below provides a breakdown of expense categories and percentages.

<b>Expense Category</b>	<b>Amount</b>	<b>Percentage</b>
Personnel	\$1,761,380.00	21%
OE&E	\$ 486,949.48	17%
Enforcement	\$1,432,233.34	6%
Minor Equipment <i>Includes LPCC category</i>	\$ 283,227.90	3%
<b>Total</b>	<b>\$3,963,790.72</b>	<b>48%</b>

As of January 31, 2014, total revenue collected is \$5,030,693.42.

**Board Fund Condition**

The Board's fund condition reflects 3.2 months in reserve.

**General Fund Loans**

The Board's loan balance to the General Fund is \$12.3 million dollars. The Board is scheduled to receive a \$1.4 million dollar loan repayment this fiscal year. This repayment is reflected in the current fund condition.

**2014/2015 Budget**

The Governor's 2014/2015 proposed budget reflected some welcomed news for the Board. The Board's 2014/2015 budget is \$9,139,000 and includes additional staffing resources for licensing and enforcement program. Three positions will be in the licensing program and the remaining five positions will be in the enforcement program which includes an additional manager in the enforcement unit.

Additionally, the Governor's budget includes a repayment schedule for all loans to the General Fund. The Board's repayment schedule is reflected in the current fund condition document.

**BBS EXPENDITURE REPORT FY 2013/14**

OBJECT DESCRIPTION	12/13	FY 2013/14		
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT AS OF 1/31/14	UNENCUMBERED BALANCE
<b>PERSONAL SERVICES</b>				
Salary & Wages (Civ Svc Perm)		2,109,422	1,100,069	1,009,353
Salary & Wages (Stat Exempt)		91,152	54,768	36,384
Temp Help (907)(Seasonals)		0	0	0
Temp Help (915)(Proctors)		444		444
Board Memb (Per Diem)		12,900	8,900	4,000
Overtime		1,500	6,608	(5,108)
Totals Staff Benefits		1,080,258	591,035	489,223
Salary Savings				
<b>TOTALS, PERSONAL SERVICES</b>		<b>3,295,676</b>	<b>1,761,380</b>	<b>1,534,296</b>
<b>OPERATING EXP &amp; EQUIP</b>				
Fingerprint Reports		14,827	5,895	8,932
General Expense		78,724	49,302	29,422
<b>Printing</b>		<b>58,000</b>	<b>47,396</b>	10,604
Communication		11,513	7,447	4,066
Insurance		325		325
<b>Postage</b>		<b>89,489</b>	<b>48,423</b>	41,066
<b>Travel, In State</b>		<b>55,684</b>	<b>39,099</b>	16,585
Travel, Out-of-State		72,000	12,587	59,413
<b>Training</b>		<b>20,463</b>	<b>0</b>	20,463
Facilities Operations		227,925	144,550	83,375
Utilities		4,330		4,330
C&P Services - Interdept.		14,939	14,442	497
<b>C&amp;P Services-External Contracts</b>		<b>207,978</b>	<b>0</b>	207,978
<b>DEPARTMENTAL PRORATA</b>				
DP Billing (424.03)		860,256	177,994	682,262
Indirect Distribution Costs (427)		435,137	326,353	108,784
Public Affairs (427.34)		19,567	14,675	4,892
D of I Prorata (427.30)		13,934	10,451	3,483
Consumer Relations Division (427.35)		16,765	12,574	4,191
OPP Support Services (427.01)		490	0	490
Interagency Services (OER IACs)		325,065	104,196	220,869
Consolidated Data Services (428)		24,096	751	23,345
Data Proc (Maint,Supplies,Cont) (432)		10,448	0	10,448
Statewide Pro Rata (438)		361,763	180,882	180,881
<b>EXAM EXPENSES</b>				
Exam Site Rental		99,630	19,463	80,167
Exam Contract (PSI) (404.00)		358,659	171,655	187,004
C/P Svs - Expert Examiners (404.01)		45,000		45,000
C/P Svs - External Subj Matter (404.03)		365,260	44,098	321,162
<b>ENFORCEMENT</b>				
Attorney General		801,588	381,225	420,363
Office of Admin. Hearing		154,926	44,167	110,760
Court Reporters		0	2,784	(2,784)
Evidence/Witness Fees		94,955	13,147	81,808
Division of Investigation		60,836	45,627	15,209
<b>LPCC</b>			279,357	(279,357)
<b>Minor Equipment (226)</b>		<b>21,400</b>	<b>3,871</b>	17,529
<b>Equipment, Replacement (452)</b>		<b>0</b>	<b>0</b>	0
<b>Equipment, Additional (472)</b>		<b>0</b>	<b>0</b>	0
<b>Vehicle Operations</b>		<b>19,000</b>		19,000
<b>TOTAL, OE&amp;E</b>		<b>4,944,972</b>	<b>2,202,411</b>	<b>2,742,561</b>
<b>TOTAL EXPENDITURES</b>		<b>\$8,240,648</b>	<b>\$3,963,791</b>	<b>\$4,276,857</b>

Reimbursements	FY 12/13 Actuals	Budget Alotment	Current as of 1/31/2014
Fingerprints	(10,969)	(24,000)	(4,655)
Other Reimbursements	(8,620)	(26,000)	(5,455)
Unscheduled Reimbursements	(123,771)		(77,390)
<b>Total Reimbursements</b>	<b>(143,360)</b>	<b>(50,000)</b>	<b>(87,500)</b>

NOTE: THIS INDICATES THE ITEMS ARE SOMEWHAT DISCRETIONARY.

# 0773 - Behavioral Science Analysis of Fund Condition

Prepared 1/29/2013

(Dollars in Thousands)

## Governor's Budget

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

NOTE: \$9.2M GF Loan Repayments Deferred to After 2015-16

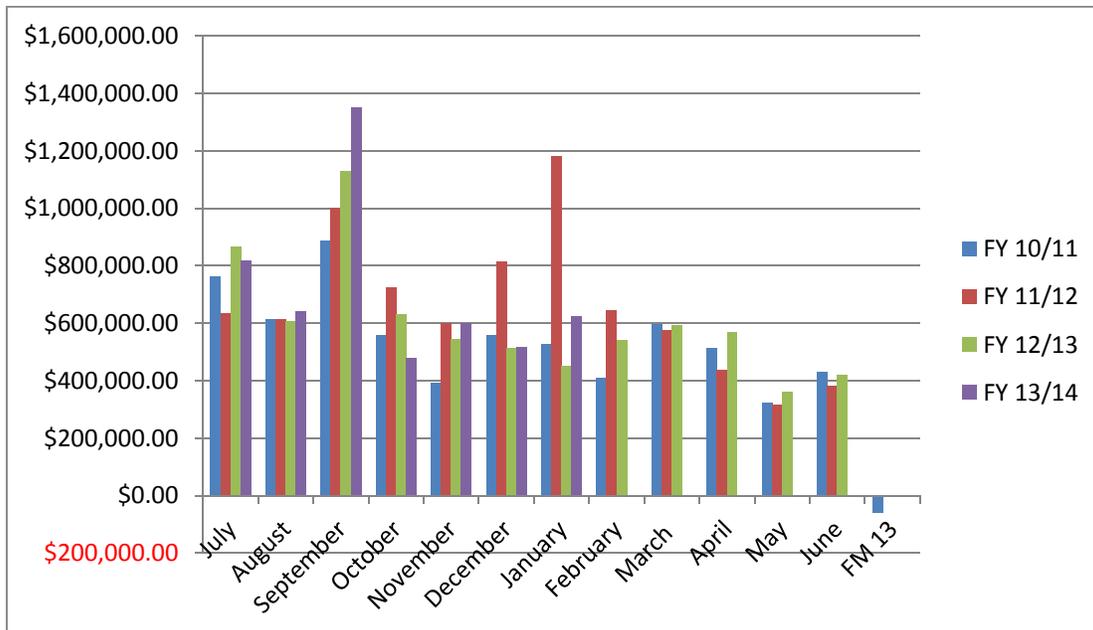
	ACTUAL 2012-13	CY 2013-14	Governor's Budget BY 2014-15	BY +1 2015-16	BY +2 2016-17
<b>BEGINNING BALANCE</b>	\$ 1,798	\$ 1,468	\$ 2,105	\$ 1,728	\$ 2,371
Prior Year Adjustment	\$ 20	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,818	\$ 1,468	\$ 2,105	\$ 1,728	\$ 2,371
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
125600 Other regulatory fees	\$ 75	\$ 77	\$ 83	\$ 83	\$ 83
125700 Other regulatory licenses and permits	\$ 2,322	\$ 2,542	\$ 2,666	\$ 2,666	\$ 2,666
125800 Renewal fees	\$ 4,599	\$ 4,756	\$ 4,881	\$ 4,881	\$ 4,881
125900 Delinquent fees	\$ 76	\$ 70	\$ 72	\$ 72	\$ 72
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ 1	\$ 2	\$ 2	\$ 2	\$ 2
150300 Income from surplus money investments	\$ 7	\$ 9	\$ 6	\$ 1	\$ 2
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ 4	\$ 4	\$ 4	\$ 4
161400 Miscellaneous revenues	\$ 5	\$ 5	\$ 5	\$ 5	\$ 5
Totals, Revenues	\$ 7,088	\$ 7,465	\$ 7,719	\$ 7,714	\$ 7,715
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	\$ 1,000	\$ 2,200	\$ 1,800
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	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 7,088	\$ 8,865	\$ 8,719	\$ 9,914	\$ 9,515
Totals, Resources	\$ 8,906	\$ 10,333	\$ 10,824	\$ 11,642	\$ 11,886
<b>EXPENDITURES</b>					
Disbursements:					
8860 FSCU (State Operations)	\$ 4	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for California	\$ 40	\$ 37	\$ 7	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 7,394	\$ 8,191	\$ 9,089	\$ 9,271	\$ 9,456
Total Disbursements	\$ 7,438	\$ 8,228	\$ 9,096	\$ 9,271	\$ 9,456
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 1,468	\$ 2,105	\$ 1,728	\$ 2,371	\$ 2,430
<b>Months in Reserve</b>	2.1	2.8	2.2	3.0	3.0

### NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR IN BY+1 AND ON-GOING.
- ASSUMES INTEREST RATE AT 0.3%.

### BBS Revenue Analysis

Month	FY 10/11	FY 11/12	FY 12/13	FY 13/14
July	\$762,284.90	\$636,305.00	\$865,553.99	\$817,394.34
August	\$612,879.75	\$614,882.97	\$605,609.87	\$641,178.70
September	\$888,896.00	\$1,002,602.57	\$1,130,230.37	\$1,349,479.66
October	\$560,370.10	\$723,621.83	\$631,685.86	\$480,531.87
November	\$393,690.35	\$601,895.03	\$545,880.97	\$600,316.56
December	\$560,118.27	\$816,772.93	\$514,784.93	\$516,264.24
January	\$527,079.68	\$1,180,871.34	\$452,850.71	\$625,528.05
February	\$409,637.17	\$646,040.15	\$541,115.50	
March	\$597,687.20	\$576,972.25	\$593,123.75	
April	\$512,561.91	\$437,016.67	\$569,381.90	
May	\$322,487.96	\$317,204.07	\$360,131.06	
June	\$432,003.03	\$383,326.67	\$421,329.60	
FM 13	(\$59,968.77)	(\$1,375.78)	(\$266.97)	



### **Board Statistics**

Currently, board staff is experiencing challenges in obtaining statistical data to compile quarterly statistics. Board staff is working to resolve these challenges and anticipates resuming statistical reporting at the May board meeting.

### **Board Growth**

Since 2008 Board staff has remained stagnant as a result of directives during California's fiscal crisis. Yet, the volumes of applications and subsequent licensees continued to grow. This imbalance has created the serious backlogs within the Board's licensing programs. Fortunately, the Governor's 2014/2015 budget includes eight (8) additional positions for the Board's licensing and enforcement units. Board staff will increase from 42.5 positions to 50. Three (3) positions are dedicated to the licensing unit and the remaining five (5) will be in the enforcement unit.

Recognizing the immediate need to address the existing delays in processing examination applications, Board staff met with the Department of Consumer Affairs to explore available options to hire some of the additional staff prior to the July 1, 2014 effective date. The discussions resulted in a positive outcome and at the end of January; hiring requests for five of the eight positions were submitted.

Three positions will be dedicated to the licensing program to evaluate examination applications. One position will review applicant's criminal conviction history. The fifth position will serve as the second enforcement manager. Recruitment efforts are underway and we anticipate that the hiring process will be completed within the next 60 days. The remaining positions will be hired after July 1, 2014.

To address the growth in staff as well as the increased number of applicant files, the Board office will be remodeled. Additionally, a smaller, yet separate, suite will be remodeled and serve as the Board's file and storage room. The remodel will be completed in two phases. Construction on the smaller suite will be completed first. The second phase will begin soon after and includes removal of current walls and installing new cubicles in the Board's existing suite.

Final plans are in process and construction should begin late spring. We anticipate the project will be completed in July. Current estimated cost of the remodel is under \$200,000.

### **Current Program Operations**

Following the implementation of BreEZe, Board management continued its evaluation of board processes and functionality within the new database system. Board management identified two areas that required solutions so the impact to stakeholders would be minimized. The areas identified are re-examination applications and clerical functions within the cashiering unit.

To this end, a staff position was redirected to process all re-examination applications. This staff person will also research all concerns related to examination eligibility. To assist the cashiering unit, the Board recruited for one seasonal clerk. A second seasonal clerk will be hired to assist with clerical functions within the enforcement unit. Interviews for the seasonal clerk positions are completed. Job offers will be made to the successful candidates once the appropriate clearances are received.

The Board continues to utilize the services of the DCA call center to answer incoming calls and the AARP program. The AARP program is a federally funded program which provides interested individuals to the Board for 20 hours a week. The goal of the program is to develop the individual's skills so that the individual is a viable candidate for an open position in the public or private sector. Currently, the Board has one AARP candidate working in the office.

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Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members

**Date:** February 24, 2014

**From:** Laurie Williams  
Personnel Liaison

**Telephone:** (916) 574-7850

**Subject:** Personnel Update

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### **New Employees:**

Effective January 1, 2014, Joanna Huynh accepted a promotion to a Staff Services Analyst to perform the duties as the Board's Licensed Professional Clinical Counselor (LPCC) Licensing Analyst. Joanna joined the Board in August 2011 as the first hire for the LPCC Unit as a Licensing Evaluator.

Julie Ruprecht accepted an Office Technician (Typing) full-time vacancy in the Enforcement Unit, effective January 13, 2014. Julie handles the initial review of consumer complaints and will provide enforcement support duties to the unit. Julie transferred to the Board from the Air Resources Board where she worked as the Assistant to the Air Resources Board Clerk of the Board.

Crystal Martinez has returned to her prior position as the Fingerprint Technician (part-time) in the Enforcement Unit. She had left the Board eight months ago to pursue a career in the private sector but returned to the Board effective January 21, 2014.

Guadalupe (Lupe) Baltazar accepted a promotion to a Management Services Technician in the Licensing Unit. Lupe will act as a Marriage & Family Therapist (MFT) Evaluator and will assume her new duties effective March 3, 2014. Lupe started with the Board as a part-time Office Technician functioning as the Fingerprint Technician in the Enforcement Unit and she also worked as a Licensing Educational Psychologists (LEP) Evaluator.

Andrea Flores accepted a Management Services Technician vacancy in the Licensing Unit. Andrea will be transferring to the Board on March 10, 2014 and will function as a Marriage & Family Therapist (MFT) Evaluator. Andrea currently works for the Board of Pharmacy within the Department of Consumer Affairs (DCA) as an Exam Technician. She independently evaluates pharmacist exam applications for exam eligibility.

### **Departures:**

Angie Ramos-Zizumbo has accepted a promotion to an Associate Governmental Program Analyst with the Department of Public Health. Her last day with the Board will be February 28, 2014. Angie performed the duties of an Enforcement Analyst.

Alicia Day will be transferring to the Central Cashiering Unit within DCA effective March 20, 2014. Alicia functions as a cashier for the Board.

## **Vacancies:**

Staff Services Analyst (SSA) (full-time) in the Enforcement Unit: This vacancy is due to Angie Ramos-Zizumbo's departure. The SSA will function as an Enforcement Analyst in the Enforcement Unit. The Board has begun recruitment and is awaiting DCA Human Resources approval prior to the advertisement of this vacancy. The Board anticipates filling this vacancy by April 1, 2014.

Office Technician (T) (full-time) in the Cashiering Unit: This vacancy is due to the departure of Alicia Day. The Office Technician functions as a Cashier for the Board. The Board has begun recruitment and is awaiting DCA Human Resources approval prior to the advertisement of this vacancy. The Board anticipates filling this vacancy by April 1, 2014.

Office Technician (T) (full-time) in the Licensing Unit: This vacancy is due to Lupe Baltazar promotion to a Management Services Technician with the Board. The Office Technician will act as the Licensing Educational Psychologists (LEP) Evaluator and will also function as a Licensing Support Technician. The Board is in the process of preparing the Request for Personnel Action (RPA) to submit to DCA Human Resources for review and approval. The Board anticipates filling this vacancy by mid-April 2014.

The Board submitted to DCA Human Resources hiring packets requesting to fill for the following positions. The Board acquired the positions through the Budget Change Proposal Fiscal Year 2014-15. The Board is also requesting to fill these positions prior to the beginning of the upcoming fiscal year (July 1, 2014) and anticipates the hiring of staff for these vacancies by mid-April 2014.

- Staff Services Manager I (SSMI) - Enforcement Program – this manager will be responsible for the management of the daily operations of the Consumer Complaint and Investigations Unit. The current Enforcement Manager will manage the Criminal Conviction and Probation Unit.
- Staff Services Analyst (SSA) – Enforcement Program – The SSA will act as an additional analyst and will independently conduct analysis of applicant background investigations. The analyst is also responsible for disciplinary case management.
- Management Services Technicians – (2) Full-time & (1) Limited-Term (2-year) – Licensing Unit - These staff members will be hired to assist in the application processes for the Marriage and Family Therapists and Licensed Clinical Social Work. The staff will provide assistance to alleviate the backlogs associated with the increased application volumes and processing times.



# Memo

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Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members

**Date:** February 20, 2014

**From:** Kim Madsen  
Executive Officer

**Telephone:** (916) 574-7841

**Subject:** **BreEZe Update**

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Chief Deputy Director Awet Kidane will provide an update regarding BreEZe.

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**To:** Board Members

**Date:** February 20, 2014

**From:** Kim Madsen  
Executive Officer

**Telephone:** (916) 574-7841

**Subject:** **Strategic Plan Update**

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Following the adoption of the 2014-2017 Strategic Plan at the November board meeting, staff contacted SOLID to begin work on the next phase of the Strategic Plan. On February 3, 2013, board managers met with SOLID to identify the tasks necessary to accomplish each objective within the strategic plan.

For each objective, there are several tasks needed to complete the objective. Each task was assigned a due date. Due dates were determined using legislative direction and the desire to distribute the work equitably of the span of the current Strategic Plan. Some due dates extend beyond the time period for the current Strategic Plan.

This internal working document will aid board staff to ensure the goals and objectives in the Strategic Plan are achieved. Updates regarding the progress in achieving the goals and objectives in the Strategic Plan will be reported each board meeting.

Attached for your review is the first Strategic Plan update.

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## STRATEGIC PLAN UPDATE

Licensing	DUE DATE	STATUS
<b><i>Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.</i></b>		
1.1 Identify and implement improvements to the licensing process to decrease application processing times.	Q1 2015	
1.2 Complete the processing of Licensed Professional Clinical Counselor grandfathered licensing application.	Q1 2014	Completed October 1, 2013
1.3 Review the current eligibility process for Licensed Marriage and Family Therapists and Licensed Professional Clinical Counselors to identify and reduce barriers and implement process improvements.	Q4 2018	Established a Supervision Committee. First Committee meeting April 4, 2014.
1.4 Explore development of uniform clinical supervision standards to ensure consistent supervision of registrants and trainees.	Q4 2015	Established a Supervision Committee. First Committee meeting April 4, 2014.
1.5 Investigate the use of technology for record keeping and therapeutic services and its effects on patient safety and confidentiality and establish best practices for licensees.	Q4 2016	
1.6 Determine feasibility of license portability and pursue legislation if needed.	Q3 2020	
1.7 Establish ongoing process to evaluate requirements for all license types to promote parity between licensing programs as appropriate.	Q4 2016	
1.8 Evaluate the feasibility of online application submission through the Breeze system and implement if possible.	Q2 2016	

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<b>Examinations</b>	<b>DUE DATE</b>	<b>STATUS</b>
<b><i>Administer fair, valid, comprehensive, and relevant licensing examinations.</i></b>		
2.1 - Implement recommendations made by the Exam Program Review Committee to restructure the examination process and promulgate regulations as necessary.	Q1 2016	Rulemaking package presented at February 2014 Policy meeting.
2.2 - Establish a recruitment process for Subject Matter Experts to ensure a diverse pool on which to draw for examination development.	Q2 2016	
2.3 - Create a process for evaluating the performance of Subject Matter Experts assisting with exam development.	Q4 2015	

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<b>Enforcement</b>	<b>DUE DATE</b>	<b>STATUS</b>
<b><i>Protect the health and safety of consumers through the enforcement of laws and regulations.</i></b>		
3.1 Establish a recruitment process for Subject Matter Experts to ensure a diverse pool on which to draw for exam development.	Q4 2014	
3.2 Develop a training program, including uniform standards for reports and evaluations, for all enforcement Subject Matter Experts.	Q1 2015	
3.3 Improve internal process to regularly consult with the Attorney General's office to advance pending disciplinary cases.	Q4 2014	AG liaison staff position effective July 1, 2014
3.4 Establish uniform standards and templates for reports and evaluations submitted to the Board related to disciplinary matters.	Q2 2015	
3.5 Create a process for evaluating the performance of Subject Matter Experts assisting on enforcement cases.	Q2 2015	
3.6 Identify and implement improvements to the investigation process to decrease enforcement processing times.	Q1 2015	

<b>Legislation and Regulation</b> <i>Ensure that statutes, regulations, policies, and procedures strengthen and support the Board's mandate and mission.</i>	<b>DUE DATE</b>	<b>STATUS</b>
4.1 Adopt regulations to incorporate <u>Uniform Standards for Substance Abusing Licensees</u> to align with other healing arts boards.	Q4 2014	Rulemaking package submitted to Board for approval March 2014.
4.2 Modify regulations to shift oversight of continuing education providers to Approval Agencies.	Q4 2014	Rulemaking package currently with Agency for approval.
4.3 Pursue legislation to implement the recommendations of the Out of State Education Review Committee to ensure parity with California educational requirements.	Q3 2015	AB 2213 introduced February 2014
4.4 Pursue legislation to resolve the conflict in law that prohibits the Board's access to information necessary for investigations regarding child custody reports.	Q4 2014	AB 1843 introduced February 2014 Stakeholder meeting scheduled for March 7, 2014
4.5 Review regulatory parameters for exempt settings and modify, if necessary, to ensure adequate public protection.	Q4 2017	

<b>Organizational Effectiveness</b> <i>Build an excellent organization through proper Board governance, effective leadership, and responsible management.</i>	<b>DUE DATE</b>	<b>STATUS</b>
5.1 Pursue adequate staffing levels across all functional areas within the Board.	Q3 2015	Received 8 new positions in FY 14/15 budget.
5.2 Evaluate internal procedures to identify areas for improvement to ensure prompt and efficient work processes.	Q1 2016	
5.3 Enhance Board employee recognition program to reward exceptional performance and service.	Q4 2014	
5.4 Implement an internal training and education program for all Board staff to enhance skills and abilities for professional development.	Q3 2015	
5.5 Establish standing Board committees that align with the Board's strategic goal areas.	Q4 2014	

<b>Outreach and Education</b> <i>Engage stakeholders through continuous communication about the practice and regulation of the professions.</i>	<b>DUE DATE</b>	<b>STATUS</b>
6.1 Implement cost-effective ways to educate applicants and licensees on current requirements.	Q1 2015	Feb. 2014 - Initiated discussions with DCA Public Affairs office to create online video tutorial
6.2 Enhance the Board's outreach program by redesigning publications and the Board's website, leveraging new technologies and exploring the use of social media.	Q3 2015	
6.3 Partner with the Office of Statewide Planning Health and Development and other external stakeholder groups to encourage more diversity within the mental health professions.	Q4 2019	Completed service on OSHPD WET Committee. Report due early 2014.

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

**To:** Board Members **Date:** February 20, 2014  
**From:** Rosanne Helms **Telephone:** (916) 574-7897  
Legislative Analyst  
**Subject: Proposed 2014 Omnibus Legislation – Additional Items**

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Each year, the Board sponsors an omnibus bill, which makes minor, technical, or noncontroversial changes to Board licensing laws. These changes must be unopposed, and are meant to correct such things as spelling/grammar errors, or inconsistent or confusing language.

Several omnibus bill amendments were approved by the Board at its November 21, 2013 meeting.

Staff has identified a need for additional amendments since that time. They are as follows (**Attachment A**):

**1. Amend Business and Professions Code (BPC) Section 4980.36 – Practicum Hours**

Background: Current law requires an LMFT applicant to obtain, as part of their practicum, 150 hours of face-to-face counseling experience, and an additional 75 hours of either client centered advocacy or face-to-face experience counseling individuals, couples, families, or groups.

At the February 6, 2014 Policy and Advocacy Committee meeting, a concern was discussed that stating the 75 hours must be either client centered advocacy or face-to-face counseling implies that no combination of the two can be credited toward the 75 hours. Staff does not believe this was the intent of the Board.

Recommendation: Amend 4980.36(d)(1)(B)(vi) to state that the 75 hours must be either client centered advocacy, face-to-face counseling, or a combination thereof.

**2. Amend BPC Sections 4980.399, 4992.09, and 4999.55 – Law and Ethics Exam – 12-Hour Course**

Background: Beginning January 1, 2016, LMFT, LCSW, and LPCC registrants must obtain a passing score on a California law and ethics exam to qualify for licensure. The registrant must participate in this exam each year prior to his or her registration renewal, until the exam is passed.

If the applicant fails the exam during the renewal period, he or she must take a 12-hour course in California law and ethics in order to be able to participate in the exam in his or her next renewal period.

Currently, the law states that if the registrant fails the exam within his or her first renewal period, he or she must complete the 12-hour course. This statement is technically incomplete. The course must be taken after any renewal period in which the exam is failed, not just the first renewal period.

Recommendation: Amend the above sections so they no longer specify that the course must be taken only after the first renewal period in which the exam was failed.

### **3. Amend BPC Sections 4980.399, 4992.09, and 4999.55 – Law and Ethics Exam – Subsequent Registration Number**

Background: A current proposed amendment, approved by the Board at its November 2013 meeting, would allow a registrant needing a subsequent registration number between January 1, 2016 and January 1, 2017, to obtain it without first passing the California law and ethics exam.

Currently the proposed language states that an applicant needing a subsequent registration number within this timeframe could obtain one without passing the California law and ethics exam *“as long as the examination is passed at the next renewal period or prior to licensure, whichever occurs first.”*

Staff believes this proposed language should be clarified further by replacing the term *“at the next renewal period”* with the term *“during the next renewal period”*. This would increase clarity of exactly when the exam must be passed.

Recommendation: Make the change to replace the term *“at the next renewal period”* with the term *“during the next renewal period”*.

### **4. Amend BPC Section 4989.16- Inclusion of LPCCs**

Background: BPC Section 4989.16, part of the LEP licensing law, states that no part of the LEP licensing law is meant to constrict or limit the practice of medicine, nursing, psychology, LMFTs, or LCSWs. LPCCs are not identified in this list.

Recommendation: Add LPCCs to this list, as they are the Board’s newest license type and LPCCs also practice psychotherapy. Their omission from this list is an oversight.

### **5. Amend BPC Section 4989.22 – LEP Written Licensing Exam**

Background: BPC Section 4989.22 describes the LEP licensing examination process. There is only one LEP licensing exam, referred to as the “written examination.” This section mistakenly refers to both the “standard written” exam and the “clinical vignette” exams, which are applicable to the Board’s other three license types, but not LEPs.

Recommendation: Delete references to the “standard written” and “clinical vignette” licensing exams, as they are not required exams for LEP licensure.

### **6. Amend BPC Section 4996.17 – Law and Ethics Course for Out-of-State LCSW and ASW Applicants**

Background: The law is unclear about whether or not unlicensed applicants from out-of-state must take an 18-hour California law and ethics course. While this was the intent of Section 4996.17, that section currently states that an applicant with experience gained out-of-state must take the 18-hour course. However, it fails to discuss the requirement for an applicant with education gained out of state.

This omission makes it unclear whether an unlicensed applicant with education gained out of state would be required to take the 18-hour California law and ethics course described in Section 4996.17,

or the California law and ethics course described in Section 4996.18 (which is intended for in-state ASW applicants, and has no hour requirement).

The use of the term “experience” gained out-of-state also implies that someone who got their education in California, but went out of state to obtain their experience, would still need to take an additional 18-hour California law and ethics course even if the course was included in their California Master’s degree program.

Recommendation: Amend Section 4996.17(a)(2) to replace the term “experience” with the term “education.” The law would then state that an applicant with education ~~experience~~ gained outside of California must complete an 18-hour California law and ethics course covering specified topic areas.

### **Recommendation**

Direct staff to make any discussed changes, and any non-substantive changes to the proposed language and submit to the Legislature for inclusion in the 2014 omnibus bill.

### **Attachments**

**Attachment A:** Proposed Language

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## Attachment A Proposed Language

### **AMEND §4980.36.**

(a) This section shall apply to the following:

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

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

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

(b) To qualify for a license or registration, applicants shall possess a doctoral or master's degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education, or accredited by either the Commission on Accreditation for Marriage and Family Therapy Education, or a regional accrediting agency [that is](#) recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

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

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

(A) Marriage and family therapy principles.

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

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

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

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

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

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

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

(1) Both of the following:

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

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

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

(ii) A minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

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

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

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, and prognosis.

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

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

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

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

(vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following, **or a combination thereof:**

(I) Client centered advocacy, as defined in Section 4980.03.

(II) Face-to-face experience counseling individuals, couples, families, or groups.

(2) Instruction in all of the following:

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

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

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

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

(iii) Aging and its biological, social, cognitive, and psychological aspects. [This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.](#)

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

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

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

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

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

(i) 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.

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

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

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

(v) Marriage, divorce, and blended families.

(vi) Long-term care.

(vii) End of life and grief.

(viii) Poverty and deprivation.

(ix) Financial and social stress.

(x) Effects of trauma.

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

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

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

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

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

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

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

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

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

(iii) The effects of psychoactive drug use.

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

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

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

(vii) Legal aspects of substance abuse.

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

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

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

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

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

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

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

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

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

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

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

(vii) Licensing law and licensing process.

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

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

#### **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) Notwithstanding subsection (b), an applicant who holds a registration eligible for renewal, who applies for renewal of that registration between January 1, 2016 and June 30, 2016, shall if eligible, be allowed to renew such registration without first participating in the California law and ethics examination. These applicants must participate in the California law and ethics examination in the next renewal cycle, and must pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

~~(c)(d)~~ 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)~~(e).

~~(d)~~(e) 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 this section shall be taken through a board-approved continuing education provider, a county, state or governmental entity, or a college or university.

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

(g) Notwithstanding subsection (f), an applicant who holds or has held a registration, who applies for a subsequent registration number between January 1, 2016 and January 1, 2017, shall if eligible, be allowed to obtain such subsequent registration number without first passing the California law and ethics examination, as long as the examination is passed during the next renewal period or prior to licensure, whichever occurs first.

~~(f)~~(h) This section shall become operative on January 1, 2016.

#### **§4989.16. LICENSING EXCEPTIONS**

(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)), or the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10)).

#### **§4989.22. EXAMINATION**

(a) Only persons who satisfy the requirements of Section 4989.20 are eligible to take the licensure examination.

(b) An applicant who fails the written examination may, within one year from the notification date of failure, retake the examination as regularly scheduled without further application. 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 fees required.

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

### **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) Notwithstanding subsection (b), an applicant who holds a registration eligible for renewal, who applies for renewal of that registration between January 1, 2016 and June 30, 2016, shall if eligible, be allowed to renew such registration without first participating in the California law and ethics examination. These applicants must participate in the California law and ethics examination in the next renewal cycle, and must pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

~~(e)~~(d) 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)~~(e).

~~(d)~~(e) 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 this section shall be taken through a board-approved continuing education provider, a county, state or governmental entity, or a college or university.

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

(g) Notwithstanding subsection (f), an applicant who holds or has held a registration, who applies for a subsequent registration number between January 1, 2016 and January 1, 2017, shall if eligible, be allowed to obtain such subsequent registration number without first passing the California law and ethics examination, as long as the examination is passed during the next renewal period or prior to licensure, whichever occurs first.

~~(f)~~(h) This section shall become operative on January 1, 2016.

## **§4996.17. ACCEPTANCE OF EDUCATION AND EXPERIENCE GAINED OUTSIDE OF CALIFORNIA**

(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 education ~~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, 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 §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) Notwithstanding subsection (b), an applicant who holds a registration eligible for renewal, who applies for renewal of that registration between January 1, 2016 and June 30, 2016, shall if eligible, be allowed to renew such registration without first participating in the California law and ethics examination. These applicants must participate in the California law and ethics examination in the next renewal cycle, and must pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

~~(c)~~(d) 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)~~(e).

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

(g) Notwithstanding subsection (f), an applicant who holds or has held a registration, who applies for a subsequent registration number between January 1, 2016 and January 1, 2017, shall if eligible, be allowed to obtain such subsequent registration number without first passing the California law and ethics examination, as long as the examination is passed during the next renewal period or prior to licensure, whichever occurs first.

~~(f)~~(h) This section shall become operative January 1, 2016.

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

**To:** Board Members

**Date:** February 24, 2014

**From:** Rosanne Helms  
Legislative Analyst

**Telephone:** (916) 574-7841

**Subject:** Proposed LMFT Out-of-State Applicant Requirements

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## OVERVIEW

In 2013, the Board formed the Out-of-State Education Review Committee to examine concerns about upcoming changes to the education requirements for out-of-state LMFT and LPCC applicants. There were concerns that the out-of state requirements may be too stringent, restricting portability of these license types to California.

Specific areas of concern included the following:

- Lack of ability, under the new requirements, to remediate certain coursework while registered as an intern (this had previously been allowed);
- Lack of ability, under the new requirements, to remediate certain coursework through continuing education classes (this had previously been allowed); and
- Lack of hour or unit requirements for several required course topics, making it unclear to applicants (and Board evaluators) whether or not coursework taken was sufficient to satisfy the requirement.

Over the past year, the Out-of-State Education Committee has been working to formulate new out-of-state education requirements that better accommodate license portability, while still maintaining consumer protection.

## PROPOSED AMENDMENTS

**Attachment A** shows the proposed amendments to the licensing law for LMFT out-of-state applicants. It incorporates the solutions discussed by the Out-of-State Education Committee at meetings that were held April through November, 2013. The amendments do the following, and would apply to applicants beginning January 1, 2016 (See **Attachment B** for a summary):

### Required Units

Require either 48 or 60 semester unit degrees for all out-of-state applicants depending on when Master's degree was obtained, in accordance with Business and Professions Code (BPC) Sections

4980.36 and 4980.37. If the applicant is required to have a 60 semester unit degree based on the timing of when the degree was obtained, he or she may remediate up to 12 semester units, if necessary. This remediation may occur while the applicant is registered as an intern.

### **Practicum**

**For applicants without an out-of-state license:** Require six semester/nine quarter units of practicum, 150 hours of face-to-face counseling, and an additional 75 hours of either face to face counseling or client centered advocacy. No remediation of the practicum requirement is permitted.

**For applicants with an out-of-state license:** Require six semester/nine quarter units of practicum, 150 hours of face-to-face counseling experience, and an additional 75 hours of either face to face counseling or client centered advocacy.

- Applicants who have been licensed for at least two years in clinical practice, are exempt from this requirement.
- Applicants who are licensed out of state but have held that license less than two years may remediate the entire practicum requirement by obtaining 150 hours of face to face counseling, and the additional 75 hours of face to face or client centered advocacy, while registered as an intern. These hours must be in addition to the 3,000 experience hours already required.

### **Marriage, Family and Child Counseling Content**

All out of state applicants will still be required to have twelve semester or 18 quarter units in the areas of marriage, family and child counseling and marriage and family systems approaches to treatment. This must be part of the degree program and cannot be remediated. This requirement is already in law and no further amendments are being proposed.

### **California Law and Ethics Content**

All out of state applicants must have course content in California law and ethics as follows:

1. If the 2 semester unit law and ethics course specified in Section 4980.81(a)(7) was completed but does not contain California content, then applicant must complete an 18-hour CA law & ethics course.
2. If the applicant is deficient the law and ethics course specified by 4980.81(a)(7), that 2 semester unit course must be taken and must include CA law and ethics content.

The required course content in California law and ethics must be obtained prior to the issuance of a license or intern registration.

### **Course Content Requirements Specified in BPC Section 4980.36(d)(2)**

Currently, the law states that all out of state applicants must complete any course content requirements specified under Business and Professions Code (BPC) Section 4980.36(d)(2) that they have not already completed. Under the new requirements, this coursework would have needed to have been at a Master's level.

At the last Committee meeting, members expressed concern that the coursework in 4980.36(d) is just a list – there are no hour or unit requirements. While this is acceptable for in-state students, because their schools have worked with the Board to integrate these topics into the degree programs, it will be more difficult for out-of-state students (and Board evaluators) to judge whether or not their degree contains sufficient coverage of the listed topic areas.

For this reason, staff proposes a new section, BPC §4980.81. This section attempts to quantify the requirements listed in 4980.36(d) whenever possible. In some cases, topic areas have been removed because they overlapped with other topic areas. Staff consulted with the Board's subject matter expert to create this section. Changes are summarized in **Attachment C**.

The amendments allow the coursework to be from an accredited or approved educational institution, or from a Board-accepted continuing education provider, **as long as it is graduate level coursework**. This coursework may be remediated while registered as an intern, which previously was not going to be allowed.

### **Principles of Mental Health and Cultures Coursework**

All out of state applicants are required to complete instruction in the principles of mental health recovery oriented care, instruction that includes an understanding of the various California cultures, and instruction in structured meetings with various consumers and family members of mental health services. Current law requires this to be credit level coursework (not CE), taken before registration as an intern is allowed, and there is no specification of the amount of coursework required. The new amendments require the following:

- The instruction in mental health recovery oriented care must be at least three semester units or 45 hours, and must include the structured meetings with consumers/family members training; and
- The instruction in understanding of California cultures must be at least one semester unit or 15 hours.

Both of these requirements can now be taken from an accredited or approved school or a CE provider, **must be graduate-level coursework**, and may be taken while registered as an intern.

### **ADDITIONAL AMENDMENT – EXPERIENCE CREDIT FOR TIME ACTIVELY LICENSED IN ANOTHER STATE**

Section 4980.72 sets examination eligibility requirements for LMFT applicants who are licensed out of state. One of the requirements for examination eligibility is that the applicant's supervised experience is substantially equivalent to the Board's experience requirements. It states that the Board will consider out-of-state experience obtained during the six year period immediately preceding the date the applicant obtained his or her out-of-state license.

If a licensee has been licensed for many years out-of-state, it may be inappropriate to look only at experience obtained prior to licensure. The Board's out-of-state LCSW applicants are permitted to count time actively licensed at a rate of 100 hours per month, up to a maximum of 1,200 hours, if they are short hours of supervised experience. These hours are applied toward the required direct clinical counseling hours. This method takes into account experience as a licensee in addition to pre-licensure experience.

This proposal includes an amendment to out-of-state licensee experience requirements for LMFT applicants to count time actively licensed as experience at a rate of 100 hours per month, up to 1,200

hours. Like LCSW applicants, these hours would be applied toward the required direct clinical counseling hours. Per the Committee's request at the last meeting, after January 1, 2016, the applicant can only do this if he or she meets the practicum requirement without exemptions or remediation. This is because Section 4980.79 proposes to allow applicants from out of state exemptions or remediation options for the practicum requirement under certain conditions. The Committee did not believe an applicant should be permitted exemptions/remediation for practicum AND also be able to count time actively licensed toward experience hours.

## **CLARIFICATION REGARDING PRACTICUM**

Current law requires an LMFT applicant to obtain, as part of their practicum, 150 hours of face-to-face counseling experience, and an additional 75 hours of either client centered advocacy or face-to face experience counseling individuals, couples, families, or groups.

At the February 6, 2014 Policy and Advocacy Committee meeting, a concern was discussed that stating the 75 hours must be either client centered advocacy or face-to-face counseling implies that no combination of the two can be credited toward the 75 hours. Staff does not believe this was the intent of the Board. Therefore, this language has been updated in Sections 4980.78 and 4980.79 (in this bill) and in Section 4980.36 (in the omnibus bill) to state that the 75 hours must be client centered advocacy, face-to-face counseling, or a combination thereof.

## **CONTINUING EDUCATION COURSEWORK**

At its February 6, 2014 meeting, the Policy and Advocacy Committee discussed a concern regarding the proposal to allow some coursework to be remediated through a Board-accepted continuing education provider.

This proposal allows certain coursework, including human sexuality, spousal or partner abuse, principals of mental health recovery-oriented care, and understanding of California cultures, to be obtained through a continuing education provider, as long as the content of the coursework is of a graduate level.

The Out-of-State Education Committee had recommended this language to ensure that continuing education coursework was taught at a master's level, rather than at an undergraduate or introductory level. However, a concern was raised at the Policy and Advocacy Committee meeting that there is no straightforward way to define for applicants and continuing education providers, exactly what makes each required course a graduate-level course.

The Board is in the process of proposing new continuing education regulations. These regulations are expected to be approved this summer, and are expected to become effective in early 2015.

When the new CE regulations become effective, the Board will no longer be approving continuing education providers. Instead, the Board will accept continuing education credits only from providers who have been approved or registered by a Board-recognized approval agency, or by an entity that is recognized by the Board as a CE provider.

Under the new program, Board-recognized approval agencies must have demonstrated that they meet stringent requirements to ensure the quality of CE providers they approve. Board-recognized providers must also meet strict guidelines and course content requirements.

Due to the new CE requirements coming online at approximately the same time as this proposal would go into effect, the Policy and Advocacy Committee recommended that the Board consider removing the requirement that continuing education coursework be "*of a graduate level*", from the proposed language.

Language that would be affected if the Board adopts this change is highlighted in yellow in **Attachment A**.

## **RECOMMENDED ACTION**

At its February 6, 2014 meeting, the Policy and Advocacy Committee directed staff to submit this proposal to the Board for consideration as Board-sponsored legislation.

Conduct an open discussion regarding the proposed amendments. Direct staff to make any discussed changes, as well as any non-substantive changes, and submit to the Legislature as Board-sponsored legislation.

## **ATTACHMENTS**

**Attachment A:** Proposed Language - Educational Requirements for Out of State LMFT Applicants

**Attachment B:** Matrix of Proposed Requirements -Licensed Out of State vs. Unlicensed Out of State

**Attachment C:** Comparison of LMFT Educational Requirements:

- Required Instruction Under BPC Section 4980.36 (degree begun after Aug. 1, 2012);
- Required Instruction Under BPC Sections 4980.37 and 4980.41 (degree begun prior to Aug. 1, 2012); and
- Proposal for Out-of-State LMFT Applicants

**Attachment D:** Reference Sections – LMFT Licensing Law: BPC Sections 4980.36, 4980.37, and 4980.41

**Attachment E:** Flow Chart

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**ATTACHMENT A  
PROPOSED LANGUAGE  
AMENDMENTS TO EDUCATIONAL REQUIREMENTS FOR OUT-OF-STATE LMFT  
APPLICANTS**

**LMFTs**

**Amend §4980.72 (LICENSED OUT OF STATE)**

(a) This section applies to persons who are licensed outside of California and apply for licensure on or after January 1, ~~2014~~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~~4980.79. 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. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a marriage and family therapist shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours, provided that the applicant's degree meets the practicum requirement described in Section 4980.79(b)(1)(C) without exemptions or remediation.

(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 (UNLICENSED OUT OF STATE)

- (a) This section applies to persons who apply for licensure or registration on or after January 1, ~~2014~~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. (UNLICENSED OUT OF STATE)

- (a) This section applies to persons who apply for licensure or registration on or after January 1, ~~2014~~2016, and who do not hold a license as described in Section 4980.72.
- (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) For applicants who obtained their degree within the timeline prescribed by Section 4980.36(a), the degree shall contain no less than 60 semester or 90 quarter units of instruction.
      - i. Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an intern.
    - (B) For applicants who obtained their degree within the timeline prescribed by Section 4980.37(a), the degree shall contain no less than 48 semester units or 72 quarter units of instruction.
  - ~~(A)~~(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face counseling, and an additional 75 hours of either face-to-face counseling or client-centered advocacy or a combination thereof, as specified in subsection (B) of paragraph (1) of subdivision (d) of Section 4980.36.
  - ~~(B)~~(D) 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 shall complete coursework in California law and ethics as follows:

- i. An applicant who completed a course in law and professional ethics for marriage and family therapists as specified in 4980.81(a)(7), which did not contain instruction in California law and ethics, shall complete 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. This coursework must be completed prior to registration as an intern.
- ii. An applicant who has not completed a course in law and professional ethics for marriage and family therapists as specified in 4980.81(a)(7) shall complete this required coursework. The coursework must contain content specific to California law and ethics. This coursework must be completed prior to registration as an intern.

~~(2)~~(3) The applicant completes any units and course content requirements under subdivision (d) of Section 4980.36 the educational requirements specified in Section 4980.81 not already completed in his or her education. The coursework may be from an accredited school, college or university as specified in paragraph (1) above, from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the Board as defined in Section 4980.54. The content of this coursework must be of a graduate level.

~~(3)~~(4) The applicant completes the following credit level coursework not already completed in his or her education from a degree-granting institution that provides all of the following: from an accredited school, college or university as specified in paragraph (1) above, from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the Board as defined in Section 4980.54. The content of this coursework must be of a graduate level.

(A) At least three semester units, or 45 hours, of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented model practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit, or fifteen hours, of instruction that includes 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 (1) 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) An applicant may complete any units and course content requirements required under paragraphs (3) and (4) not already completed in his or her education while registered as an intern, unless otherwise specified.~~

~~(5)(6) The applicant's degree title need not be identical to that required by subdivision (b) of Section 4980.36.~~

### **Add §4980.79. (LICENSED OUT OF STATE)**

(a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who hold a license as described in Section 4980.72.

(b) For purposes of Section 4980.72, 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, the following:

(A) For applicants who obtained their degree within the timeline prescribed by Section 4980.36(a), the degree shall contain no less than 60 semester or 90 quarter units of instruction.

i. Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an intern.

(B) For applicants who obtained their degree within the timeline prescribed by Section 4980.37(a), the degree shall contain no less than 48 semester units or 72 quarter units of instruction.

(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face counseling, and an additional 75 hours of either face-to-

face counseling or client-centered advocacy or a combination thereof, as specified in subsection (B) of paragraph (1) of subdivision (d) of Section 4980.36, .

- i. Out-of-state applicants who have been licensed for at least two years in clinical practice, as verified by the board, are exempt from this requirement.
- ii. Out-of-state applicants who have been licensed for less than two years in clinical practice, as verified by the board, who do not meet the practicum requirement, shall remediate it by obtaining 150 hours of face-to-face counseling, and an additional 75 hours of either face-to-face counseling or client-centered advocacy or a combination thereof, as specified in subsection (B) of paragraph (1) of subdivision (d) of Section 4980.36. These hours must be in addition to the 3,000 hours of experience required by this chapter, and must be gained while registered as an intern with the board.

(D) 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 shall complete coursework in California law and ethics as follows:

- i. An applicant who completed a course in law and professional ethics for marriage and family therapists as specified in 4980.81(a)(7), which did not contain instruction in California law and ethics, shall complete 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. This coursework must be completed prior to registration as an intern.
- ii. An applicant who has not completed a course in law and professional ethics for marriage and family therapists as specified in 4980.81(a)(7) shall complete this required coursework. The coursework must contain content specific to California law and ethics. This coursework must be completed prior to registration as an intern.

(3) The applicant completes the educational requirements specified in Section 4980.81 not already completed in his or her education. The coursework may be from an accredited school, college or university as specified in paragraph (1) above, from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the Board as defined in Section 4980.54. The content of this coursework must be of a graduate level.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited school, college or university as specified in paragraph (1) above, from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the Board as defined in Section 4980.54. The content of this coursework must be of a graduate level.

(A) At least three semester units, or 45 hours, of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit, or fifteen hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) The applicant's degree title need not be identical to that required by subdivision (b) of Section 4980.36.

(6) An applicant may complete any units and course content requirements required under paragraphs (3) and (4) not already completed in his or her education while registered as an intern, unless otherwise specified.

#### **ADD § 4980.81. ADDITIONAL EDUCATIONAL REQUIREMENTS FOR OUT-OF-STATE APPLICANTS**

This section applies to persons subject to Section 4980.78 or 4980.79, who apply for licensure or registration on or after January 2016.

(a) For purposes of Section 4980.78 and 4980.79, all of the following educational requirements shall be met:

(1) A minimum of two semester units of instruction in the diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature. This shall include at least one semester unit, or fifteen hours of instruction in psychological testing, and at least one semester unit, or fifteen hours of instruction in psychopharmacology.

(2) Developmental issues from infancy to old age, including demonstration of at least one semester unit, or fifteen hours of instruction that includes all of the following areas:

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

- (ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.
- ~~(iii) A variety of cultural understandings of human development.~~
- ~~(iv) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.~~
- ~~(v) The understanding of human behavior within the social context of a representative variety of the cultures found within California.~~
- (vi) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

An applicant who is deficient in any of the above topics areas may remediate the coursework by completing 3 hours of instruction in each deficient topic area.

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

(i) 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.

(ii) A minimum of ten contact hours of coursework that includes all of the following:

1. The assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.
2. Aging and its biological, social, cognitive, and psychological aspects.
3. Long-term care.
4. End of life and grief.

(iii) A minimum of fifteen contact hours of coursework in spousal or partner abuse assessment, detection, intervention strategies, and same gender abuse dynamics.

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

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

(vi) Marriage, divorce, and blended families.

(vii) Poverty and deprivation.

- (viii) Financial and social stress
  - (ix) Effects of trauma.
  - (x) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (ix), inclusive.
- (4) At least one semester unit, or fifteen hours, of instruction in multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.
- (5) A minimum of 10 contact hours of training or coursework in human sexuality, as specified in Section 25 and any regulations promulgated thereunder, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.
- (6) A minimum of 15 contact hours of coursework in substance use disorders, and a minimum of 15 contact hours of coursework in co-occurring disorders and addiction. The following topic areas must be included in this coursework:
- (i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, "co-occurring disorders" means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.
  - (ii) Medical aspects of substance use disorders and co-occurring disorders.
  - (iii) The effects of psychoactive drug use.
  - (iv) Current theories of the etiology of substance abuse and addiction.
  - (v) The role of persons and systems that support or compound substance abuse and addiction.
  - (vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.
  - (vii) Legal aspects of substance abuse.
  - (viii) Populations at risk with regard to substance use disorders and co-occurring disorders.
  - (ix) Community resources offering screening, assessment, treatment, and follow-up for the affected person and family.
  - (x) Recognition of substance use disorders, co-occurring disorders, and

addiction, and appropriate referral.

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

(7) A minimum of a two semester or three quarter unit course in law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

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

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

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

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

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

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

(vii) Licensing law and licensing process.

## **Amend §4980.80**

(a) This section applies to persons who apply for licensure between January 1, 2010, and December 31, ~~2013~~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. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a marriage and family therapist shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(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, ~~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 §4980.90**

(a) This section applies to persons who apply for licensure between January 1, 2010, and December 31, ~~2013~~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. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a marriage and family therapist shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(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 Sections 4980.37. The degree title need not be identical to those required by subdivision (b) of Section 4980.37. If the applicant's degree does not contain the content or 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, ~~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.

**Attachment B**  
**Comparison of Proposed LMFT Requirements**  
**Unlicensed Out of State vs. Licensed Out of State Applicant**

Requirement	Unlicensed Out of State	Licensed Out of State
Required Units	48 or 60 semester units, depending on when degree obtained. If 60 units required, may remediate up to 12 units. This remediation may occur while registered as an intern.	48 or 60 semester units, depending on when degree obtained. If 60 units required, may remediate up to 12 units. This remediation may occur while registered as an intern.
Practicum	6 semester units, 150 face to face hours plus 75 additional hours. No remediation.	6 semester units, 150 face to face hours plus 75 additional hours. Exempt from this requirement if licensed at least two years. If licensed less than 2 years, may remediate by obtaining 150 face to face hours plus 75 additional hours, while registered as an intern. These hours in addition to 3,000 required
Marriage, Family, & Child Counseling Content	12 semester/18 quarter units must be in degree. No remediation.	12 semester/18 quarter units must be in degree. No remediation.
California Law & Ethics	If 2 unit law and ethics course specified in Section 4980.81(a)(7) was completed but does not contain California content, then applicant must complete an 18-hour CA law & ethics course. If deficient the law and ethics course specified by 4980.81(a)(7), that 2 unit course must be taken and must include CA law and ethics content. This requirement must be completed prior to issuance of license/intern	If 2 unit law and ethics course specified in Section 4980.81(a)(7) was completed but does not contain California content, then applicant must complete an 18-hour CA law & ethics course. If deficient the law and ethics course specified by 4980.81(a)(7), that 2 unit course must be taken and must include CA law and ethics content. This requirement must be completed prior to issuance of license/intern
Additional Requirements specified in Section 4980.81	All course content required. Coursework must be graduate-level. May be from accredited/approved school or continuing education provider. May remediate while registered as intern, unless otherwise specified	All course content required. Coursework must be graduate-level. May be from accredited/approved school or continuing education provider. May remediate while registered as intern, unless otherwise specified.
Principles of Mental Health/Cultures Coursework	Instruction in mental health recovery oriented care - 45 hours. Instruction in CA cultures - 15 hours. Coursework must be graduate-level. May be from accredited/approved school or continuing education provider. May remediate while registered as intern.	Instruction in mental health recovery oriented care - 45 hours. Instruction in CA cultures - 15 hours. Coursework must be graduate-level. May be from accredited/approved school or continuing education provider. May remediate while registered as intern.

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### Attachment C

Required Instruction Under BPC Section 4980.36(d)(2) (8/1/2012-Ongoing)(Integrated Degree For Out-of State Applicants (CURRENT))	Required Instruction Under BPC Section 4980.37 and 4980.41 For Out-of State Applicants (Pre-8/1/2012)	Proposal for LMFT Out-of-State Applicants (BPC Section 4980.81)
1) Diagnosis, assessment, prognosis and treatment of mental disorders, including severe disorders, evidence-based practices, psychological testing, and psychopharmacology.	Psychological testing (two semester or three qtr units) Psychopharmacology (two semester or three qtr units)	Must have a minimum of 2 semester units of instruction in diagnosis, assessment, prognosis and treatment of mental disorders. This must include 1 semester unit, or 15 hours instruction in psychological testing, and 1 semester unit, or 15 hours instruction in psychopharmacology.
2) Developmental issues from infancy to old age, including the following: -Effects of developmental issues on individuals, couples, and family relationships -Psychological, psychotherapeutic, and health implications of developmental issues and their effects -Aging and its biological, social, cognitive, and psychological aspects -A variety of cultural understandings of human development -Understanding human behavior within the context of socioeconomic status and other issues affecting social position -Understanding human behavior within the social context of a representative variety of cultures in California -Understanding impact that personal and social insecurity, social stress, low education levels, inadequate housing, and malnutrition have on human development.	Required, but not quantified. See Section 4980.37(b)(3).	Developmental issues from infancy to old age, including 15 total hours of instruction including the following: -Effects of developmental issues on individuals, couples, and family relationships -Psychological, psychotherapeutic, and health implications of developmental issues and their effects -Understanding impact that personal and social insecurity, social stress, low education levels, inadequate housing, and malnutrition have on human development.  Note: Aging and its biological, social, cognitive, and psychological aspects has been moved to a new category.  Note: Cultural understandings/human development, human behavior in the context of socioeconomic status, and human behavior in context of California cultures, is included in the 45 hour principals of mental health recovery-oriented care requirement in specified in BPC Sections 4980.78 and 4980.79(b)(4)(A)
3) The broad range of matters/life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following areas: -Child abuse assessment and reporting (7 hours minimum required) -Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics -Cultural factors relevant to abuse of partners and family members -Childbirth, child rearing, parenting, and stepparenting -Marriage, divorce, and blended families -Long-term care -End of life and grief -Poverty and deprivation -Financial and social stress -Effects of trauma -The psychological, psychotherapeutic, community, and health implications of all of the above items.	Child abuse Assessment and Reporting (7 hours required) Spousal or partner abuse assessment, detection, and intervention (15 hours required), including: -Knowledge of community resources -Cultural factors -Same gender abuse dynamics	The broad range of matters/life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following areas: -Child abuse assessment and reporting (7 hours minimum required) -Elder/dependent adult abuse, aging (from above), end of life and grief, and long term care (10 hours) -Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics (15 hours) -Cultural factors relevant to abuse of partners and family members -Childbirth, child rearing, parenting, and stepparenting -Marriage, divorce, and blended families -Poverty and deprivation -Financial and social stress -Effects of trauma -The psychological, psychotherapeutic, community, and health implications of all of the above items.
4) Cultural competency and sensitivity, including familiarity with racial, cultural, linguistic, and backgrounds of California residents.	Required, but not quantified. See Section 4980.37(e).	Included in 15 hour California Cultures course required by BPC Sections 4980.78 and 4980.79(b)(4)(B).
5) Multicultural development/cross cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, disability, and their incorporation into the psychotherapeutic process.		At least one semester unit or 15 hours instruction in multicultural development/cross cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, disability, and their incorporation into the psychotherapeutic process.
6) The effects of socioeconomic status on treatment and available resources.		Included in 45 hour principals of mental health recovery-oriented care requirement in specified in BPC Sections 4980.78 and 4980.79(b)(4)(A)
7) Resilience, including personal and community quantities that enable persons to cope with adversity, trauma, tragedy, threats or other stresses.		Included in 45 hour principals of mental health recovery-oriented care requirement in specified in BPC Sections 4980.78 and 4980.79(b)(4)(A)
8) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment/treatment of psychosexual dysfunction.	Human Sexuality (10 hours required)	Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment/treatment of psychosexual dysfunction. (10 hours required)

Note - no hour requirement on these - assumed covered in 45-hour mental health recovery oriented care course.

**Attachment C**

<b>Required Instruction Under BPC Section 4980.36(d)(2) (8/1/2012-Ongoing)(Integrated Degree For Out-of State Applicants (CURRENT))</b>	<b>Required Instruction Under BPC Section 4980.37 and 4980.41 For Out-of State Applicants (Pre-8/1/2012)</b>	<b>Proposal for LMFT Out-of-State Applicants (BPC Section 4980.81)</b>
<p>9) Substance use disorders and addiction, including all of the following:</p> <ul style="list-style-type: none"> <li>-Definition of substance use disorders, co-occurring disorders and addiction</li> <li>-Medical aspects of substance use disorders and co-occurring disorders</li> <li>-The effects of psychoactive drug use</li> <li>-Current theories of etiology of substance abuse and addiction</li> <li>-Role of persons and systems that support/compound substance abuse and addiction</li> <li>-Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including best practices</li> <li>-Legal aspects of substance abuse</li> <li>-Populations at risk for substance use and co-occurring disorders</li> <li>-Community resources offering screening, assessment, treatment, and follow-up for the affected person and family</li> <li>-Recognition of substance use disorders, co occurring disorders, and addiction, and appropriate referral</li> <li>-Prevention of substance use disorders and addiction</li> </ul>	<p>Alcoholism and other chemical substance dependency (15 hours required)</p>	<p>Minimum of 15 hours coursework in substance use disorders, and 15 hours coursework in co-occurring disorders/addiction. Coursework must cover the following topics:</p> <ul style="list-style-type: none"> <li>-Definition of substance use disorders, co-occurring disorders and addiction</li> <li>-Medical aspects of substance use disorders and co-occurring disorders</li> <li>-The effects of psychoactive drug use</li> <li>-Current theories of etiology of substance abuse and addiction</li> <li>-Role of persons and systems that support/compound substance abuse and addiction</li> <li>-Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including best practices</li> <li>-Legal aspects of substance abuse</li> <li>-Populations at risk for substance use and co-occurring disorders</li> <li>-Community resources offering screening, assessment, treatment, and follow-up for the affected person and family</li> <li>-Recognition of substance use disorders, co occurring disorders, and addiction, and appropriate referral</li> <li>-Prevention of substance use disorders and addiction</li> </ul>
<p>10) California law and ethics for marriage and family therapists, including all of the following:</p> <ul style="list-style-type: none"> <li>-Contemporary professional ethics and statutory, regulatory, and decisional laws</li> <li>-The therapeutic, clinical, and practical considerations involved in legal and ethical practice, including family law</li> <li>-Current legal patterns and trends in mental health professions</li> <li>-Psychotherapist-patient privilege, confidentiality, patients dangerous to self or others, and treatment of minors with and without parental consent</li> <li>-Recognition and exploration of relationship between a practitioner's sense of self/human values and professional behavior and ethics</li> <li>-Differences in legal and ethical standards for different types of work settings</li> <li>-Licensing law and process</li> </ul>	<p>California law and ethics course (2 semester or 3 qtr units) covering the following:</p> <ul style="list-style-type: none"> <li>-Contemporary professional ethics and statutory, regulatory, and decisional laws</li> <li>-The therapeutic, clinical, and practical considerations involved in legal and ethical practice, incl. family law</li> <li>-Current legal patterns/trends in mental health profession</li> <li>-Psychotherapist-patient privilege, confidentiality, patients dangerous to self or others, and treatment of minors with and without parental consent</li> <li>-Recognition and exploration of relationship between a practitioner's sense of self/human values and professional behavior and ethics</li> </ul>	<p>At least two semester or three quarter unit course in law and professional ethics for LMFTs, including all of the following:</p> <ul style="list-style-type: none"> <li>-Contemporary professional ethics and statutory, regulatory, and decisional laws</li> <li>-The therapeutic, clinical, and practical considerations involved in legal and ethical practice, including family law</li> <li>-Current legal patterns and trends in mental health professions</li> <li>-Psychotherapist-patient privilege, confidentiality, patients dangerous to self or others, and treatment of minors with and without parental consent</li> <li>-Recognition and exploration of relationship between a practitioner's sense of self/human values and professional behavior and ethics</li> <li>-Differences in legal and ethical standards for different types of work settings</li> <li>-Licensing law and process</li> </ul>

**Attachment D**  
**Reference Sections – LMFT Licensing Law**  
**BPC Sections 4980.36, 4980.37, 4980.41**

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

(a) This section shall apply to the following:

- (1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.
- (2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.
- (3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

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

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

- (1) Integrate all of the following throughout its curriculum:
  - (A) Marriage and family therapy principles.
  - (B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.
  - (C) An understanding of various cultures and the social and psychological implications of socioeconomic position, and an understanding of how poverty and social stress impact an individual's mental health and recovery.
- (2) Allow for innovation and individuality in the education of marriage and family therapists.
- (3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.

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

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

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

(1) Both of the following:

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

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

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

(ii) A minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

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

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

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, and prognosis.

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

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

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

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

(vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following:

(I) Client-centered advocacy, as defined in Section 4980.03.

(II) Face-to-face experience counseling individuals, couples, families, or groups.

(2) Instruction in all of the following:

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

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

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

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

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

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

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

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

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

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

(i) Child and adult abuse assessment and reporting.

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

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

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

(v) Marriage, divorce, and blended families.

- (vi) Long-term care.
  - (vii) End of life and grief.
  - (viii) Poverty and deprivation.
  - (ix) Financial and social stress.
  - (x) Effects of trauma.
  - (xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.
- (D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.
- (E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.
- (F) The effects of socioeconomic status on treatment and available resources.
- (G) Resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.
- (H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.
- (I) Substance use disorders, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:
- (i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, “co-occurring disorders” means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.
  - (ii) Medical aspects of substance use disorders and co-occurring disorders.
  - (iii) The effects of psychoactive drug use.
  - (iv) Current theories of the etiology of substance abuse and addiction.
  - (v) The role of persons and systems that support or compound substance abuse and addiction.
  - (vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.
  - (vii) Legal aspects of substance abuse.

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

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

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

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

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

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

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

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

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

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

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

(vii) Licensing law and licensing process.

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

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

**§4980.37. QUALIFYING DEGREE PROGRAM FOR LICENSURE OR REGISTRATION; BEGINNING GRADUATE STUDY BEFORE AUGUST 1, 2012 AND COMPLETING GRADUATE STUDY BEFORE DECEMBER 31, 2018**

(a) This section shall apply to applicants for licensure or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those

applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4980.36.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by a regional accrediting agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this section, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. This instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment. The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect on individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, abuse and neglect of older and dependent adults, and geropsychology.

(4) A variety of approaches to the treatment of children. The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(c) (1) In addition to the 12 semester or 18 quarter units of coursework specified in subdivision (b), the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic technique, assessments, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(d) As an alternative to meeting the qualifications specified in subdivision (b), the board shall accept as equivalent degrees those master's or doctor's degrees granted by educational

institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(e) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program that meets the educational qualifications for licensure or registration under this section shall do all of the following:

(1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.

(2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.

(3) Train students specifically in the application of marriage and family relationship counseling principles and methods.

(4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.

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

(7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

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

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

#### **§4980.41. ELIGIBILITY TO SIT FOR LICENSING EXAMINATIONS; COURSEWORK OR TRAINING; INOPERATIVE JANUARY 1, 2019**

(a) An applicant for licensure whose education qualifies him or her under Section 4980.37 shall complete the following coursework or training in order to be eligible to sit for the licensing examinations as specified in subdivision (d) of Section 4980.40:

(1) A two semester or three quarter unit course in California law and professional ethics for marriage and family therapists, which shall include, but not be limited to, the following areas of study:

(A) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the profession's scope of practice.

(B) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including family law.

(C) The current legal patterns and trends in the mental health profession.

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

(E) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

This course may be considered as part of the 48 semester or 72 quarter unit requirements contained in Section 4980.37.

(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 human sexuality as specified in Section 25, and any regulations promulgated thereunder. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.37.

(4) For persons who began graduate study on or after January 1, 1986, a master's or doctor's degree qualifying for licensure shall include specific instruction in alcoholism and other chemical substance dependency as specified by regulation. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.37.

(5) For persons who began graduate study during the period commencing on January 1, 1995, and ending on December 31, 2003, a master's or doctor's degree qualifying for licensure shall include coursework in spousal or partner abuse assessment, detection, and intervention. For persons who began graduate study on or after January 1, 2004, a master's or doctor's degree qualifying for licensure shall include a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. The requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(6) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychological testing. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.37.

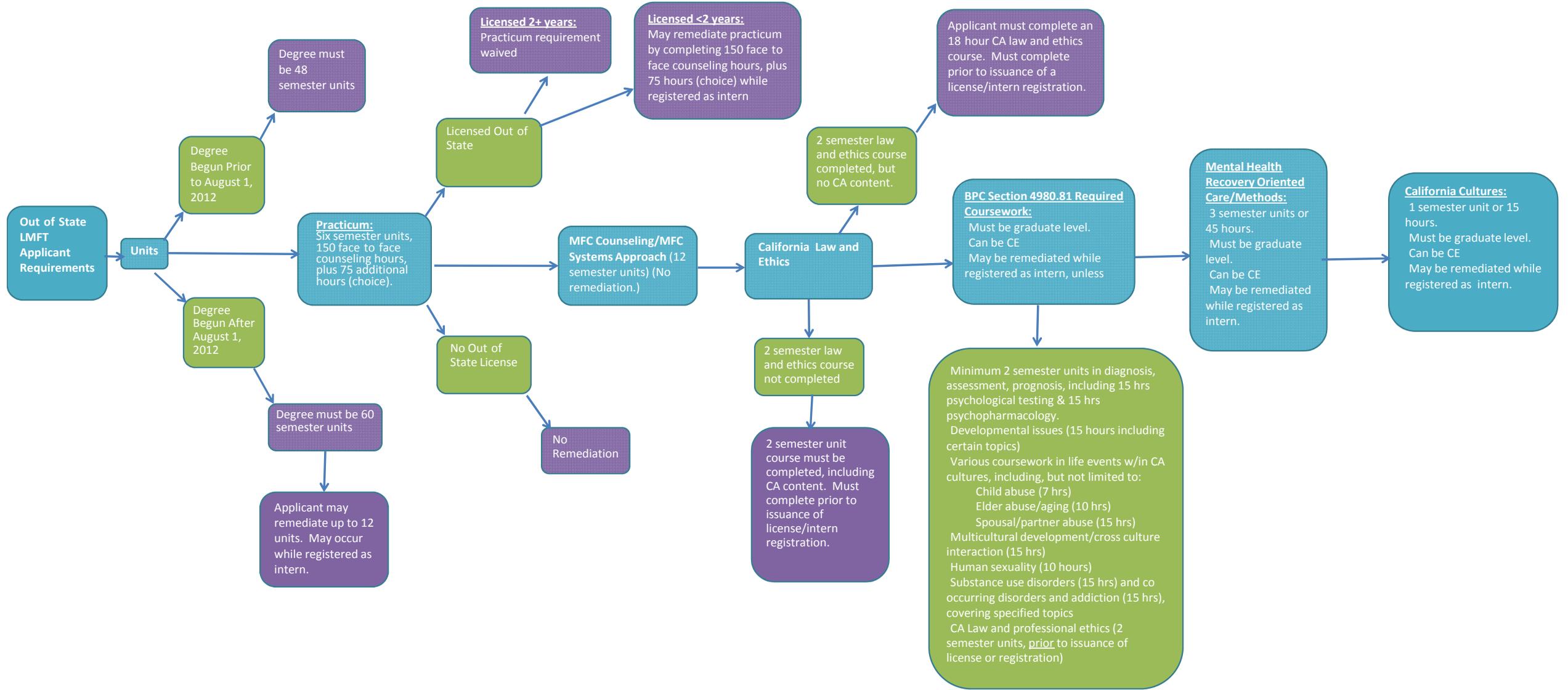
(7) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychopharmacology. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.37.

(8) The requirements added by paragraphs (6) and (7) are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice and are not intended in any way to expand or restrict the scope of licensure for marriage and family therapists.

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

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**ATTACHMENT E: FLOW CHART: REQUIREMENTS FOR AN OUT-OF-STATE LMFT APPLICANT**



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

**To:** Board Members

**Date:** February 24, 2014

**From:** Rosanne Helms  
Legislative Analyst

**Telephone:** (916) 574-7897

**Subject:** Proposed LPCC Out-of-State Applicant Requirements

---

## OVERVIEW

In 2013, the Board formed the Out-of-State Education Review Committee to examine concerns about upcoming changes to the education requirements for out-of-state LMFT and LPCC applicants. There were concerns that the out-of state requirements may be too stringent, restricting portability of these license types to California.

Specific areas of concern included the following:

- Lack of ability, under the new requirements, to remediate certain coursework while registered as an intern (this had previously been allowed);
- Lack of ability, under the new requirements, to remediate certain coursework through continuing education classes (this had previously been allowed); and
- Lack of hour or unit requirements for several required course topics, making it unclear to applicants (and Board evaluators) whether or not coursework taken was sufficient to satisfy the requirement.

Over the past year, the Out-of-State Education Committee has been working to formulate new out-of-state education requirements that better accommodate license portability, while still maintaining consumer protection.

## PROPOSED AMENDMENTS

**Attachment A** shows the proposed amendments to the licensing law for LPCC applicants with an out-of-state degree. The amendments do the following, and would apply to applicants beginning January 1, 2016 (See **Attachment B** for a summary):

### Required Units

Require either 48 or 60 semester unit degrees for applicants with an out-of-state degree, depending on when Master's degree was obtained, in accordance with Business and Professions Code (BPC) Sections 4999.32 and 4999.33. If the applicant is required to have a 60 semester unit degree

based on the timing of when the degree was obtained, he or she may remediate up to 12 semester units, if necessary. This remediation may occur while the applicant is registered as an intern.

### **Practicum**

**For applicants without an out-of-state license:** Require six semester/nine quarter units of practicum, including 280 hours of face-to-face counseling. No remediation of the practicum requirement is permitted.

**For applicants with an out-of-state license:** Require six semester/nine quarter units of practicum, including 280 hours of face-to-face counseling.

- Applicants who have been licensed for at least two years in clinical practice are exempt from the practicum requirement.
- Applicants who are licensed out of state but have held that license less than two years may remediate the entire practicum requirement by demonstrating completion of 280 hours of face to face counseling, as specified in BPC Section 4999.33(c)(3)(K). Any post-degree hours gained to meet this requirement must be in addition to the 3,000 experience hours already required for a license, and must be gained while registered as an intern.

### **Core Content Requirements – BPC Section 4999.33(c) (A)-(M)**

All out of state applicants who are deficient in any of the required areas of study listed in BPC Section 4999.33(c)(A)-(M) must satisfy the deficiencies by completing graduate coursework from an accredited or approved school. The coursework must be 3 semester or 4.5 quarter units for each content area. If not licensed in another state, this content must be remediated prior to issuance of a license or an intern registration. If the applicant is already licensed in another state, this content may be remediated while registered as an intern.

### **California Law and Ethics Content**

All out of state applicants must have course content in California law and ethics:

1. If core content law and ethics course specified in Section 4999.33(c)(1)(I) was completed but does not contain the California content, then applicant must complete an 18-hour CA law & ethics course.
2. If the applicant is deficient in the law and ethics core content course, the core content course must be taken, with CA law and ethics content, prior to issuance of license/intern registration.

The course content in California law and ethics must be obtained prior to issuance of a license or intern registration.

### **Advanced Coursework**

All out of state applicants who have not already done so must complete 15 semester or 22.5 quarter units of advanced coursework focusing on specific treatment issues or special populations. This coursework must be in addition to the core content requirements described above. The coursework

must be from an accredited or approved school. All applicants may remediate this coursework while registered as an intern.

### **Additional Coursework Requirements (BPC Section 4999.33(d))**

Current law states that the applicant must complete the coursework specified in BPC Section 4999.33(d) if they had not already done so.

**Attachment C** outlines the coursework required by Section 4999.33(d). The Out-of-State Committee determined that the first six subject areas were now being covered in the principles of mental health recovery oriented care (45 hours) and California cultures (15 hours) coursework that is proposed to be required of out-of-state applicants (see below).

The remaining topic areas have now been given a required number of hours. The purpose is to make it clearer to applicants, and the Board's evaluators, whether or not their completed coursework is sufficient. These requirements are as follows, and match the hours requirements that had previously been required in degrees under BPC Section 4999.32:

- Human sexuality (10 hours)
- Spousal/partner abuse (15 hours)
- Child abuse assessment (7 hours)
- Aging/long term care (10 hours)

The new amendments would allow the coursework to be from an accredited or approved educational institution, or from a Board-accepted continuing education provider, **as long as its content is graduate-level**. Also, an amendment has been made to allow this coursework to be remediated while registered as an intern, which previously was not going to be allowed.

### **Principles of Mental Health and Cultures Coursework**

All out of state applicants are required to complete instruction in the principles of mental health recovery oriented care, instruction that includes an understanding of the various California cultures, and courses that provide structured meetings with various consumers and family members of mental health services. Current law requires this to be credit level coursework (not CE), taken before registration as an intern was allowed, and there was no specification of the amount of coursework required. The proposed amendments require the following:

- The instruction in mental health recovery oriented care must be at least three semester units or 45 hours, and must include the structured meetings with consumers/family members training; and
- The instruction in understanding of California cultures must be at least one semester unit or 15 hours.

Both of these requirements can now be taken from an accredited or approved school or a CE provider, **as long as the course content is graduate level**. It may be taken while registered as an intern.

## **ADDITIONAL AMENDMENT – EXPERIENCE CREDIT FOR TIME ACTIVELY LICENSED IN ANOTHER STATE**

Sections 4999.59 and 4999.60 set examination eligibility requirements for LPCC applicants who are licensed out of state. One of the requirements for examination eligibility is that the applicant's supervised experience is substantially equivalent to the Board's experience requirements. It states that the Board will consider out-of-state experience obtained during the six year period immediately preceding the date the applicant obtained his or her out-of-state license.

If a licensee has been licensed for many years out-of-state, it may not be appropriate to look only at experience obtained prior to licensure. The Board's out-of-state LCSW applicants are permitted to count time actively licensed at a rate of 100 hours per month, up to a maximum of 1,200 hours, if they are short hours of supervised experience. These hours are applied toward the required direct clinical counseling hours. This method takes into account experience as a licensee in addition to pre-licensure experience.

This proposal includes an amendment for out-of-state licensee experience requirements for LPCC applicants to count time actively licensed as experience at a rate of 100 hours per month, up to 1,200 hours. Like LCSW applicants, these hours would be applied toward the required direct clinical counseling hours. Per the Out-of-State Committee's request, after January 1, 2016, the applicant can only do this if he or she meets the practicum requirement without exemptions or remediation. This is because BPC Section 4999.63 is proposing to allow licensed out-of-state applicants exemptions or remediation options for the practicum requirement under certain conditions. The Committee did not believe an applicant should be permitted both an exemption/remediation for practicum AND also be able to count time actively licensed toward experience hours.

## **CONTINUING EDUCATION COURSEWORK**

At its February 6, 2014 meeting, the Policy and Advocacy Committee discussed a concern regarding the proposal to allow some coursework to be remediated through a Board-accepted continuing education provider.

This proposal allows certain coursework, including human sexuality, spousal or partner abuse, principals of mental health recovery-oriented care, and understanding of California cultures, to be obtained through a continuing education provider, as long as the content of the coursework is of a graduate level.

The Out-of-State Education Committee had recommended this language to ensure that continuing education coursework was taught at a master's level, rather than at an undergraduate or introductory level. However, a concern was raised at the Policy and Advocacy Committee meeting that there is no straightforward way to define for applicants and continuing education providers, exactly what makes each required course a graduate-level course.

The Board is in the process of proposing new continuing education regulations. These regulations are expected to be approved this summer, and are expected to become effective in early 2015.

When the new CE regulations become effective, the Board will no longer be approving continuing education providers. Instead, the Board will accept continuing education credits only from providers who have been approved or registered by a Board-recognized approval agency, or by an entity that is recognized by the Board as a CE provider.

Under the new program, Board-recognized approval agencies must have demonstrated that they meet stringent requirements to ensure the quality of CE providers they approve. Board-recognized providers must also meet strict guidelines and course content requirements.

Due to the new CE requirements coming online at approximately the same time as this proposal would go into effect, the Policy and Advocacy Committee recommended that the Board consider removing the requirement that continuing education coursework be "*of a graduate level*", from the proposed language.

Language that would be affected if the Board adopts this change is highlighted in yellow in **Attachment A**.

## **RECOMMENDED ACTION**

At its February 6, 2014 meeting, the Policy and Advocacy Committee directed staff to submit this proposal to the Board for consideration as Board-sponsored legislation.

Conduct an open discussion regarding the proposed amendments. Direct staff to make any discussed changes, as well as any non-substantive changes, and submit to the Legislature as Board-sponsored legislation.

## **ATTACHMENTS**

**Attachment A:** Proposed Language - Educational Requirements for Out of State LPCC Applicants

**Attachment B:** Matrix of Proposed Requirements -Licensed Out of State vs. Unlicensed Out of State

**Attachment C:** Comparison of LPCC Educational Requirements – 4999.33(d) (degree begun after Aug. 1, 2012) Versus 4999.32 (degree begun prior to Aug. 1, 2012)

**Attachment D:** Reference Sections – LPCC Licensing Law: BPC Sections 4999.32 and 4999.33

**Attachment E:** Flow Chart

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**ATTACHMENT A  
PROPOSED LANGUAGE  
AMENDMENTS TO EDUCATIONAL REQUIREMENTS FOR OUT-OF-STATE LPCC  
APPLICANTS**

**LPCCs**

**Amend §4999.57**

(a) This section applies to a person who applies for examination eligibility or registration between January 1, 2011, and December 31, ~~2013~~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.~~

(1) An applicant who completed a course that meets the requirements of subparagraph (l) of paragraph (1) of subdivision (c) of Section 4999.32, and which included instruction in California law and ethics, is exempt from taking the 18-hour course specified in paragraph (6) of subdivision (e) of Section 4999.32.

(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, ~~2014~~2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, ~~2014~~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, ~~2013~~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. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a licensed professional clinical counselor shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(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.~~

(1) An applicant who completed a course that meets the requirements of subparagraph (l) of paragraph (1) of subdivision (c) of Section 4999.32, and which included instruction in California law and ethics, is exempt from taking the 18-hour course specified in paragraph (6) of subdivision (e) of Section 4999.32.

(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, ~~2014~~2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, ~~2014~~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, ~~2013~~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. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a licensed professional clinical counselor shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(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.~~

(1) An applicant who completed a course that meets the requirements of subparagraph (l) of paragraph (1) of subdivision (c) of Section 4999.32, and which included instruction in California law and ethics, is exempt from taking the 18-hour course specified in paragraph (6) of subdivision (e) of Section 4999.32.

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

### **Amend §4999.60 (LICENSED OUT OF STATE)**

(a) This section applies to persons who are licensed outside of California and apply for examination eligibility on or after January 1, ~~2014~~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~~ [4999.63](#).
- (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. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a professional clinical counselor shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours, provided that the applicant's degree meets the practicum requirement described in 4999.63(b)(1)(C) without exemptions or remediation.
- (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 (UNLICENSED OUT OF STATE)**

- (a) This section applies to persons who apply for examination eligibility or registration on or after January 1, ~~2014~~[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 (UNLICENSED OUT OF STATE)**

- (a) This section applies to persons who apply for examination eligibility or registration on or after January 1, ~~2014~~[2016](#), and who do not hold a license as described in Section 4999.60.
- (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) For applicants who obtained their degree within the timeline prescribed by Section 4999.33(a), the degree shall contain no less than 60 graduate semester or 90 graduate quarter units of instruction.

- (i) Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an intern.

(B) For applicants who obtained their degree within the timeline prescribed by Section 4999.32(a), the degree shall contain no less than 48 graduate semester or 72 graduate quarter units of instruction.

~~(A)~~(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face counseling.

~~(B)~~(D) The required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

- (i) An applicant whose degree is deficient in any of the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) may satisfy those deficiencies by successfully completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet such deficiencies shall be the equivalent of three semester units or four and one-half quarter units of study.

I. An applicant who completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33, which did not contain instruction in California law and ethics, shall complete 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. This coursework must be completed prior to registration as an intern.

II. An applicant who has not completed a course in professional orientation, ethics and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content in California law and ethics. This coursework must be completed prior to registration as an intern.

(2) The applicant completes any units and course content requirements under Section 4999.33 required under subdivision (c) of Section 4999.33 not already completed in his or her education- as follows:

- (i) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework must be in addition to the course requirements described in paragraph (1)(D).

Coursework shall be from an accredited or approved school, college, or university as defined in Section 4999.12.

(3) The applicant completes the following coursework not already completed in his or her education:

(i) A minimum of 10 contact hours of training in human sexuality, as specified in Section 25, and any regulations promulgated thereunder, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(ii) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) A minimum of 7 contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

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

This coursework may be from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the Board as defined in Section 4999.76. **The content of this coursework must be of a graduate level.**

(3)(4) The applicant completes the following credit level coursework not already completed in his or her education from a degree-granting institution that provides all of the following: from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the Board as defined in Section 4999.76. **The content of this coursework must be of a graduate level.**

(A) At least three semester units, or 45 hours of instruction ~~Instruction~~ regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented ~~model~~ practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experiences of mental illness, treatment, and recovery.

(B) At least one semester unit, or fifteen hours, of instruction that includes an ~~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 (l) 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.~~

(5) An applicant may complete any units and course content requirements required under paragraphs (2), (3) and (4) not already completed in his or her education while registered as an intern with the board.

**Amend 4999.63 (LICENSED OUT OF STATE)**

(a) This section applies to persons who apply for examination eligibility or registration on or after January 1, 2016, and who hold a license as described in Section 4999.60.

(b) For purposes of Section 4999.60, 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 the following:

(A) For applicants who obtained their degree within the timeline prescribed by Section 4999.33(a), the degree shall contain no less than 60 graduate semester or 90 graduate quarter units of instruction.

(i) Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an intern.

(B) For applicants who obtained their degree within the timeline prescribed by Section 4999.32(a), the degree shall contain no less than 48 graduate semester or 72 graduate quarter units of instruction.

(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face counseling.

(i) Applicants who have been licensed for at least two years in clinical practice, as verified by the board, are exempt from this requirement.

- (ii) Out-of-state applicants who have been licensed for less than two years in clinical practice, as verified by the board, who do not meet the practicum requirement, shall remediate it by demonstrating completion of a total of 280 hours of face-to face counseling, as specified in Section 4999.33(c)(3)(K). Any post-degree hours gained to meet this requirement must be in addition to the 3,000 hours of experience required by this chapter, and must be gained while registered as an intern with the board.

(D) The required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

- (i) An applicant whose degree is deficient in any of the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) may satisfy those deficiencies by successfully completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet such deficiencies shall be the equivalent of three semester units or four and one-half quarter units of study.

- I. An applicant who completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33, which did not contain instruction in California law and ethics, shall complete 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. This coursework must be completed prior to registration as an intern.

- II. An applicant who has not completed a course in professional orientation, ethics and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content in California law and ethics. This coursework must be completed prior to registration as an intern.

(2) The applicant completes any units required under subdivision (c) of Section 4999.33 not already completed in his or her education; as follows:

- (i) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework must be in addition to the course requirements described in paragraph (1)(D).

Coursework shall be from an accredited or approved school, college, or university as defined in Section 4999.12.

(3) The applicant completes the following coursework not already completed in his or her education:

(i) A minimum of 10 contact hours of training in human sexuality, as specified in Section 25, and any regulations promulgated thereunder, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(ii) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) A minimum of 7 contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

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

This coursework may be from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the Board as defined in Section 4999.76. The content of this coursework must be of a graduate level.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the Board as defined in Section 4999.76. The content of this coursework must be of a graduate level.

(A) At least three semester units, or 45 hours, of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit, or fifteen hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required under paragraphs (1)(D), (2), (3) and (4) not already completed in his or her education while registered as an intern with the board, unless otherwise specified.

**Attachment B**  
**Comparison of Proposed LPCC Requirements**  
**Unlicensed Out of State vs. Licensed Out of State Applicant**

Requirement	Unlicensed Out of State	Licensed Out of State
Required Units	48 or 60 semester units, depending on when degree obtained. If 60 units required, may remediate up to 12 units. This remediation may occur while registered as an intern.	48 or 60 semester units, depending on when degree obtained. If 60 units required, may remediate up to 12 units. This remediation may occur while registered as an intern.
Practicum	6 semester units, including 280 face-to-face hours. No remediation.	6 semester units, including 280 face to face hours. Exempt from this requirement if licensed at least two years. If licensed less than 2 years, may remediate by demonstration completion of 280 face to face hours. Any post-degree hours gained to meet this requirement must be in addition to 3,000 required experience hours, and must be gained while registered as an intern.
BPC Section 4999.33(c)(1)(A)-(M) Core Content Requirements	All content areas required. Each must be 3 semester/4.5 quarter units. Must be graduate level coursework from accredited/approved school. Remediation allowed, but must be done prior to issuance of an intern registration or license.	All content areas required. Each must be 3 semester/4.5 quarter units. Must be graduate level coursework from accredited/approved school. Remediation allowed, and may be done while registered as an intern. (Except CA law and ethics)
California Law & Ethics	If core content law and ethics course specified in Section 4999.33(c)(1)(l) was completed but does not contain California content, then applicant must complete an 18-hour CA law & ethics course. If deficient in the law and ethics core content course, the core content course must be taken, with CA law and ethics content, prior to issuance of license/intern registration.	If core content law and ethics course specified in Section 4999.33(c)(1)(l) was completed but does not contain California content, then applicant must complete an 18-hour CA law & ethics course. If deficient in the law and ethics core content course, the core content course must be taken, with CA law and ethics content, prior to issuance of license/intern registration.
Advanced Coursework - Knowledge of Specific Treatment/Populations	15 semester/22.5 quarter units must be completed. Remediation allowed if not in degree; must be from an accredited or approved school. Coursework must be in addition to core content areas described in 4999.33(c)(1)(A)-(M). May remediate while registered as an intern.	15 semester/22.5 quarter units must be completed. Remediation allowed if not in degree; must be from an accredited or approved school. Coursework must be in addition to core content areas described in 4999.33(c)(1)(A)-(M). May remediate while registered as an intern.
Additional Coursework Requirements (BPC Section 4999.33(d))	Coursework may be remediated while registered as an intern. May be from an accredited/approved school or a continuing education provider as long as content is graduate level.	Coursework may be remediated while registered as an intern. May be from an accredited/approved school or a continuing education provider as long as content is graduate level.
Principles of Mental Health/Cultures Coursework	Instruction in mental health recovery oriented care - 45 hours. Instruction in CA cultures - 15 hours. May be from accredited/approved school or continuing education provider as long as content is graduate level. May remediate while registered as intern.	Instruction in mental health recovery oriented care - 45 hours. Instruction in CA cultures - 15 hours. May be from accredited/approved school or continuing education provider as long as content is graduate level. May remediate while registered as intern.

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### Attachment C

Required Instruction Under BPC Section 4999.33(d) (Integrated Degree Program) For Out-of State Applicants (CURRENT)	Required Instruction under BPC Section 4999.32 For Out-of State Applicants (PREVIOUS)	Proposal for LPCC Out-of-State Applicants
1) Understanding of human behavior within the social context of socioeconomic status or other contextual issues affecting social position	not included	Included in required 15 hours of CA cultures coursework.
2) Understanding of human behavior within the social context of a representative variety of the cultures found within California.	not included	Included in required 15 hours of CA cultures coursework.
3) Cultural competency and sensitivity, including a familiarity with racial, cultural, linguistic, and ethnic backgrounds of persons living in California.	not included	Included in required 15 hours of CA cultures coursework.
4) Understanding the effects of socioeconomic status on treatment and available resources.	not included	Included in required 15 hours of CA cultures coursework/45 hours of principles of mental health.
5) Multicultural development/cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability incorporated into the psychotherapeutic process.	not included	Included in required 15 hours of CA cultures coursework.
6) Case management, systems of care for the severely mentally ill, public and private services for the severely mentally ill, community resources for victims of abuse, disaster/trauma response, advocacy for severely mentally ill, and collaborative treatment.	not included	Included in 45 hours of principles of mental health.
7) Human sexuality, including study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and assessment/treatment of psychosexual dysfunction.	A minimum of 10 hours of training in human sexuality as specified in Section 25.	A minimum of 10 hours of training in human sexuality as specified in Section 25.
8) Spousal/partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.	A minimum of 15 contact hours of instruction in spousal/partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics.	A minimum of 15 contact hours in spousal/partner abuse assessment/detection/intervention and same gender abuse dynamics.
9) Child abuse assessment and reporting.	A minimum of 7 contact hours in child abuse assessment/reporting as specified in Section 28.	A minimum of 7 contact hours in child abuse assessment/reporting as specified in Section 28.
10) Aging and long term care, including biological, social, cognitive, and psychological aspects of aging. Shall include instruction on assessment/reporting of and treatment related to elder and dependent adult abuse and neglect.	A minimum of 10 contact hours of instruction in aging and long term care, including biological, social, and psychological aspects of aging. Shall include instruction on the assessment/reporting of and treatment related to elder and dependent adult abuse and neglect.	A minimum of 10 contact hours of instruction in aging and long term care including biological, social, and psychological aspects of aging. Shall include instruction on the assessment/reporting of and treatment related to elder and dependent adult abuse and neglect.

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**Attachment D**  
**Reference Sections – LPCC Licensing Law**  
**BPC Sections 4999.32 and 4999.33**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

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

(A) Applied psychotherapeutic techniques.

(B) Assessment.

(C) Diagnosis.

(D) Prognosis.

(E) Treatment.

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

(G) Health and wellness promotion.

(H) Other recognized counseling interventions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) This section shall apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(K) Addictions counseling, including substance abuse, co-occurring disorders, and addiction, major approaches to identification, evaluation, treatment, and prevention of substance abuse and addiction, legal and medical aspects of substance abuse, populations at risk, the role of support persons, support systems, and community resources.

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

(M) Advanced counseling and psychotherapeutic theories and techniques, including the

application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

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

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

(A) Applied psychotherapeutic techniques.

(B) Assessment.

(C) Diagnosis.

(D) Prognosis.

(E) Treatment.

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

(G) Health and wellness promotion.

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

(I) How to find and use resources.

(J) Other recognized counseling interventions.

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

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

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

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

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

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

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

(6) Case management, systems of care for the severely mentally ill, public and private services for the severely mentally ill, community resources for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. The instruction required in this paragraph may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

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

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

(9) Child abuse assessment and reporting.

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

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

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

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

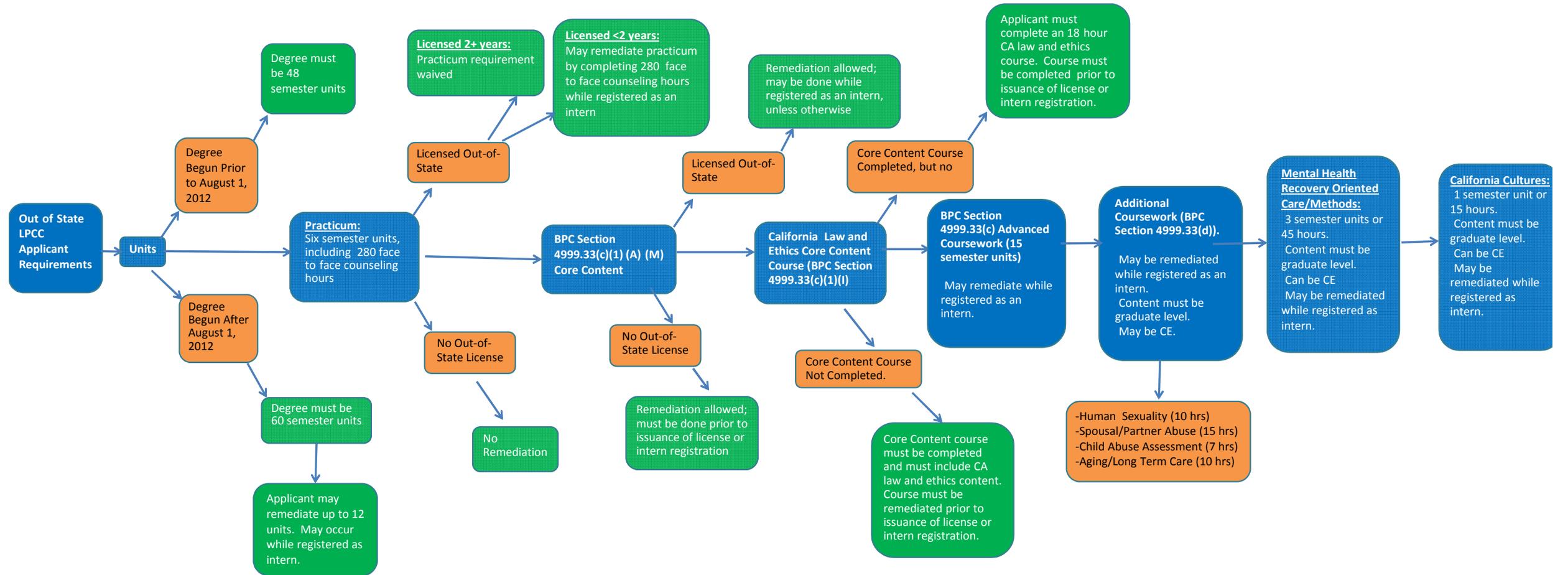
(3) Provide the opportunity for students to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

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

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

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

**ATTACHMENT E: FLOW CHART: REQUIREMENTS FOR AN OUT-OF-STATE LPCC APPLICANT**



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

**To:** Board Members

**Date:** February 21, 2014

**From:** Christy Berger  
Regulatory Analyst

**Telephone:** (916) 574-7817

**Subject:** LPCC Treatment of Couples or Families

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## Introduction

Under current law, professional clinical counselor licensees (LPCCs), interns (PCC interns), and trainees may not treat couples or families unless they complete specified training and education required by Business and Professions Code (BPC) section 4999.20(a)(3), as follows:

- 1) Either six (6) semester or nine (9) quarter units focused on theory and application of marriage and family therapy, OR a named specialization or emphasis area of the qualifying degree in marriage (or marital) and family therapy, marriage, family, and child counseling, or couple and family therapy;
- 2) At least 500 hours of documented supervised experience working directly with couples, families or children; AND
- 3) Completion of at least six (6) hours of continuing education specific to marriage and family therapy during each two-year renewal cycle.

In addition, Title 16, section 1820.5 of the California Code of Regulations (16 CCR) outlines exemptions for LPCC licensees, interns and trainees to allow treatment of couples or families while gaining the required 500 hours of supervised experience. As individuals attempt to gain the experience and education necessary to treat couples or families, the following questions have been frequently posed to staff:

- 1) How should the specialized education and experience be documented, and how will the individual know if they are acceptable?
- 2) How would a consumer, employer or supervisee verify whether the practitioner meets the requirements to treat couples and families?
- 3) Must the 500 hours supervised experience be obtained from an "approved supervisor"?
- 4) How can an LPCC or intern who does not yet meet the requirements to treat couples and families, treat children but not the child's family?

Some of these questions were addressed by the Policy and Advocacy Committee at its November 1, 2012 meeting, as well as the full Board at its November 28-29, 2012 meeting. The Board approved the originally proposed language, however, staff has not yet begun the regulatory process. This provides the opportunity to take another look at the proposal and to answer additional questions that have arisen.

## **Discussion**

- 1) How should the specialized education and experience be documented, and how will the LPCC or PCC Intern know if the coursework and experience is acceptable?**
- 2) How would a consumer, employer or supervisee verify whether the practitioner meets the requirements to treat couples and families?**

At this time, licensees and registrants are not required to obtain Board approval prior to treating couples or families. Once practitioners determine they have met the requirements, they may simply begin treating couples or families. Currently, the only way the Board may determine whether a licensee or registrant meets the requirements to treat couples or families is to (1) perform random audits of licensees and registrants, (2) request documentation of qualifications if a complaint is filed against the practitioner, or (3) when a licensee has supervised MFT interns or trainees.

Staff recommends that LPCC licensees be required to submit a form to the Board upon completion of the specialized education and experience. Board staff would evaluate the documentation, and send the practitioner a letter that states he or she is now qualified to treat couples and families (or that he or she has not met the requirements and why). This would allow the practitioner to provide the letter to consumers, employers and supervisees.

Staff therefore recommends adding Title 16, California Code of Regulations (16 CCR) section 1820.5, which would do the following:

- Require LPCCs and Interns to maintain records of education/experience and submit this documentation, along with an application to the Board.
- Beginning July 1, 2015<sup>1</sup>, require LPCCs to obtain approval from the Board prior to (1) treating couples or families; (2) supervising MFT interns or trainees, or (3) supervising interns or licensees who are gaining couples and families experience.
- Beginning July 1, 2015<sup>1</sup>, require LPCCs to provide a copy of the Board approval to a couple or family prior to beginning treatment, as well as to supervisees listed above.

- 3) Must the 500 hours supervised experience be obtained from an “approved supervisor”?**

Currently, the experience required to treat couples or families must be gained under the supervision of either a marriage and family therapist or a LPCC who has already met the requirements to treat couples and families. The code is silent on whether the supervisor must meet the qualifications of an “approved supervisor” as defined in BPC section 4999.12(h), which pertains to experience required for licensure.

It is not known whether the original intent was to require the experience be gained under a supervisor who meets the qualifications of BPC section 4999.12(h), or instead that the supervisor just be a licensed individual who is qualified to treat couples or families. BPC section 4999.12(h) defines an “approved supervisor” as someone who:

- Has a current, valid license not under suspension or probation
- Has not provided therapeutic services to the trainee or intern
- Has received professional training in supervision, and

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<sup>1</sup> or other date as determined through the regulatory process

- Has documented two years of clinical experience as an LPCC, LMFT, LCSW, licensed Clinical Psychologist, or licensed Physician and Surgeon certified in Psychiatry by the American Board of Psychiatry and Neurology.

Although the “approved supervisor” definition was designed for licensing purposes, it makes sense to require the same qualifications for supervision of couples and families experience to help ensure quality of supervision. If the “approved supervisor” definition is adopted, it would additionally allow LCSWs, licensed Clinical Psychologists, and Psychiatrists to supervise this experience. All of these professions are permitted to treat couples and families, increasing the availability of supervisors.

At its meeting in November 2012, the Board accepted an amendment to require the experience be supervised by an “approved supervisor.” Staff recommends similar amendments to 16 CCR section 1820.5 for the Board’s consideration.

#### **4) How can a LPCC or intern who does not yet meet the requirements to treat couples and families treat children, but not the child’s family?**

Similar to other Board licensees, all LPCCs may provide psychotherapeutic services to individuals and groups, including **children**, all of whom may be treated within the scope of practice without any additional training or experience. However, treatment of children nearly always involves the child’s family or legal guardian (this may also occur when the therapist is treating an adult but also needs to involve the family).

If a family requires actual treatment by the LPCC who is also treating the child (or adult), then the LPCC must possess the qualifications to treat families. If the LPCC does not meet the requirements, he or she may only provide collateral contact with the family for issues such as treatment planning, providing resources, monitoring progress, etc.

At the request of county employers, staff recommends clarifying this issue in regulations, and has drafted 16 CCR section 1820.6(c) for the Board’s consideration.

### **Technical Amendments**

#### **Clinical Counselor Trainees in Practicum**

Current “couples and families treatment” regulations group clinical counselor trainees in practicum, with licensees and interns. Trainees have not yet completed their degree program, and are not permitted to gain hours of experience toward licensure. They also cannot gain experience toward meeting the couples and families requirement. However, trainees are permitted by law to treat “individuals, families, or groups” during practicum, and are required to work under the supervision of the school at all times.

16 CCR section 1820.5 is proposed to be amended to clarify that trainees may treat couples and families if they are gaining practicum hours, and to clarify that they may not count such hours toward the 500 hours of supervised experience.

#### **Weekly Summary of Experience Hours Form**

Staff is proposing changes to the *Weekly Summary of Experience Hours* form (in 16 CCR section 1820), as shown in Attachment E for the purpose of making technical corrections and clarifications.

## **Supervisory Plan Form**

16 CCR section 1822 is proposed to be amended to clarify that the *Supervisory Plan* form is only required for experience gained toward licensure, rather than couples and families experience hours.

### **Policy and Advocacy Committee Recommendations**

At its meeting on February 6, 2014, the Policy and Advocacy Committee considered the proposed regulations and discussed the issues listed below. The Committee recommended that staff take the proposal to the Board for consideration after making corresponding changes.

1. Based on stakeholder feedback, the Committee recommended clarifying that those who supervise licensees or interns gaining experience required to treat couples and families must themselves have sufficient training to competently practice marriage and family therapy in California.
2. The Committee considered whether an LPCC licensee or Intern should be required to meet the specialized education and experience requirements in a particular order.

Currently existing regulations require licensees to complete the six units of coursework before beginning the 500 hours of supervised experience. However, interns are permitted to complete the coursework and experience in any order. The Committee believed it was not warranted to require a different standard for licensees than for interns. They agreed that, while taking the coursework prior to the supervised experience is ideal, it is not necessary because both interns and licensees must work under a competent supervisor. Additionally, requiring a certain order for completion would be more complicated for staff to implement and more challenging for stakeholders to accomplish.

3. The Committee considered whether applicants who have held a license in another state for at least two years should be subject to a streamlined process.

All other states in the U.S. permit LPCCs to treat couples and families as part of their scope of practice, and the National Mental Health Counselors Examination, used by most states, contains content on couples and families<sup>2</sup>. However, the Committee concluded that even individuals who have been licensed and in practice for a significant amount of time cannot be assumed to have adequate training to treat couples and families. The Committee decided it would be best to continue to require out-of-state licensees to demonstrate that they meet the requirements in the same manner any other applicant.

### **Recommendation**

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

### **Attachments**

**Attachment A:** Proposed Language

**Attachment B:** BPC § 4999.20 (Statute related to treatment of couples or families)

**Attachment C:** 16 CCR § 1820.5 (Regulation related to treatment of couples or families)

**Attachment D:** BPC § 4999.12(h) (Definition of an approved supervisor)

**Attachment E:** Weekly Summary of Experience Hours Form, Proposed Revisions

**Attachment F:** Supervisory Plan Form

**Attachment G:** Letter from the American Counseling Association regarding scope of practice nationally

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<sup>2</sup> <http://www.nbcc.org/NCMHCE/Topics>

**ATTACHMENT A**  
**PROPOSED AMENDMENTS**  
**LPC REQUIREMENTS TO WORK WITH COUPLES AND FAMILIES**  
Title 16, Division 18, California Code of Regulations

**AMEND §1820.5 EXPERIENCE WORKING DIRECTLY WITH COUPLES, OR FAMILIES, OR CHILDREN EXEMPTIONS FOR WORKING WITH COUPLES OR FAMILIES**

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

~~—(1) Is gaining supervised experience to comply with 4999.20(a)(3)(B), sections 4999.32(c)(3)(I), or 4999.33(c)(3)(K) of the Code; and,~~

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

(a) Clinical counselor trainees, as defined in Section 4999.12, shall be exempt from Section 4999.20 (a)(3) of the Code if the trainee is gaining supervised practicum experience to comply with sections 4999.32(c)(3)(I), or 4999.33(c)(3)(K) of the Code.

(b) Trainees may not count supervised experience with couples or families toward the requirements of section 4999.20(a)(3) of the Code.

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

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

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

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

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

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

(c) Professional clinical counselor interns and licensees shall be exempt from the scope of practice restrictions set forth in section 4999.20(a)(3) of the Code if the intern or licensee meets all of the following requirements:

(1) Is gaining supervised experience to comply with Section 4999.20(a)(3)(B) or 4999.46(b)(2) of the Code.

(2) The supervised experience is gained under the direct supervision of a licensee who meets the definition of an “approved supervisor” as described in Section 4999.12(h) of the Code. If the

supervisor is a licensed professional clinical counselor, he or she must also meet all requirements specified in Section 4999.20(a)(3) of the Code. A supervisor who is a licensed clinical social worker, licensed psychologist, or licensed physician who is board certified in psychiatry, shall have sufficient education and experience in treating couples and families to competently practice couples and family therapy in California.

(d) Collateral consultation may be provided to a family of an individual who is being treated by an LPCC or intern who does not meet the requirements of section 4999.20(a)(3) of the Code, and who is not working under supervision toward meeting the requirements of section 4999.20(a)(3) of the Code. Collateral contact with the family may include, but is not limited to, treatment planning, recommending resources, monitoring progress, or termination and aftercare planning.

NOTE: Authority cited: Sections 4990.20 ~~and 4999.20~~, Business and Professions Code. Reference: Sections 4990.20, ~~4999.20~~, 4999.32, and 4999.33 Business and Professions Code.

### **ADD §1820.7 - CONFIRMATION OF QUALIFICATIONS TO TREAT COUPLES OR FAMILIES**

(a) Effective July 1, 2015\*, a licensed professional clinical counselor shall obtain written confirmation from the board that he or she meets the requirements specified in 4999.20(a)(3) to treat couples and families, and shall provide a copy of this written confirmation to the clients prior to commencement of couple or family treatment.

(b) Effective July 1, 2015\*, a licensed professional clinical counselor shall obtain written confirmation from the board that he or she meets the requirements specified in 4999.20(a)(3) to treat couples and families, and shall provide a copy of this written confirmation to the supervisees listed below prior to commencement of supervision:

(1) A marriage and family therapist intern or trainee.

(2) A licensed professional clinical counselor or professional clinical counselor intern gaining supervised experience to comply with section 4999.20(a)(3).

(c) The board shall accept any of the following as documentation of the supervised experience required by section 4999.20(a)(2)(B) of the Code to treat couples and families:

(1) Hours of experience verified by a qualified supervisor.

(2) Hours of experience and supervisor's license information verified by an employer if the former supervisor is no longer available.

(3) The board may consider other documentation deemed equivalent by the board on a case-by-case basis.

NOTE: Authority cited: Section 4990.20 Business and Professions Code. Reference: Sections 4990.20, 4999.32, and 4999.33 Business and Professions Code.

*\*Or other date as determined through the regulatory process*

## AMEND § 1822 - SUPERVISORY PLAN

(a) All licensed mental health professionals acceptable to the board as defined in Section 4999.12 of the Code who assume responsibility for providing supervision [under section 4999.46 of the Code](#) shall develop a supervisory plan that describes the goals and objectives of supervision and shall complete and sign under penalty of perjury the "Supervisory Plan", (form no. 1800 37A-521, Rev. 3/10), hereby incorporated by reference.

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

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

## AMEND § 1820 - EXPERIENCE

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

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

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

(1) Lawfully and regularly provides mental health counseling or psychotherapy; and,  
(2) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in Chapter 16 (Commencing with Section 4999.10) of Division 2 of the Business and Professions Code and is within the scope of practice of the profession as specified therein.

(d) The term "community mental health setting," as used in Section 4999.46 of the Code, means a clinical setting that meets all of the following requirements:

(1) Lawfully and regularly provides mental health counseling or psychotherapy;  
(2) Clients routinely receive psychopharmacological interventions in conjunction with psychotherapy, counseling, or other psycho-social interventions;  
(3) Clients receive coordinated care that includes the collaboration of mental health providers; and,  
(4) Is not a private practice owned by a licensed professional clinical counselor, marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician or surgeon, a professional corporation of any of these licensed professions or a corporation of unlicensed individuals.

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

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

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

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

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

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

(4) The applicant or intern maintains a record of all hours of experience gained toward licensure on the "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" (form No. 1800 37A-645 ~~New 3/10~~ [Revised 2/14](#)), hereby incorporated by reference. The record of hours must be signed by the supervisor on a weekly basis. An intern shall retain all "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" until such time as the applicant is licensed by the board. The board shall have the right to require an applicant to submit all or such portions of the "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" as it deems necessary to verify hours of experience.

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

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

## **ATTACHMENT B LPCC TREATMENT OF COUPLES OR FAMILIES**

### **BUSINESS AND PROFESSIONS CODE (BPC) §4999.20. SCOPE OF PRACTICE; TREATMENT OF COUPLES OR FAMILIES**

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

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

(3) “Professional clinical counseling” does not include the assessment or treatment of couples or families unless the professional clinical counselor has completed all of the following training and education:

(A) One of the following:

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

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

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

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

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

(b) “Counseling interventions and psychotherapeutic techniques” means the application of cognitive, affective, verbal or nonverbal, systemic or holistic counseling strategies that include principles of development, wellness, and maladjustment that reflect a pluralistic society. These

interventions and techniques are specifically implemented in the context of a professional clinical counseling relationship and use of a variety of counseling theories and approaches.

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

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

## **ATTACHMENT C LPCC “APPROVED SUPERVISORS”**

### **BUSINESS AND PROFESSIONS CODE (BPC) §4999.12 (h)**

“Approved supervisor” means an individual who meets the following requirements:

- (1) Has documented two years of clinical experience as a licensed professional clinical counselor, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical social worker, or licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology.
- (2) Has received professional training in supervision.
- (3) Has not provided therapeutic services to the clinical counselor trainee or intern.
- (4) Has a current and valid license that is not under suspension or probation.

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## **ATTACHMENT D CURRENT REGULATIONS**

### **CCR §1820.5 EXPERIENCE WORKING DIRECTLY WITH COUPLES, FAMILIES, OR CHILDREN**

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

(1) Is gaining supervised experience to comply with 4999.20(a)(3)(B), 4999.32(c)(3)(I), or 4999.33(c)(3)(K) of the Code; and,

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

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

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

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

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

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

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

NOTE: Authority cited: Sections 4990.20 and 4999.20, Business and Professions Code. Reference: Sections 4990.20, 4999.20, 4999.32, and 4999.33 Business and Professions Code.

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# ATTACHMENT E

**Board of Behavioral Sciences**  
 1625 North Market Blvd., Suite S200, Sacramento, CA 95834  
 Telephone: (916) 574-7830 TTY: (800) 326-2297  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

## WEEKLY SUMMARY OF EXPERIENCE HOURS FOR PROFESSIONAL CLINICAL COUNSELOR INTERNS FOR HOURS GAINED ON OR AFTER JANUARY 1, 2014

This form shall be completed pursuant to title 16, California Code of Regulations (CCR) section 1820(e). Use a separate log for each supervised work setting. [Keep a separate weekly summary form for hours gained prior to your Intern registration number being issued.](#)

(Please type or print clearly in ink)

Name of PCC Intern: Last	First	Middle	BBS File No (if known)
Name of Supervisor:		Name of Work Setting:	
Address of Work Setting: Number and Street		City, State, Zip	
Indicate the status of the hours logged: The hours recorded on this form were gained while I was: <input type="checkbox"/> A Registered PCC Intern (PCC Intern No. _____) <input type="checkbox"/> A Post-Degree Applicant with Application Pending for Intern Registration		Is this setting a hospital or community mental health setting that meets the requirements of Title 16, CCR Section 1820(d)? Yes <input type="checkbox"/> No <input type="checkbox"/> <i>NOTE: A minimum of 150 hours of clinical experience in this type of setting is required.</i>	

*Note: Child counseling can be logged in any appropriate category as specified by your supervisor*

YEAR:	WEEK OF:												Total Hours	
1. Individual Psychotherapy (performed by you) Direct Counseling of individuals (including children), groups, couples, or families* (min. 1,750 hours)														
a. Of the types of clients in category #1, how many hours were gained treating couples, families, or children?***														
b. Of the hours in category #1, how many were Group Therapy or Counseling? (max. 500)														
c. Of the hours in category #1, how many were Telephone Telehealth Counseling? (max. 250/375)														
2. Administering & evaluating psych. tests, writing clinical reports, writing progress or process notes (max. 250)***														
3. Workshops, seminars, training sessions, or conferences directly related to professional clinical counseling (max. 250)***														
4. Client Centered Advocacy (CCA)***														
5. Supervision, Individual Face-to-Face***														
6. Supervision, Group***														
Total Per Week:														
*If seeing couples or families, your supervisor must meet qualifications listed in 16 CCR section 1820.5(c)  **This line is for the purpose of tracking experience toward meeting the scope of practice requirements of Business and Professions Code (BPC) section 4999.20(a)(3)(B)  ***When combined, these categories shall not exceed 1,250 hours of experience (BPC section 4999.46 (b)(6))		Signature of Supervisor												
		Signature of Supervisor												
		Signature of Supervisor												
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ATTACHMENT F



Board of Behavioral Sciences
1625 North Market Blvd., Suite S200, Sacramento, CA 95834
Telephone: (916) 574-7830 TTY: (800) 326-2297
www.bbs.ca.gov



SUPERVISORY PLAN

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

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

Form for Registrant information including fields for Legal name (Last, First, Middle), Registration Number, Address (Number and Street), City, State, Zip Code, Business Telephone, and Residence Telephone.

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

Form for Licensed Supervisor information including fields for Name (Last, First, Middle), License No., Expiration Date, Employer Name, Telephone Number, Address (Number and Street), City, State, Zip Code, and Employment Setting (a-h) with checkboxes.

Briefly describe the goals and objectives:

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

Supervisor's Signature Date signed

Registrant's Signature Date signed

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

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AMERICAN COUNSELING  
ASSOCIATION

*Your Passion. Your Profession. Our Purpose.*

October 2, 2013

Dean Porter:

Please accept this statement as verification that I reviewed the LPC Scope of Practice in all 50 states, District of Columbia and Puerto Rico and found that only California and Nevada restrict LPCs from assessing and treating couples and families; Nevada removed this restriction through legislation passed on May 25, 2013. I also found no state laws or regulations that prevent LPCCs from supervising MFT Interns. This information was current and accurate as of June 30, 2013.

Thank you,

A handwritten signature in cursive script that reads "Erin T. Martz".

Erin T. Martz

ACA Director, Ethics and Professional Standards

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

**To:** Board Members **Date:** February 24, 2014  
**From:** Rosanne Helms **Telephone:** (916) 574-7897  
Legislative Analyst  
**Subject: Proposed Regulations Incorporating Uniform Standards for Discipline of  
Substance Abusing Healing Arts Licensees**

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## **Summary**

This is a regulatory proposal that the Department of Consumer Affairs (DCA) and the Legislature are 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.

The Board approved these regulations at its November 28, 2012 meeting. However, DCA Legal has requested one additional amendment to clarify that the Board has the authority to impose additional probation terms, above and beyond what the uniform standards prescribe, if determined necessary for public protection. This additional amendment is in Section 1888(b) of **Attachment A**, and is shown in red text.

## **Background**

This regulatory 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.

Senate Bill 1441 (Ridley-Thomas) Statutes of 2008, Chapter 548, was signed in September 2008. The bill required DCA to establish the Substance Abuse Coordination Committee (SACC). The SACC, comprised of the executive officers of the DCA's healing arts boards, was tasked with formulating, by January 1, 2010, uniform and specific standards in specified areas that each board would be required to use in dealing with substance abusing licensees.

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

## **Summary of the Uniform Standards**

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

1. Specific requirements for a clinical diagnostic evaluation of the licensee, including but not limited to, required qualifications for the providers evaluating the licensee.

2. Specific requirements for the temporary removal of the licensee from practice, in order to enable the licensee to undergo a clinical diagnostic evaluation and any treatment recommended by the evaluator and approved by the board, and specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis.
3. Specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's status and condition.
4. Standards governing all aspects of required testing, including, but not limited to, frequency of testing, randomness, method of notice to the licensee, number of hours between the provision of notice and the test, standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collector, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test.
5. Standards governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.
6. Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.
7. Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors.
8. Procedures to be followed when a licensee tests positive for a banned substance.
9. Procedures to be followed when a licensee is confirmed to have ingested a banned substance.
10. Specific consequences for major violations and minor violations.
11. Criteria that a licensee must meet in order to petition for return to practice on a full time basis.
12. Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.
13. If a board uses a private-sector vendor that provides diversion services, standards for immediate reporting by the vendor to the board of any and all noncompliance with any term of the diversion contract or probation; standards for the vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and standards for a licensee's termination from the program and referral to enforcement.
14. If the board uses a private-sector vendor that provides diversion services, the extent to which licensee participates in that program shall be kept confidential from the public.
15. If a board uses a private-sector vendor that provides diversion services, a schedule for external independent audits of the vendor's performance in adhering to the standards adopted by the committee.
16. Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

### **Proposed Regulations**

Based on the standards created by the SACC, Board staff drafted amendments which incorporated the uniform standards into the Disciplinary Guidelines, as appropriate. Standards 13 through 16 were not

incorporated. These standards involve either diversion programs, which the Board does not have, or data collection, which is an internal Board function not appropriately addressed through regulations.

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

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

### **SB 1172**

SB 1172 (Negrete McLeod) Chapter 517, Statutes of 2010, requires a healing arts board to suspend a license if the licensee tests positive for any substance that is prohibited under the terms of the licensee’s probation or diversion program.

SB 1172 allows a board to adopt regulations authorizing it to suspend the license of a licensee on probation or in a diversion program for major violations and when the Board orders a licensee to undergo a clinical diagnostic evaluation.

The Uniform Standards Related To Substance Abuse fulfill the requirements of SB 1172.

### **Recommendation**

Conduct an open discussion regarding the new amendment. Direct staff to make any discussed or any non-substantive changes and to pursue as a regulatory proposal.

### **Attachments**

- A. Proposed revisions to CCR Section 1888 and Disciplinary Guidelines
- B. Uniform Standards Regarding Substance Abusing Healing Arts Licensees – Report prepared by DCA Substance Abuse Coordination Committee, April 2011
- C. SB 1441 Text
- D. SB 1172 Text

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## **§1888. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Behavioral Sciences shall ~~consider the disciplinary guidelines entitled “Board of Behavioral Sciences~~ consider the “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines” [Rev. ~~December 2012~~ OAL to insert effective date] which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards Related to Substance Abuse apply to cases of substance abuse.

- (a) If the conduct found to be a violation involves drugs and/or alcohol, the violation is a substance abuse violation for purposes of Section 315 of the Code. If the licensee or registrant does not rebut that the violation is a substance abuse violation, then the Uniform Standards Related to Substance Abuse shall apply unless the licensee, registrant, or the Board establishes that, in that particular case, appropriate public protection can be provided with modification or omission of a specific standard as a term of probation.
- (b) Notwithstanding subsection (a), ~~D~~deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems. Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, 4980.60 and 4990.20, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, 315.4, 480, 4982, 4989.54, 4992.3, and 4999.90, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

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***State of California***

**Department of Consumer Affairs**

**Board of Behavioral Sciences**

The seal of the California Board of Behavioral Sciences is a circular emblem. It features a central figure, likely a personification of Justice or a similar allegorical figure, holding a scale and a sword. The figure is set against a background of a landscape with mountains and a sun. The words "CALIFORNIA BOARD OF" are arched across the top, and "EUREKA" is written in the center. The bottom part of the seal is partially obscured by the title text.

**UNIFORM STANDARDS RELATED**  
**TO SUBSTANCE ABUSE AND**  
**DISCIPLINARY**  
**GUIDELINES**

**Revised: ~~December 2012~~ (OAL to Insert Effective Date)**

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California, or from its web site at [www.bbs.ca.gov](http://www.bbs.ca.gov).

## INTRODUCTION

The Board of Behavioral Sciences (hereinafter “the Board”) is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. In keeping with its mandate, the Board has adopted the following [uniform standards related to substance abuse and](#) recommended guidelines for the intended use of those involved in the disciplinary process: Administrative Law Judges, respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

These guidelines consist of ~~two~~four parts:

[I. Uniform Standards Related to Substance Abuse – for those licensees and registrants with a violation related to alcohol and/or a controlled substance, or whose license or registration is on probation due to a substance abuse violation;](#)

[II. Penalty Guidelines - an identification of the types of violations and range of penalties, for which discipline may be imposed;](#) ~~(Penalty Guidelines); and~~

[III. ~~Model~~ Disciplinary Orders - language for proposed terms and conditions of probation](#) ~~(Model Disciplinary Orders); and~~

[IV. Board Policies and Guidelines – for various enforcement actions.](#)

The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation.

These penalty guidelines apply only to the formal disciplinary process and do not apply to other alternatives available to the Board, such as citations and fines. See Business and Professions Code Section 125.9 and Title 16 California Code of Regulations Section 1886.

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## **I. Uniform Standards Related to Substance Abuse**

### **Uniform Standards For Licensees Or Registrants Whose License Or Registration Is On Probation Due To A Substance Abuse Violation**

The following standards shall apply in all cases in which a license or registration is placed on probation due, in part, to a substance abuse violation, unless the licensee, registrant, or the Board establishes that, in that particular case, appropriate public protection can be provided with modification or omission of a specific standard as a term of probation.

#### **Clinical Diagnostic Evaluations**

Whenever a licensee or registrant is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

The following practice restrictions apply to each licensee or registrant who undergoes a clinical diagnostic evaluation:

1. The Board shall suspend the license or registration during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the Board.
2. While awaiting the results of a clinical diagnostic evaluation, the licensee or registrant shall be randomly drug tested at least two (2) times per week.

#### **Clinical Diagnostic Evaluation Report**

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee or registrant has a substance abuse problem, whether the licensee or registrant is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice, restrictions, or other recommendations related to the licensee or registrant's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, business or professional relationship with the licensee or registrant. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee or registrant is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 calendar days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee or registrant is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee or registrant based on the application of the following criteria:

1. License or registration type;
2. Licensee or registrant's history;
3. Documented length of sobriety;
4. Scope and pattern of substance abuse;
5. Treatment history;
6. Medical history;
7. Current medical condition;
8. Nature, duration and severity of substance abuse problem; and
9. Whether the licensee or registrant is a threat to himself or herself or others.

No licensee or registrant shall be returned to practice until he or she has at least 30 calendar days of negative drug tests.

When determining if the licensee or registrant should be required to participate in inpatient, outpatient, or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license or registration type, licensee or registrant's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee or registrant is a threat to himself or herself or others.

### **Supervisor Requirements**

If the Board determines that a supervisor is necessary for a particular licensee or registrant, the supervisor must meet the following requirements to be considered for approval by the Board:

1. The supervisor shall not have a current or former financial, personal, business or professional relationship with the licensee or registrant, or other relationship that could reasonably be expected to compromise the ability of the supervisor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee or registrant's employer to serve as the supervisor, this requirement may be waived by the Board; however, under no circumstances shall a licensee or registrant's supervisor be an employee or supervisee of the licensee or registrant.

2. The supervisor's license scope of practice shall include the scope of practice of the licensee or registrant who is being monitored or be another health care professional if no supervisor with like scope of practice is available.
3. The supervisor shall be a current California licensed practitioner and have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The supervisor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee or registrant's disciplinary order and agrees to monitor the licensee or registrant as set forth by the Board.

The supervisor must adhere to the following required methods of monitoring the licensee or registrant:

1. Have a face-to-face contact with the licensee or registrant in the work environment on as frequent a basis as determined by the Board, but at least once per week.
2. Interview other staff in the office regarding the licensee or registrant's behavior, if applicable.
3. Review the licensee or registrant's work attendance.

Reporting by the supervisor to the Board shall be as follows:

1. Any suspected substance abuse must be orally reported to the Board and the licensee or registrant's employer within one (1) business day of occurrence. If the occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.
2. The supervisor shall complete and submit a written report directly to the Board monthly or as directed by the Board. The report shall include:
  - a. the licensee or registrant's name;
  - b. license or registration number;
  - c. supervisor's name and signature;
  - d. supervisor's license number;
  - e. worksite location(s);
  - f. dates licensee or registrant had face-to-face contact with supervisor;
  - g. worksite staff interviewed, if applicable;
  - h. attendance report;
  - i. any change in behavior and/or personal habits; and

- j. any indicators that can lead to suspected substance abuse.

The licensee or registrant shall complete the required consent forms and sign an agreement with the supervisor and the Board to allow the Board to communicate with the supervisor.

### **Chemical Dependency Support or Recovery Group Meetings**

If the Board requires a licensee or registrant to participate in chemical dependency support or recovery group meetings, the Board shall take the following into consideration when determining the frequency of required group meeting attendance:

1. the licensee or registrant's history;
2. the documented length of sobriety;
3. the recommendation of the clinical diagnostic evaluator;
4. the scope and pattern of substance abuse;
5. the licensee or registrant's treatment history; and
6. the nature, duration, and severity of substance abuse.

The group meeting facilitator of a chemical dependency support or recovery group that a Board licensee or registrant is required to participate in must meet the following requirements:

1. Have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
2. Be licensed or certified by the state or other nationally certified organizations to provide substance abuse recovery services;
3. Does not have a financial, personal, business or professional relationship with the licensee or registrant within the last year;
4. Must provide the Board a signed document showing the licensee or registrant's name, the group name, the date and location of the meeting, the licensee or registrant's attendance, and the licensee or registrant's level of participation and progress.
5. Must report to the Board any unexcused absence of a Board licensee or registrant being required to participate within 24 hours.

### **Major and Minor Violations**

Major violations include, but are not limited to, the following:

1. Failure to complete any Board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing more than one minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;

5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to report for drug and alcohol testing when ordered;
7. Testing positive for alcohol and/or a controlled substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee or registrant commits a major violation, the Board shall automatically suspend the license or registration and refer the matter for disciplinary action or other action as determined by the Board.

The consequences for a major violation include, but are not limited to, the following:

1. License or registration shall be suspended;
2. Licensee or registrant must undergo a new clinical diagnostic evaluation;
3. Licensee or registrant must test negative for at least one month of continuous drug testing before being allowed to resume practice;
4. Contract or agreement previously made with the Board shall be terminated; and
5. Licensee or registrant shall be referred for disciplinary action, such as suspension, revocation, or other action determined appropriate by the Board.

Minor violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused non-attendance at required meetings;
3. Failure to contact a supervisor and/or monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or registrant or to the public.

If a licensee or registrant commits a minor violation, the Board shall determine what action is appropriate. The consequences for a minor violation include, but are not limited to, the following:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation and/or testing.

### **Positive Test for Alcohol and/or a Controlled Substance**

If a licensee or registrant tests positive for alcohol and/or a controlled substance, the Board shall do the following:

- Automatically suspend the license or registration;

- Immediately contact the licensee or registrant and inform him or her that his or her license or registration has been suspended and he or she may not practice until the suspension is lifted; and
- Immediately notify the licensee or registrant's employer that the license or registration has been automatically suspended, and that he or she may not practice until the suspension is lifted.

The Board should do the following, as applicable, to determine whether a positive test for alcohol and/or a controlled substance is evidence of prohibited use:

- Consult the specimen collector and the laboratory;
- Communicate with the licensee or registrant and/or treating physician; and
- Communicate with any treatment provider, including a group facilitator.

The Board shall immediately lift the suspension if the positive drug test is not found to be evidence of prohibited use.

### **Drug Testing Standards**

The drug testing standards below shall apply to each licensee or registrant subject to drug testing. At its discretion, the Board may use other testing methods in place of, or to supplement, drug and alcohol testing, if appropriate.

1. Drug testing may be required on any day, including weekends and holidays.
2. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.
3. Licensees or registrants shall be required to make daily contact as directed to determine if drug testing is required.
4. Licensees or registrants shall be drug tested on the date of notification as directed by the Board.
5. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
6. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
7. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
8. Collection of specimens shall be observed.
9. Prior to vacation or absence, alternative drug testing location(s) must be approved by the Board.

10. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

Nothing herein shall limit the Board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code Section 11522 or statutes applicable to the Board that contain different provisions for reinstatement or reduction of penalty.

### **Drug Testing Frequency Schedule**

The Board may order a licensee or registrant to drug test at any time. In addition, each licensee or registrant shall be tested randomly according to the following drug testing frequency schedule:

<b><u>Level</u></b>	<b><u>Year of Probation</u></b>	<b><u>Minimum Range Number of Random Tests</u></b>
<u>I</u>	<u>Year 1</u>	<u>52-104 per year</u>
<u>II</u>	<u>Years 2 through 5</u>	<u>36-104 per year</u>
<u>III</u>	<u>After Year 5</u>	<u>Once per month*</u>

\*If no positive drug tests in the previous 5 consecutive years.

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The Board may increase the number of random tests required at its discretion. If the Board suspects or finds that a licensee or registrant has violated the prescribed testing program, or finds that a licensee or registrant has committed a major violation, it may re-establish the testing cycle by placing that licensee or registrant at the beginning of Level I. This is in addition to any other disciplinary action.

### **Drug Testing Frequency Schedule Exceptions**

The Board may make exceptions to the prescribed drug testing frequency schedule for the following reasons:

#### 1. Licensee or Registrant Demonstrates Previous Testing and Sobriety

The licensee or registrant can demonstrate participation in a treatment or monitoring program which requires random testing, prior to being subject to testing by the Board. In such a case, the Board may give consideration to the previous testing by altering the testing frequency schedule so that it is equivalent to the standard.

## 2. Violations Outside of Employment

A licensee or registrant whose license or registration is placed on probation for a single conviction or incident, or two convictions or incidents, spanning greater than seven years from each other, where alcohol or drugs were a contributing factor, may bypass Level I and participate in Level II of the testing frequency schedule if the violations did not occur at work or on the way to or from work.

## 3. Not Employed in Health Care Field

The Board may reduce testing frequency to a minimum of twelve (12) times per year if the licensee or registrant is not practicing or working in any health care field. If reduced testing frequency is established for this reason, and the licensee or registrant returns to practice, the licensee or registrant shall notify and obtain approval from the Board. The licensee or registrant shall then be subject to Level I testing frequency for at least 60 days. If the licensee or registrant had not previously met the Level I frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant had previously met the Level I frequency standard, the licensee or registrant shall be subject to Level II testing after completing Level I testing for at least 60 days.

## 4. Tolling

The Board may postpone all testing for any person whose probation is placed in a tolling status if the overall length of the probationary period is also tolled. The licensee or registrant shall notify the Board upon his or her return to California and shall be subject to testing as provided in the testing frequency standard. If the licensee or registrant returns to practice and has not previously met the Level I testing frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant has previously met the Level I testing frequency standard, then Level II shall be in effect.

## 5. Substance Use Disorder Not Diagnosed

If a licensee or registrant is not diagnosed with a current substance use disorder, a lesser period of monitoring and toxicology screening may be adopted by the Board. This period may not be less than 24 times per year.

### **Criteria to Petition to Return to Practice**

In order to petition to return to full time practice, a licensee or registrant shall have demonstrated all of the following:

1. Sustained compliance with his or her current recovery program;
2. The ability to practice safely as evidenced by current work site reports, evaluations, and any other information related to his or her substance abuse;
3. Must have at least six (6) months of negative drug screening reports and two (2) positive supervisor reports; and
4. Complete compliance with the other terms and conditions of his or her program.

### **Criteria to Petition for Reinstatement to Unrestricted License or Registration**

In order to petition for reinstatement to a full and unrestricted license or registration, a licensee or registrant shall meet all of the following criteria:

1. Demonstrated sustained compliance with the terms of the disciplinary order (if applicable);
2. Demonstrated successful completion of a rehabilitation program (if required);
3. Demonstration of a consistent and sustained participation in activities that promote and support his or her recovery, including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities;
4. Demonstrated ability to practice safely; and
5. Continuous sobriety for at least three (3) to five (5) years.

## II. Penalty Guidelines

The following is an attempt to provide information regarding violations of statutes and regulations under the jurisdiction of the Board of Behavioral Sciences and the appropriate range of penalties for each violation. Each penalty listed is followed in parenthesis by a number, which corresponds with a number under the chapter “Model Disciplinary Orders.” Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations. Optional conditions listed are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be imposed where appropriate. [Except as provided in the Uniform Standards Related to Substance Abuse,](#) tThe Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982.26(k) LCSW: B&P § 4992.33 LEP: B&P § 4989.58 LPCC: B&P § 4999.90(k) GP: B&P § 729	Engaging in Sexual Contact with Client / Former Client	<ul style="list-style-type: none"> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul> The law requires revocation/denial of license or registration.
MFT: B&P § 4982(aa)(1) LCSW: B&P § 4992.3(y)(1) LEP: B&P § 4989.54(y)(1) LPCC: B&P § 4999.90(z)(1)	Engaging In Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act occurred prior to or after registration or licensure. <b>or</b> Engaging in act described in Section 261, 286, 288a, or 289 of the Penal code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board.	<ul style="list-style-type: none"> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul> The Board considers this reprehensible offense to warrant revocation/denial.	<ul style="list-style-type: none"> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul> The Board considers this reprehensible offense to warrant revocation/denial.
MFT: B&P § 4982(k), 4982.26 LCSW: B&P § 4992.3(l), 4992.33 CCR § 1881(f) LEP: B&P § 4989.58 B&P § 4989.54(n) LPCC: B&P § 4999.90(k) GP: B&P § 480, 726	Sexual Misconduct (Anything other than as defined in B&P Section 729)	<ul style="list-style-type: none"> <li>Revocation stayed</li> <li>120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>Take and pass licensure examinations as a condition precedent to resumption of practice</li> <li>7 years probation</li> <li>Standard terms and conditions</li> <li>Psychological/psychiatric evaluation as a condition precedent to resumption of practice</li> <li>Supervised practice</li> </ul>	<ul style="list-style-type: none"> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul> (See B&P 4982.26, 4989.58, 4992.33) The Board considers this reprehensible offense to warrant revocation/denial.

		<ul style="list-style-type: none"> <li>• Psychotherapy</li> <li>• Education</li> <li>• Take and pass licensure examination</li> <li>• Reimbursement of probation program</li> </ul> <p>And if warranted, enter and complete a rehabilitation program approved by the Board; abstain from controlled substances/use of alcohol, submit to <a href="#">biological fluid/drug and alcohol testing-and samples</a>; restricted practice, reimbursement of probation program costs.</p>	
<p>MFT: B&amp;P § 4982(k)  LCSW: B&amp;P § 4992.3(l)  CCR § 1881(f)  LEP: B&amp;P § 4989.54(n)  LPCC: B&amp;P § 4999.90(k)  GP: B&amp;P § 480</p>	Commission of an Act Punishable as a Sexually Related Crime	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• Psychotherapy</li> <li>• 5 years probation; standard terms and conditions</li> <li>• Psychological/psychiatric evaluation as a condition precedent to the resumption of practice</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
<p>MFT: B&amp;P § 4982(c),  4982.1  LCSW: B&amp;P § 4992.3(c),  4992.35  LEP: , 4989.54(c)  LPCC: B&amp;P § 4999.90(c)  GP: B&amp;P § 480, 820</p>	Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• 5 years probation; standard terms and conditions</li> <li>• Supervised practice</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul> <p><u>In addition:</u></p> <ul style="list-style-type: none"> <li>• MENTAL ILLNESS: Psychological/psychiatric</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

		<p>evaluation; psychotherapy.</p> <ul style="list-style-type: none"> <li>• PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice</li> <li>• CHEMICAL DEPENDENCY <a href="#">Random drug and alcohol testing</a>, <a href="#">psychological/psychiatric/clinical diagnostic</a> evaluation; <a href="#">supervised practice</a>; therapy; rehabilitation program; abstain from controlled substances/use of alcohol; <del>submit to biological fluid tests and samples</del>; and if warranted: restricted practice.</li> </ul>	
<p>MFT: B&amp;P § 4982(c), 4982.1  LCSW: B&amp;P § 4992.3(c), 4992.35  LEP: B&amp;P § 4989.54(c), 4989.56  LPCC: B&amp;P § 4999.90(c)  GP: B&amp;P § 480</p>	<p>Chemical Dependency / Use of Drugs With Client While Performing Services</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric <a href="#">clinical diagnostic</a> evaluation and to implement any recommendations from that evaluation</li> <li>• <a href="#">Random drug and alcohol testing</a></li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric/<a href="#">clinical diagnostic</a> evaluation</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Rehabilitation program</li> <li>• Abstain from controlled substances/<a href="#">use of alcohol</a></li> <li>• <del>Submit to biological fluid test and samples</del></li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, psychotherapy; restricted practice</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
<p>MFT: B&amp;P § 4982(i)  LCSW: B&amp;P § 4992.3(j), CCR § 1881(d)  LEP: B&amp;P § 4989.54(m)  LPCC: B&amp;P § 4999.90(i)  GP: B&amp;P § 480</p>	<p>Intentionally / Recklessly Causing Physical or Emotional Harm to Client</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 90-120 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Take and pass licensure examinations</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration application</li> <li>• Cost recovery</li> </ul>

		And if warranted, psychological/psychiatric evaluation; psychotherapy, restricted practice.	
<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(d) LCSW: B&P § 4992.3(d) CCR § 1881(m) LEP: B&P § 4989.54(k) LPCC: B&P § 4999.90(d) GP: B&P § 480	Gross Negligence / Incompetence	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension; 5 years probation</li> <li>• Standard terms and conditions; supervised practice</li> <li>• Education</li> <li>• Take and pass licensure examinations</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs;</li> </ul> And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to <a href="#">biological fluiddrug and alcohol</a> testing; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982 CCR § 1845 LCSW: B&P § 4992.3 CCR § 1881 LEP: B&P § 4989.54 CCR § 1858 LPCC: B&P § 4999.90 GP: B&P § 125.6 480, 821	General Unprofessional Conduct	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery; reimbursement of probation program</li> </ul> And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to <a href="#">biological fluiddrug and alcohol</a> testing; restricted practice, law and ethics course.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<p align="center"><b>Statutes and Regulations</b></p> <p>Business and Professions Code: (B&amp;P)  Title 16, California Code of Regulations: (CCR)  General Provisions: (GP)  Penal Code: (PC)  Welfare and Institutions Code: (WI)</p>	<p align="center"><b>Violation Category</b></p>	<p align="center"><b>Minimum Penalty</b></p>	<p align="center"><b>Maximum Penalty</b></p>
<p>MFT: B&amp;P § 4980.40(e), 4982(a)  LCSW: B&amp;P § 4992.3(a), 4996.2(d), 4996.18(b)  LEP: B&amp;P § 4989.20(a)(3), 4989.54(a)  LPCC: B&amp;P § 4999.90(a)  GP: B&amp;P § 480, 490, 493</p>	<p>Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee / Registrant</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs (Costs and conditions of probation depend on the nature of the criminal offense).</li> </ul> <p>CRIMES AGAINST PEOPLE: Add: Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation program; restricted practice.</p> <p>DRUGS AND ALCOHOL: Add: <a href="#">Random drug and alcohol testing</a>, <a href="#">Psychological/psychiatric/clinical diagnostic evaluation</a>; psychotherapy; <a href="#">supervised practice</a>, rehabilitation program; abstain from controlled substances/use of alcohol, <del>submit to biological fluid testing</del>; and if warranted: restricted practice.</p> <p>FISCAL AND PROPERTY CRIMES: Add: Restitution, and if warranted: psychotherapy; take and pass licensure exams; rehabilitation program; restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(j) LCSW: B&P § 4992.3(k) CCR § 1881(e) LEP: B&P § 4989.54(g) LPCC: B&P § 4999.90(j) GP: B&P § 480, 650, 810	Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Law and ethics course</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted. psychological/psychiatric evaluation; supervised practice; psychotherapy; take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4980.02, 4982(l), 4982(s), 4982(t) CCR § 1845(a), 1845(b) LCSW: B&P § 4992.3(m) 4996.9 CCR § 1881(g), 1881(h) LEP: B&P § 4989.14 4989.54(r) 1858(b) CCR § LPCC: B&P § 4999.90(l), 4999.90(s) 4999.90(t) GP: B&P § 480	Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted, psychological/psychiatric evaluation; supervised practice; psychotherapy, take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4989.54(h), 4989.54(i) LPCC: B&P § 4990.38 GP: B&P § 141, 480	Discipline by Another State or Governmental Agency	<ul style="list-style-type: none"> <li>• Determine the appropriate penalty by comparing the violation under the other state with California law.</li> </ul> And if warranted: take and pass licensure examinations as a condition precedent to practice; reimbursement of probation program costs.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(b) LCSW: B&P § 4992.3(b), B&P §4992.7 LEP: B&P § 4989.54(b) LPCC: B&P § 4999.90 (b) GP: B&P § 480, 498, 499	Securing or Attempting to Secure a License by Fraud	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration application;</li> <li>• Cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4980, 4982(f) CCR § 1845(a),  LCSW: B&P § 4992.3(f), 4996 1845(b) CCR § 1881(a) LEP: B&P § 4989.54(l) LPCC: B&P § 4999.90(f) GP: B&P § 480	Misrepresentation of License / Qualifications	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: take and pass licensure examinations.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982(q) LCSW: B&P § 4992.3(r) - CCR § 1881(l) LEP: B&P § 4989.54(s) LPCC: B&P § 4999.90(q) GP: B&P § 123, 480, 496	Violates Exam Security / Subversion of Licensing Exam	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(g) LCSW: B&P § 4992.3(h), 4992.7 CCR § 1881(b) LEP: CCR § 1858(a) LPCC: B&P § 4999.90(g) GP: B&P § 119, 480	Impersonating Licensee / Allowing Impersonation	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 5 years probation</li> <li>• Supervised practice</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric evaluation</li> <li>• Psychotherapy</li> <li>• Cost recovery</li> <li>• Reimbursement of probation costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(h) LCSW: B&P § 4992.3(i) CCR § 1881(c) LEP: B&P § 4989.54 (t) LPCC: B&P § 4999.90(h) GP: B&P § 125, 480	Aiding and Abetting Unlicensed / Unregistered Activity	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: supervised practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(m) LCSW: B&P § 4992.3(n) CCR § 1881(i) LEP: B&P § 4989.54 (q) LPCC: B&P § 4999.90(m) GP: B&P § 480	Failure to Maintain Confidentiality	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Take and pass licensure exams</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 728 LCSW: B&P § 728 LPCC: B&P § 728 GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(r), 4982(t), 4982(u) CCR § 1833.1, 1845(b) LCSW: B&P § 4992.3(s) LEP: B&P § 4989.54(ab), CCR §  LPCC: B&P § 4999.90(r) 4999.90(t), 4999.90(u) 1858(b)	Improper Supervision of Trainee / Intern / Associate / Supervisee	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-90 days actual suspension</li> <li>• 2 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: supervised practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(e), 4982(u) LCSW: B&P § 4992.3(f), 4992.3(s) LEP: B&P § 4989.54(f) LPCC: B&P § 4999.90(e) GP: 4999.90(u) B&P § 480	Violations of the Chapter or Regulations by licensees or Registrants / Violations Involving Acquisition and Supervision of Required Hours of Experience	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• Registration on probation until exams are passed and license issued</li> <li>• License issued on probation for one year</li> <li>• Rejection of all illegally acquired hours</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(o) LCSW: B&P § 4992.3(p) CCR § 1881(n) LEP: B&P § 4989.54(p) LPCC: B&P § 4999.90 (o) GP: B&P § 650	Pay, Accept, Solicit Fee for Referrals	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> <li>• Law and Ethics course</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(n) LCSW: B&P § 4992.3(o) CCR § 1881(j) LEP: B&P § 4989.54(o) LPCC: B&P § 4999.90 (n)	Failure to Disclose Fees in Advance	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 2 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>
MFT: B&P § 4980.46, LCSW: B&P § 4992.3(q) CCR § 1881(k) LEP: B&P § 4989.54(e) LPCC: B&P § 4999.90(p) GP: B&P § 480, 651, 17500	False / Misleading / Deceptive / Improper Advertising	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(v) LCSW: B&P § 4992.3(t) LEP: B&P § 4989.54(j) LPCC: B&P § 4999.90(v)	Failure to Keep Records Consistent with Sound Clinical Judgment	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>
MFT: B&P § 4982(y) LCSW: B&P § 4992.3(w) LEP: B&P § 4989.54(x)	Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>
MFT: B&P § 4982(z) LCSW: B&P § 4992.3(x) LEP: B&P § 4989.54(d) LPCC: B&P § 4999.90(ac)	Failure To Comply With Section 2290.5 ( Telehealth)	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery;</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>

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### III. Model Disciplinary Orders

Model Disciplinary Orders are divided into two categories. The first category consists of **Optional Terms and Conditions of Probation** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the **Standard Terms and Conditions of Probation** which must appear in all Proposed Decisions and proposed stipulated agreements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-16) that are being imposed be listed first in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (17- 32).

#### **Optional Terms and Conditions of Probation**

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

1. Actual suspension
2. Psychological / Psychiatric evaluation
3. Psychotherapy
4. [Clinical Diagnostic Evaluation](#)
- ~~4-5.~~ Supervised Practice
- ~~5-6.~~ Education
- ~~6-7.~~ Take and Pass licensure examinations
- ~~7-8.~~ Rehabilitation Program
- ~~8-9.~~ Abstain from Controlled Substances/~~Submit to Biological Fluid Testing and Samples~~[Submit to Random Drug and Alcohol Testing](#)
- ~~9-10.~~ Abstain from Use of Alcohol /~~Submit to Biological Fluid Testing and Samples~~[Submit to Random Drug and Alcohol Testing](#)
- ~~10-11.~~ Restricted Practice
- ~~11-12.~~ Restitution
- ~~12-13.~~ Physical Evaluation
- ~~13-14.~~ Monitor Billing System
- ~~14-15.~~ Monitor Billing System Audit
- ~~15-16.~~ Law and Ethics Course

#### **1. Actual Suspension**

A. Commencing from the effective date of this decision, respondent shall be suspended from the practice of \_\_\_\_\_ for a period of \_\_\_ days.

OR

B. Commencing from the effective date of this decision, respondent shall be suspended from the practice of \_\_\_\_\_ for a period of \_\_\_ days, and such additional time as may be necessary to obtain and review [the clinical diagnostic](#), psychological or psychiatric evaluation, to implement any recommendations from that evaluation, and to successfully complete the required licensure examinations as a condition precedent to resumption of practice as outlined in condition #\_\_\_\_ (Take

and pass licensure examinations).

Respondent shall be responsible for informing his or her employer of the Board's decision, and the reasons for the length of suspension. Respondent shall submit documentation and/or evidence demonstrating satisfactory compliance with this condition. Prior to the lifting of the actual suspension of the license, the Board shall receive pertinent documentation confirming that respondent is safe to return to practice under specific terms and conditions as determined by the Board.

## **2. Psychological / Psychiatric Evaluation**

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a psychological or psychiatric evaluation by such licensed psychologists or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

Note: If supervised practice is not part of the order, and the evaluator finds the need for supervised practice, then the following term shall be added to the disciplinary order. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the respondent's practice will be supervised.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

*(FYI: The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation).*

## **3. Psychotherapy**

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within 15 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with respondent, and shall not be the respondent's supervisor. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if respondent's good faith attempts to secure face-to-face counseling are

unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that respondent provide written documentation of his or her good faith attempts to secure counseling via videoconferencing.

Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

*(FYI: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation).*

#### **4. Clinical Diagnostic Evaluation**

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her license or registration shall be automatically suspended for a minimum of one month pending the results of a clinical diagnostic evaluation. During such time, the Respondent shall submit to random drug testing at least two (2) times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent's license or registration shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one month of negative drug test results. Respondent shall comply with any restrictions or recommendations made by the Board as a result of the clinical diagnostic evaluation.

#### **4.5. Supervised Practice**

Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor. The supervisor shall be a current California licensed practitioner in

respondent's field of practice, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with respondent.

If respondent is unable to secure a supervisor in his or her field of practice due to the unavailability of mental health care professionals in the area, then the Board may consider the following options for satisfying this probationary term:

- (1) Permitting the respondent to receive supervision via videoconferencing; or,
- (2) Permitting respondent to secure a supervisor not in the respondent's field of practice.

The forgoing options shall be considered and exhausted by the Board in the order listed above. The Board may require that respondent provide written documentation of his or her good faith attempts to secure face-to-face supervision, supervision via videoconferencing or to locate a mental health professional that is licensed in the respondent's field of practice.

Respondent shall complete any required consent forms and sign an agreement with the supervisor and the Board regarding the Respondent and the supervisor's requirements and reporting responsibilities. Failure to file the required reports in a timely fashion shall be a violation of probation. Respondent shall give the supervisor access to respondent's fiscal and client records. Supervision obtained from a probation supervisor shall not be used as experience gained toward licensure.

If the supervisor is no longer available, respondent shall notify the Board within 15 days and shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. The supervisor shall not be the respondent's therapist.

[Optional - Respondent shall not practice until he/she has received notification that the Board has approved respondent's supervisor.]

## **5-6. Education**

Respondent shall take and successfully complete the equivalency of \_\_\_\_ semester units in each of the following areas \_\_\_\_\_. All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, -or professional clinical counselor or through a course approved by the Board. Classroom attendance must be specifically required. Course content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the decision respondent shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by the respondent. Units obtained for an approved course shall not be used for continuing education units required for renewal of licensure.

*(FYI: This term is appropriate when the violation is related to record keeping, which includes but is not limited to: recordkeeping, documentation, treatment planning, progress notes, security of records, billing, and reporting requirements.)*

## **6-7. Take and Pass Licensure Examinations**

Respondent shall take and pass the licensure exam(s) currently required of new applicants for the license possessed by respondent. Respondent shall not practice until such time as respondent has taken and passed these examinations. Respondent shall pay the established examination fees. If respondent has not taken and passed the examination within twelve months from the effective date of this decision, respondent shall be considered to be in violation of probation.

## **7-8. Rehabilitation Program**

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more rehabilitation program(s). Respondent shall enter a rehabilitation and monitoring program within fifteen (15) days after notification of the board's approval of such program. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant. The respondent shall take all necessary steps to ensure that the rehabilitation program submits quarterly written reports to the Board addressing the respondent's treatment and progress in the program.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random ~~biological fluid drug and alcohol~~ testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the respondent.

## **8-9. Abstain from Controlled Substances / Submit to ~~Biological Fluid~~ Drug and Alcohol Testing and Samples**

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to ~~random and directed~~ biological fluid drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. The length of time and frequency will be determined by the Board.—There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and the supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

#### **9-10. Abstain from Use of Alcohol / Submit to Biological Fluid Drug and Alcohol Testing and Samples**

Respondent shall completely abstain from the use/intake of alcoholic beverages during the period of probation.

Respondent shall immediately submit to random and directed biological fluid drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. The length of time and frequency will be determined by the Board. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the respondent's Respondent, the Respondent's current employer, and to the supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for alcohol and/or a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

#### **40-11. Restricted Practice**

Respondent's practice shall be limited to \_\_\_\_\_. Within 30 days from the effective date of the decision, respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify their supervisor of the restrictions imposed on their practice.

#### **41-12. Restitution**

Within 90 days of the effective date of this decision, respondent shall provide proof to the Board or its designee of restitution in the amount of \$\_\_\_\_\_ paid to \_\_\_\_\_.

#### **42-13. Physical Evaluation**

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a physical evaluation by such licensed physicians as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such physician shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a therapist and such other information

as the Board may require. Respondent shall execute a Release of Information authorizing the physician to release all information to the Board. Respondent shall comply with the recommendations of the physician.

If a physical evaluation indicates a need for medical treatment, within 30 days of notification by the Board, respondent shall submit to the Board or its designee the name and qualifications of the medical provider, and a treatment plan by the medical provider by which the respondent's physical treatment will be provided.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

#### **13-14. Monitor Billing System**

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more independent billing systems which monitor and document the dates and times of client visits. Respondent shall obtain the services of the independent billing system monitoring program within fifteen (15) days after notification of the board's approval of such program. Clients are to sign documentation stating the dates and time of services rendered by respondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system service shall submit quarterly written reports concerning respondent's cooperation with this system. The cost of the service shall be borne by respondent.

#### **14-15. Monitor Billing System Audit**

Within 60 days of the effective date of this decision, respondent shall provide to the Board or its designee the names and qualifications of three auditors. The Board or its designee shall select one of the three auditors to annually audit respondent's billings for compliance with the Billing System condition of probation. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices. The cost of the audits shall be borne by respondent. Failure to pay for the audits in a timely fashion shall constitute a violation of probation.

#### **15-16. Law and Ethics Course**

Respondent shall take and successfully complete the equivalency of two semester units in law and ethics. Course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, professional clinical counselor as defined in Sections 4980.40, 4996.18, 4999.32 or 4999.33 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations or through a course approved by the Board. Classroom attendance must be specifically required. Within 90 days of the effective date of this Decision, respondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course must be taken and completed within one year from the effective date of this Decision. The costs associated with the law and ethics course shall be paid by the respondent. Units obtained for an approved course in law and ethics shall not be used for continuing education

units required for renewal of licensure.

*(FYI: This term is appropriate when the licensee fails to keep informed about or comprehend the legal obligations and/or ethical responsibilities applicable to their actions. Examples include violations involving boundary issues, transference/countertransference, breach of confidentiality and reporting requirements.)*

## **Standard Terms and Conditions of Probation**

The sixteen standard terms and conditions generally appearing in every probation case are as follows:

- [16-17.](#) Obey All Laws
- [17-18.](#) File Quarterly Reports
- [18-19.](#) Comply with Probation Program
- [19-20.](#) Interviews with the Board
- [20-21.](#) Failure to Practice
- [21-22.](#) Change of Place of Employment or Place of Residence
- [22-23.](#) Supervision of Unlicensed Persons
- [23-24.](#) Notification to Clients
- [24-25.](#) Notification to Employer
- [25-26.](#) Violation of Probation
- [26-27.](#) Maintain Valid License
- [27-28.](#) License Surrender
- [28-29.](#) Instruction of Coursework Qualifying for Continuing Education
- [29-30.](#) Notification to Referral Services
- [30-31.](#) Reimbursement of Probation Program
- [31-32.](#) Cost Recovery

### **Specific Language for Standard Terms and Conditions of Probation** (To be included in all Decisions)

#### **[16-17.](#) Obey All Laws**

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

#### **[17-18.](#) File Quarterly Reports**

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether

he/she has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.

#### **18-19. Comply with Probation Program**

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

#### **19-20. Interviews with the Board**

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

#### **20-21. Failure to Practice**

In the event respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4908.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years.

#### **21-22. Change of Place of Employment or Place of Residence**

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

#### **22-23. Supervision of Unlicensed Persons**

While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

#### **23-24. Notification to Clients**

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee,

satisfactory evidence of compliance with this term of probation.

*(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).*

#### **24-25. Notification to Employer**

Respondent shall provide each of his or her current or future employers, when performing services that fall within the scope of practice of his or her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

The Respondent shall provide to the Board the names, physical addresses, and telephone numbers of all employers, supervisors, and contractors.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor or contractor regarding the licensee or registrant's work status, performance, and monitoring.

#### **25-26. Violation of Probation**

If respondent violates the conditions of his/her probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation/suspension) of respondent's license [or registration] provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's license [or registration] or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's license [or registration] shall be fully restored.

#### **26-27. Maintain Valid License**

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.

#### **27-28. License Surrender**

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal

acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

### **28-29. Instruction of Coursework Qualifying for Continuing Education**

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

### **29-30. Notification to Referral Services**

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

### **30-31. Reimbursement of Probation Program**

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$\_\_\_\_\_ per year.

### **31-32. Cost Recovery**

Respondent shall pay the Board \$\_\_\_\_\_ as and for the reasonable costs of the investigation and prosecution of Case No. \_\_\_\_\_. Respondent shall make such payments as follows: [Outline payment schedule.] Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the cost recovery payment for Case No. \_\_\_\_\_. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, respondent shall be considered to be in violation of probation. A period of non-practice by respondent shall not relieve respondent of his or her obligation to reimburse the board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

## **IV. BOARD POLICIES AND GUIDELINES**

### **Accusations**

The Board of Behavioral Sciences (Board) has the authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. The Board requests that this fact be included in the pleading and made part of the accusation.

### **Statement of Issues**

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee would be cause for license discipline.

### **Stipulated Settlements**

The Board will consider entering into stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. The respondent should be informed that in order to stipulate to settlement with the Board, he or she may be required to admit to the violations set forth in the Accusation. The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

### **Recommended Language for License Surrenders**

"Admission(s) made in the stipulation are made solely for the purpose of resolving the charges in the pending accusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation.

The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its decision and order.

#### **Contingency**

This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his/her counsel. By signing the stipulation, Respondent understands and agrees that he/she may not withdraw his/her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

Respondent fully understands that when the Board adopts the license surrender of respondent's license, respondent will no longer be permitted to practice as a \_\_\_\_\_ in California. Respondent further understands that the license surrender of his or her license, upon adoption, shall be considered to be a disciplinary action and shall become a part of respondent 's license history with the Board.

The respondent further agrees that with the adoption by the Board of his or her license surrender, respondent may not petition the Board for reinstatement of the surrendered license.

Respondent may reapply to the Board for licensure three years from the date of surrender and must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

Respondent understands that should he or she ever reapply for licensure as a \_\_\_\_\_ or should he or she ever apply for any other registration or licensure issued by the Board, or by the Board of Psychology, all of the charges contained in Accusation No. \_\_\_\_\_ shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication."

### **Recommended Language for Registration Applicants**

IT IS HEREBY ORDERED THAT Respondent \_\_\_\_\_ be issued a Registration as a \_\_\_\_\_. Said Registration shall be revoked. The revocation will be stayed and Respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

### **Recommended Language for Registrants**

IT IS HEREBY ORDERED THAT \_\_\_\_\_ Registration Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

### **Recommended Language for Licensees**

IT IS HEREBY ORDERED THAT \_\_\_\_\_ License Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if respondent is granted another registration or license regulated by the Board.

### ***Proposed Decisions***

The Board requests that proposed decisions include the following if applicable:

- A. Names and addresses of all parties to the action.
- B. Specific Code section violated with the definition of the code in the Determination of Issues.
- C. Clear description of the acts or omissions that constitute a violation.
- D. Respondent's explanation of the violation in the Findings of fact if he or she is present at the hearing.
- E. Explanation for deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the Order first list the Optional Terms and Conditions (1-~~15~~16) followed by the Standard Terms and Conditions (~~16-31~~17-32) as they may pertain to

the particular case. If the respondent fails to appear for his or her scheduled hearing or does not submit a notice of defense, such inaction shall result in a default decision to revoke licensure or deny application.

### **Reinstatement / Reduction of Penalty Hearings**

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Suspensions or Revocations identified in Title 16, California Code of Regulations Section 1814, and (2) the evidence presented by the petitioner of his or her rehabilitation. The Board is not interested in retrying the original revocation or probation case. The Board shall consider, pursuant to Section 1814, the following criteria of rehabilitation:

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

or to conceal the truth concerning facts required to be disclosed.

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

In the Petition Decision the Board requires a summary of the offense and the specific codes violated which resulted in the revocation, surrender, or probation of the license.

In petitioning for Reinstatement or Reduction of Penalty under Business and Professions Code Section 4982.2, the petitioner has the burden of demonstrating that he or she has the necessary and current qualifications and skills to safely engage in the practice of marriage and family therapy, clinical social work, educational psychology, or professional clinical counselor within the scope of current law, and accepted standards of practice. In reaching its determination, the Board considers various factors including the following:

- A. The original violations for which action was taken against the petitioner's license;
- B. Prior disciplinary and criminal actions taken against the petitioner by the Board, any State, local, or Federal agency or court;
- C. The petitioner's attitude toward his or her commission of the original violations and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts;
- D. The petitioner's documented rehabilitative efforts;
- E. Assessment of the petitioner's rehabilitative and corrective efforts;

F. In addition, the Board may consider other appropriate and relevant matters not reflected above.

If the Board should deny a request for reinstatement of a revoked license or reduction of penalty (modification or termination of probation), the Board requests the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial.

If a petitioner fails to appear for his or her scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the petitioner's presence and the Board will issue a decision based on the written evidence and oral presentations submitted.

# **Uniform Standards Regarding Substance-Abusing Healing Arts Licensees**

Senate Bill 1441 (Ridley-Thomas)

Implementation by  
Department of Consumer Affairs,  
Substance Abuse Coordination Committee



Brian J. Stiger, Director  
April 2011



**Substance Abuse Coordination Committee**

Brian Stiger, Chair  
**Director, Department of Consumer Affairs**

Elinore F. McCance-Katz, M.D., Ph. D.  
**CA Department of Alcohol & Drug Programs**

Janelle Wedge  
**Acupuncture Board**

Kim Madsen  
**California Board of Behavioral Sciences**

Robert Puleo  
**Board of Chiropractic Examiners**

Lori Hubble  
**Dental Hygiene Committee of California**

Richard De Cuir  
**Dental Board of California**

Linda Whitney  
**Medical Board of California**

Heather Martin  
**California Board of Occupational Therapy**

Mona Maggio  
**California State Board of Optometry**

Teresa Bello-Jones  
**Board of Vocational Nursing and  
Psychiatric Technicians**

Donald Krpan, D.O.  
**Osteopathic Medical Board of California**

Francine Davies  
**Naturopathic Medicine Committee**

Virginia Herold  
**California State Board of Pharmacy**

Steve Hartzell  
**Physical Therapy Board of California**

Elberta Portman  
**Physician Assistant Committee**

Jim Rathlesberger  
**Board of Podiatric Medicine**

Robert Kahane  
**Board of Psychology**

Louise Bailey  
**Board of Registered Nursing**

Stephanie Nunez  
**Respiratory Care Board of California**

Annemarie Del Mugnaio  
**Speech-Language Pathology & Audiology &  
Hearing Aid Dispenser Board**

Susan Geranen  
**Veterinary Medical Board**

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**#1 SENATE BILL 1441 REQUIREMENT**

Specific requirements for a clinical diagnostic evaluation of the licensee, including, but not limited to, required qualifications for the providers evaluating the licensee.

**#1 Uniform Standard**

If a healing arts board orders a licensee who is either in a diversion program or whose license is on probation due to a substance abuse problem to undergo a clinical diagnosis evaluation, the following applies:

1. The clinical diagnostic evaluation shall be conducted by a licensed practitioner who:
  - holds a valid, unrestricted license, which includes scope of practice to conduct a clinical diagnostic evaluation;
  - has three (3) years experience in providing evaluations of health professionals with substance abuse disorders; and,
  - is approved by the board.
2. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.
3. The clinical diagnostic evaluation report shall:
  - set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem;
  - set forth, in the evaluator's opinion, whether the licensee is a threat to himself/herself or others; and,
  - set forth, in the evaluator's opinion, recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial relationship, personal relationship, or business relationship with the licensee within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself/herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

**#2 SENATE BILL 1441 REQUIREMENT**

Specific requirements for the temporary removal of the licensee from practice, in order to enable the licensee to undergo the clinical diagnostic evaluation described in subdivision (a) and any treatment recommended by the evaluator described in subdivision (a) and approved by the board, and specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis.

**#2 Uniform Standard**

The following practice restrictions apply to each licensee who undergoes a clinical diagnostic evaluation:

1. The Board shall order the licensee to cease practice during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the diversion program/board staff.
2. While awaiting the results of the clinical diagnostic evaluation required in Uniform Standard #1, the licensee shall be randomly drug tested at least two (2) times per week.

After reviewing the results of the clinical diagnostic evaluation, and the criteria below, a diversion or probation manager shall determine, whether or not the licensee is safe to return to either part-time or fulltime practice. However, no licensee shall be returned to practice until he or she has at least 30 days of negative drug tests.

- the license type;
- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use
- the scope and pattern of use;
- the treatment history;
- the licensee's medical history and current medical condition;
- the nature, duration and severity of substance abuse, and
- whether the licensee is a threat to himself/herself or the public.

**#3 SENATE BILL 1441 REQUIREMENT**

Specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's status or condition.

**#3 Uniform Standard**

If the licensee who is either in a board diversion program or whose license is on probation has an employer, the licensee shall provide to the board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific, written consent that the licensee authorizes the board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

**#4 SENATE BILL 1441 REQUIREMENT**

Standards governing all aspects of required testing, including, but not limited to, frequency of testing, randomicity, method of notice to the licensee, number of hours between the provision of notice and the test, standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collector, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test.

**#4 Uniform Standard**

The following standards shall govern all aspects of testing required to determine abstention from alcohol and drugs for any person whose license is placed on probation or in a diversion program due to substance use:

**TESTING FREQUENCY SCHEDULE**

A board may order a licensee to drug test at any time. Additionally, each licensee shall be tested RANDOMLY in accordance with the schedule below:

Level	Segments of Probation/Diversion	Minimum Range of Number of Random Tests
I	Year 1	52-104 per year
II*	Year 2+	36-104 per year

\*The minimum range of 36-104 tests identified in level II, is for the second year of probation or diversion, and each year thereafter, up to five (5) years. Thereafter, administration of one (1) time per month if there have been no positive drug tests in the previous five (5) consecutive years of probation or diversion.

Nothing precludes a board from increasing the number of random tests for any reason. Any board who finds or has suspicion that a licensee has committed a violation of a board's testing program or who has committed a Major Violation, as identified in Uniform Standard 10, may reestablish the testing cycle by placing that licensee at the beginning of level I, in addition to any other disciplinary action that may be pursued.

**EXCEPTIONS TO TESTING FREQUENCY SCHEDULE**

I. PREVIOUS TESTING/SOBRIETY

In cases where a board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing, prior to being subject to testing by the board, the board may give consideration to that testing in altering the testing

frequency schedule so that it is equivalent to this standard.

## II. VIOLATION(S) OUTSIDE OF EMPLOYMENT

An individual whose license is placed on probation for a single conviction or incident or two convictions or incidents, spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass level I and participate in level II of the testing frequency schedule.

## III. NOT EMPLOYED IN HEALTH CARE FIELD

A board may reduce testing frequency to a minimum of 12 times per year for any person who is not practicing OR working in any health care field. If a reduced testing frequency schedule is established for this reason, and if a licensee wants to return to practice or work in a health care field, the licensee shall notify and secure the approval of the licensee's board. Prior to returning to any health care employment, the licensee shall be subject to level I testing frequency for at least 60 days. At such time the person returns to employment (in a health care field), if the licensee has not previously met the level I frequency standard, the licensee shall be subject to completing a full year at level I of the testing frequency schedule, otherwise level II testing shall be in effect.

## IV. TOLLING

A board may postpone all testing for any person whose probation or diversion is placed in a tolling status if the overall length of the probationary or diversion period is also tolled. A licensee shall notify the board upon the licensee's return to California and shall be subject to testing as provided in this standard. If the licensee returns to employment in a health care field, and has not previously met the level I frequency standard, the licensee shall be subject to completing a full year at level I of the testing frequency schedule, otherwise level II testing shall be in effect.

## V. SUBSTANCE USE DISORDER NOT DIAGNOSED

In cases where no current substance use disorder diagnosis is made, a lesser period of monitoring and toxicology screening may be adopted by the board, but not to be less than 24 times per year.

## **OTHER DRUG STANDARDS**

Drug testing may be required on any day, including weekends and holidays.

The scheduling of drug tests shall be done on a random basis, preferably by a computer program, so that a licensee can make no reasonable assumption of when he/she will be tested again. Boards should be prepared to report data to support back-to-back testing as well as, numerous different intervals of testing.

Licensees shall be required to make daily contact to determine if drug testing is required.

Licensees shall be drug tested on the date of notification as directed by the board.

Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.

Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.

Collection of specimens shall be observed.

Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.

Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

A board may use other testing methods in place of, or to supplement biological fluid testing, if the alternate testing method is appropriate.

### **PETITIONS FOR REINSTATEMENT**

Nothing herein shall limit a board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code section 11522 or statutes applicable to the board that contains different provisions for reinstatement or reduction of penalty.

### **OUTCOMES AND AMENDMENTS**

For purposes of measuring outcomes and effectiveness, each board shall collect and report historical and post implementation data as follows:

#### **Historical Data - Two Years Prior to Implementation of Standard**

Each board should collect the following historical data (as available), for a period of two years, prior to implementation of this standard, for each person subject to testing for banned substances, who has 1) tested positive for a banned substance, 2) failed to

appear or call in, for testing on more than three occasions, 3) failed to pay testing costs, or 4) a person who has given a dilute or invalid specimen.

### **Post Implementation Data- Three Years**

Each board should collect the following data annually, for a period of three years, for every probationer and diversion participant subject to testing for banned substances, following the implementation of this standard.

### **Data Collection**

The data to be collected shall be reported to the Department of Consumer Affairs and the Legislature, upon request, and shall include, but may not be limited to:

Probationer/Diversion Participant Unique Identifier  
License Type  
Probation/Diversion Effective Date  
General Range of Testing Frequency by/for Each Probationer/Diversion Participant  
Dates Testing Requested  
Dates Tested  
Identify the Entity that Performed Each Test  
Dates Tested Positive  
Dates Contractor (if applicable) was informed of Positive Test  
Dates Board was informed of Positive Test  
Dates of Questionable Tests (e.g. dilute, high levels)  
Date Contractor Notified Board of Questionable Test  
Identify Substances Detected or Questionably Detected  
Dates Failed to Appear  
Date Contractor Notified Board of Failed to Appear  
Dates Failed to Call In for Testing  
Date Contractor Notified Board of Failed to Call In for Testing  
Dates Failed to Pay for Testing  
Date(s) Removed/Suspended from Practice (identify which)  
Final Outcome and Effective Date (if applicable)

**#5 SENATE BILL 1441 REQUIREMENT**

Standards governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.

**#5 Uniform Standard**

If a board requires a licensee to participate in group support meetings, the following shall apply:

When determining the frequency of required group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

**Group Meeting Facilitator Qualifications and Requirements:**

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee within the last year.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

**#6 SENATE BILL 1441 REQUIREMENT**

Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.

**#6 Uniform Standard**

In determining whether inpatient, outpatient, or other type of treatment is necessary, the board shall consider the following criteria:

- recommendation of the clinical diagnostic evaluation pursuant to Uniform Standard #1;
- license type;
- licensee's history;
- documented length of sobriety/time that has elapsed since substance abuse;
- scope and pattern of substance use;
- licensee's treatment history;
- licensee's medical history and current medical condition;
- nature, duration, and severity of substance abuse, and
- threat to himself/herself or the public.

**#7 SENATE BILL 1441 REQUIREMENT**

Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors.

**#7 Uniform Standard**

A board may require the use of worksite monitors. If a board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor shall meet the following requirements to be considered for approval by the board.

1. The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
2. The worksite monitor's license scope of practice shall include the scope of practice of the licensee that is being monitored, be another health care professional if no monitor with like practice is available, or, as approved by the board, be a person in a position of authority who is capable of monitoring the licensee at work.
3. If the worksite monitor is a licensed healthcare professional he or she shall have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the board.
5. The worksite monitor must adhere to the following required methods of monitoring the licensee:
  - a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the board, at least once per week.
  - b) Interview other staff in the office regarding the licensee's behavior, if applicable.
  - c) Review the licensee's work attendance.

Reporting by the worksite monitor to the board shall be as follows:

1. Any suspected substance abuse must be verbally reported to the board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the board within 48 hours of occurrence.
2. The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include:
  - the licensee's name;
  - license number;
  - worksite monitor's name and signature;
  - worksite monitor's license number;
  - worksite location(s);
  - dates licensee had face-to-face contact with monitor;
  - staff interviewed, if applicable;
  - attendance report;
  - any change in behavior and/or personal habits;
  - any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the board to allow the board to communicate with the worksite monitor.

**#8 SENATE BILL 1441 REQUIREMENT**

Procedures to be followed when a licensee tests positive for a banned substance.

**#8 Uniform Standard**

When a licensee tests positive for a banned substance:

1. The board shall order the licensee to cease practice;
2. The board shall contact the licensee and instruct the licensee to leave work; and
3. The board shall notify the licensee's employer, if any, and worksite monitor, if any, that the licensee may not work.

Thereafter, the board should determine whether the positive drug test is in fact evidence of prohibited use. If so, proceed to Standard #9. If not, the board shall immediately lift the cease practice order.

In determining whether the positive test is evidence of prohibited use, the board should, as applicable:

1. Consult the specimen collector and the laboratory;
2. Communicate with the licensee and/or any physician who is treating the licensee; and
3. Communicate with any treatment provider, including group facilitator/s.

**#9 SENATE BILL 1441 REQUIREMENT**

Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

**#9 Uniform Standard**

When a board confirms that a positive drug test is evidence of use of a prohibited substance, the licensee has committed a major violation, as defined in Uniform Standard #10 and the board shall impose the consequences set forth in Uniform Standard #10.

**#10 SENATE BILL 1441 REQUIREMENT**

Specific consequences for major and minor violations. In particular, the committee shall consider the use of a “deferred prosecution” stipulation described in Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency until or unless licensee commits a major violation, in which case it is revived and license is surrendered.

**#10 Uniform Standard**

**Major Violations** include, but are not limited to:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Multiple minor violations;
4. Treating patients while under the influence of drugs/alcohol;
5. Any drug/alcohol related act which would constitute a violation of the practice act or state/federal laws;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive and confirmation for substance abuse pursuant to Uniform Standard #9;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

**Consequences** for a major violation include, but are not limited to:

1. Licensee will be ordered to cease practice.
  - a) the licensee must undergo a new clinical diagnostic evaluation, and
  - b) the licensee must test negative for at least a month of continuous drug testing before being allowed to go back to work.
2. Termination of a contract/agreement.
3. Referral for disciplinary action, such as suspension, revocation, or other action as determined by the board.

**Minor Violations** include, but are not limited to:

1. Untimely receipt of required documentation;
2. Unexcused non-attendance at group meetings;
3. Failure to contact a monitor when required;
4. Any other violations that do not present an immediate threat to the violator or to the public.

**Consequences** for minor violations include, but are not limited to:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation/testing;
7. Other action as determined by the board.

**#11 SENATE BILL 1441 REQUIREMENT**

Criteria that a licensee must meet in order to petition for return to practice on a full time basis.

**#11 Uniform Standard**

**“Petition” as used in this standard is an informal request as opposed to a “Petition for Modification” under the Administrative Procedure Act.**

The licensee shall meet the following criteria before submitting a request (petition) to return to full time practice:

1. Demonstrated sustained compliance with current recovery program.
2. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee’s substance abuse.
3. Negative drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

**#12 SENATE BILL 1441 REQUIREMENT**

Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

**#12 Uniform Standard**

**“Petition for Reinstatement” as used in this standard is an informal request (petition) as opposed to a “Petition for Reinstatement” under the Administrative Procedure Act.**

The licensee must meet the following criteria to request (petition) for a full and unrestricted license.

1. Demonstrated sustained compliance with the terms of the disciplinary order, if applicable.
2. Demonstrated successful completion of recovery program, if required.
3. Demonstrated a consistent and sustained participation in activities that promote and support their recovery including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities.
4. Demonstrated that he or she is able to practice safely.
5. Continuous sobriety for three (3) to five (5) years.

**#13 SENATE BILL 1441 REQUIREMENT**

If a board uses a private-sector vendor that provides diversion services, (1) standards for immediate reporting by the vendor to the board of any and all noncompliance with process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; (3) standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and (4) standards for a licensee's termination from the program and referral to enforcement.

**#13 Uniform Standard**

1. A vendor must report to the board any major violation, as defined in Uniform Standard #10, within one (1) business day. A vendor must report to the board any minor violation, as defined in Uniform Standard #10, within five (5) business days.
2. A vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors is as follows:

(a) Specimen Collectors:

- (1) The provider or subcontractor shall possess all the materials, equipment, and technical expertise necessary in order to test every licensee for which he or she is responsible on any day of the week.
- (2) The provider or subcontractor shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol, illegal, and controlled substances.
- (3) The provider or subcontractor must provide collection sites that are located in areas throughout California.
- (4) The provider or subcontractor must have an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the participant to check in daily for drug testing.
- (5) The provider or subcontractor must have or be subcontracted with operating collection sites that are engaged in the business of collecting urine, blood, and hair follicle specimens for the testing of drugs and alcohol within the State of California.
- (6) The provider or subcontractor must have a secure, HIPAA compliant, website or computer system to allow staff access to drug test results and compliance reporting information that is available 24 hours a day.

- (7) The provider or subcontractor shall employ or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory drug test results, medical histories, and any other information relevant to biomedical information.
- (8) A toxicology screen will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.
- (9) Must undergo training as specified in Uniform Standard #4 (6).

(b) Group Meeting Facilitators:

A group meeting facilitator for any support group meeting:

- (1) must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
- (2) must be licensed or certified by the state or other nationally certified organization;
- (3) must not have a financial relationship, personal relationship, or business relationship with the licensee within the last year;
- (4) shall report any unexcused absence within 24 hours to the board, and,
- (5) shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.

(c) Work Site Monitors:

The worksite monitor must meet the following qualifications:

- (1) Shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
- (2) The monitor's licensure scope of practice shall include the scope of practice of the licensee that is being monitored, be another health care professional if no

monitor with like practice is available, or, as approved by the board, be a person in a position of authority who is capable of monitoring the licensee at work.

- (3) Shall have an active unrestricted license, with no disciplinary action within the last five (5) years.
  - (4) Shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the board.
2. The worksite monitor must adhere to the following required methods of monitoring the licensee:
    - a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the board, at least once per week.
    - b) Interview other staff in the office regarding the licensee's behavior, if applicable.
    - c) Review the licensee's work attendance.
  3. Any suspected substance abuse must be verbally reported to the contractor, the board, and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the board within 48 hours of occurrence.
  4. The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include:
    - the licensee's name;
    - license number;
    - worksite monitor's name and signature;
    - worksite monitor's license number;
    - worksite location(s);
    - dates licensee had face-to-face contact with monitor;
    - staff interviewed, if applicable;
    - attendance report;
    - any change in behavior and/or personal habits;

- any indicators that can lead to suspected substance abuse.

(d) Treatment Providers

Treatment facility staff and services must have:

- (1) Licensure and/or accreditation by appropriate regulatory agencies;
- (2) Sufficient resources available to adequately evaluate the physical and mental needs of the client, provide for safe detoxification, and manage any medical emergency;
- (3) Professional staff who are competent and experienced members of the clinical staff;
- (4) Treatment planning involving a multidisciplinary approach and specific aftercare plans;
- (5) Means to provide treatment/progress documentation to the provider.

(e) General Vendor Requirements

The vendor shall disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services as follows:

- (1) The vendor is fully responsible for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to all subcontractors.
- (2) If a subcontractor fails to provide effective or timely services as listed above, but not limited to any other subcontracted services, the vendor will terminate services of said contractor within 30 business days of notification of failure to provide adequate services.
- (3) The vendor shall notify the appropriate board within five (5) business days of termination of said subcontractor.

**#14 SENATE BILL 1441 REQUIREMENT**

If a board uses a private-sector vendor that provides diversion services, the extent to which licensee participation in that program shall be kept confidential from the public.

**#14 Uniform Standard**

The board shall disclose the following information to the public for licensees who are participating in a board monitoring/diversion program regardless of whether the licensee is a self-referral or a board referral. However, the disclosure shall not contain information that the restrictions are a result of the licensee's participation in a diversion program.

- Licensee's name;
- Whether the licensee's practice is restricted, or the license is on inactive status;
- A detailed description of any restriction imposed.

**#15 SENATE BILL 1441 REQUIREMENT**

If a board uses a private-sector vendor that provides diversion services, a schedule for external independent audits of the vendor's performance in adhering to the standards adopted by the committee.

**#15 Uniform Standard**

1. If a board uses a private-sector vendor to provide monitoring services for its licensees, an external independent audit must be conducted at least once every three (3) years by a qualified, independent reviewer or review team from outside the department with no real or apparent conflict of interest with the vendor providing the monitoring services. In addition, the reviewer shall not be a part of or under the control of the board. The independent reviewer or review team must consist of individuals who are competent in the professional practice of internal auditing and assessment processes and qualified to perform audits of monitoring programs.
2. The audit must assess the vendor's performance in adhering to the uniform standards established by the board. The reviewer must provide a report of their findings to the board by June 30 of each three (3) year cycle. The report shall identify any material inadequacies, deficiencies, irregularities, or other non-compliance with the terms of the vendor's monitoring services that would interfere with the board's mandate of public protection.
3. The board and the department shall respond to the findings in the audit report.

**#16 SENATE BILL 1441 Requirement**

Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

**#16 Uniform Standard**

Each board shall report the following information on a yearly basis to the Department of Consumer Affairs and the Legislature as it relates to licensees with substance abuse problems who are either in a board probation and/or diversion program.

- Number of intakes into a diversion program
- Number of probationers whose conduct was related to a substance abuse problem
- Number of referrals for treatment programs
- Number of relapses (break in sobriety)
- Number of cease practice orders/license in-activations
- Number of suspensions
- Number terminated from program for noncompliance
- Number of successful completions based on uniform standards
- Number of major violations; nature of violation and action taken
- Number of licensees who successfully returned to practice
- Number of patients harmed while in diversion

The above information shall be further broken down for each licensing category, specific substance abuse problem (i.e. cocaine, alcohol, Demerol etc.), whether the licensee is in a diversion program and/or probation program.

If the data indicates that licensees in specific licensing categories or with specific substance abuse problems have either a higher or lower probability of success, that information shall be taken into account when determining the success of a program. It may also be used to determine the risk factor when a board is determining whether a license should be revoked or placed on probation.

The board shall use the following criteria to determine if its program protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

- At least 100 percent of licensees who either entered a diversion program or whose license was placed on probation as a result of a substance abuse problem successfully completed either the program or the probation, or had their license to practice revoked or surrendered on a timely basis based on noncompliance of those programs.
- At least 75 percent of licensees who successfully completed a diversion program or probation did not have any substantiated complaints related to substance abuse for at least five (5) years after completion.

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## Senate Bill No. 1441

### CHAPTER 548

An act to amend Sections 1695.1, 1695.5, 1695.6, 1697, 1698, 2361, 2365, 2366, 2367, 2369, 2663, 2665, 2666, 2770.1, 2770.7, 2770.8, 2770.11, 2770.12, 3501, 3534.1, 3534.3, 3534.4, 3534.9, and 4371 of, and to add Article 3.6 (commencing with Section 315) to Chapter 4 of Division 1 of, the Business and Professions Code, relating to health care.

[Approved by Governor September 28, 2008. Filed with  
Secretary of State September 28, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1441, Ridley-Thomas. Healing arts practitioners: substance abuse.

Existing law requires various healing arts licensing boards, including the Dental Board of California, the Board of Registered Nursing, the Physical Therapy Board of California, the Physician Assistant Committee, the Osteopathic Medical Board of California, and the California State Board of Pharmacy to establish and administer diversion or recovery programs or diversion evaluation committees for the rehabilitation of healing arts practitioners whose competency is impaired due to the abuse of drugs or alcohol, and gives the diversion evaluation committees certain duties related to termination of a licensee from the diversion program and reporting termination, designing treatment programs, denying participation in the program, reviewing activities and performance of contractors, determining completion of the program, and purging and destroying records, as specified. Existing law requires the California State Board of Pharmacy to contract with one or more qualified contractors to administer the pharmacists recovery program and requires the board to review the pharmacists recovery program on a quarterly basis, as specified.

This bill would establish in the Department of Consumer Affairs the Substance Abuse Coordination Committee, which would be comprised of the executive officers of the department's healing arts licensing boards, as specified, and a designee of the State Department of Alcohol Drug Programs. The bill would require the committee to formulate, by January 1, 2010, uniform and specific standards in specified areas that each healing arts board would be required to use in dealing with substance-abusing licensees. The bill would specify that the program managers of the diversion programs for the Dental Board of California, the Board of Registered Nursing, the Physical Therapy Board of California, the Physician Assistant Committee, and the Osteopathic Medical Board of California, as designated by the executive officers of those entities, are responsible for certain duties, including, as specified, duties related to termination of a licensee from the diversion program, the review and evaluation of recommendations of the committee,

approving the designs of treatment programs, denying participation in the program, reviewing activities and performance of contractors, and determining completion of the program. The bill would also provide that diversion evaluation committees created by any of the specified boards or committees operate under the direction of the program manager of the diversion program, and would require those diversion evaluation committees to make certain recommendations. The bill would require the executive officer of the California State Board of Pharmacy to designate a program manager of the pharmacists recovery program, and would require the program manager to review the pharmacists recovery program quarterly and to work with the contractors, as specified. The bill would set forth provisions regarding entry of a registered nurse into the diversion program and the investigation and discipline of registered nurses who are in, or have been in, the diversion program, and would require registered nurses in the diversion program to sign an agreement of understanding regarding withdrawal or termination from the program, as specified.

The bill would specify that the diversion program responsibilities imposed on licensing boards under these provisions shall be considered current operating expenses of those boards.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Substance abuse is an increasing problem in the health care professions, where the impairment of a health care practitioner for even one moment can mean irreparable harm to a patient.

(b) Several health care licensing boards have “diversion programs” designed to identify substance-abusing licensees, direct them to treatment and monitoring, and return them to practice in a manner that will not endanger the public health and safety.

(c) Substance abuse monitoring programs, particularly for health care professionals, must operate with the highest level of integrity and consistency. Patient protection is paramount.

(d) The diversion program of the Medical Board of California, created in 1981, has been subject to five external performance audits in its 27-year history and has failed all five audits, which uniformly concluded that the program has inadequately monitored substance-abusing physicians and has failed to promptly terminate from the program, and appropriately refer for discipline, physicians who do not comply with the terms and conditions of the program, thus placing patients at risk of harm.

(e) The medical board’s diversion program has failed to protect patients from substance-abusing physicians, and the medical board has properly decided to cease administering the program effective June 30, 2008.

(f) The administration of diversion programs created at other health care boards has been contracted to a series of private vendors, and none of those

vendors has ever been subject to a performance audit, such that it is not possible to determine whether those programs are effective in monitoring substance-abusing licensees and assisting them to recover from their addiction in the long term.

(g) Various health care licensing boards have inconsistent or nonexistent standards that guide the way they deal with substance-abusing licensees.

(h) Patients would be better protected from substance-abusing licensees if their regulatory boards agreed to and enforced consistent and uniform standards and best practices in dealing with substance-abusing licensees.

SEC. 2. It is the intent of the Legislature that:

(a) Pursuant to Section 156.1 of the Business and Professions Code and Section 8546.7 of the Government Code, that the Department of Consumer Affairs conduct a thorough audit of the effectiveness, efficiency, and overall performance of the vendor chosen by the department to manage diversion programs for substance-abusing licensees of health care licensing boards created in the Business and Professions Code, and make recommendations regarding the continuation of the programs and any changes or reforms required to ensure that individuals participating in the programs are appropriately monitored, and the public is protected from health care practitioners who are impaired due to alcohol or drug abuse or mental or physical illness.

(b) The audit shall identify, by type of board licensee, the percentage of self-referred participants, board-referred participants, and board-ordered participants. The audit shall describe in detail the diversion services provided by the vendor, including all aspects of bodily fluids testing, including, but not limited to, frequency of testing, randomness, method of notice to participants, number of hours between the provision of notice and the test, standards for specimen collectors, procedures used by specimen collectors, such as whether the collection process is observed by the collector, location of testing, and average timeframe from the date of the test to the date the result of the test becomes available; group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by program participants; standards used in determining whether inpatient or outpatient treatment is necessary; and, if applicable, worksite monitoring requirements and standards. The audit shall review the timeliness of diversion services provided by the vendor; the thoroughness of documentation of treatment, aftercare, and monitoring services received by participants; and the thoroughness of documentation of the effectiveness of the treatment and aftercare services received by participants. In determining the effectiveness and efficiency of the vendor, the audit shall evaluate the vendor's approval process for providers or contractors that provide diversion services, including specimen collectors, group meeting facilitators, and worksite monitors; the vendor's disapproval of providers or contractors that fail to provide effective or timely diversion services; and the vendor's promptness in notifying the boards when a participant fails to comply with the terms of his or her

diversion contract or the rules of the board's program. The audit shall also recommend whether the vendor should be more closely monitored by the department, including whether the vendor should provide the department with periodic reports demonstrating the timeliness and thoroughness of documentation of noncompliance with diversion program contracts and regarding its approval and disapproval of providers and contractors that provide diversion services.

(c) The vendor and its staff shall cooperate with the department and shall provide data, information, and case files as requested by the department to perform all of his or her duties. The provision of confidential data, information, and case files from health care-related boards and the vendor to the department shall not constitute a waiver of any exemption from disclosure or discovery or of any confidentiality protection or privilege otherwise provided by law that is applicable to the data, information, or case files. It is the Legislature's intent that the audit be completed by June 30, 2010, and on subsequent years thereafter as determined by the department.

SEC. 3. Article 3.6 (commencing with Section 315) is added to Chapter 4 of Division 1 of the Business and Professions Code, to read:

Article 3.6. Uniform Standards Regarding Substance-Abusing Healing  
Arts Licensees

315. (a) For the purpose of determining uniform standards that will be used by healing arts boards in dealing with substance-abusing licensees, there is established in the Department of Consumer Affairs the Substance Abuse Coordination Committee. The committee shall be comprised of the executive officers of the department's healing arts boards established pursuant to Division 2 (commencing with Section 500), the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and a designee of the State Department of Alcohol and Drug Programs. The Director of Consumer Affairs shall chair the committee and may invite individuals or stakeholders who have particular expertise in the area of substance abuse to advise the committee.

(b) The committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code).

(c) By January 1, 2010, the committee shall formulate uniform and specific standards in each of the following areas that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program:

(1) Specific requirements for a clinical diagnostic evaluation of the licensee, including, but not limited to, required qualifications for the providers evaluating the licensee.

(2) Specific requirements for the temporary removal of the licensee from practice, in order to enable the licensee to undergo the clinical diagnostic

evaluation described in subdivision (a) and any treatment recommended by the evaluator described in subdivision (a) and approved by the board, and specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis.

(3) Specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's status and condition.

(4) Standards governing all aspects of required testing, including, but not limited to, frequency of testing, randomness, method of notice to the licensee, number of hours between the provision of notice and the test, standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collector, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test.

(5) Standards governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.

(6) Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.

(7) Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors.

(8) Procedures to be followed when a licensee tests positive for a banned substance.

(9) Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

(10) Specific consequences for major violations and minor violations. In particular, the committee shall consider the use of a "deferred prosecution" stipulation similar to the stipulation described in Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency unless or until the licensee commits a major violation, in which case it is revived and the license is surrendered.

(11) Criteria that a licensee must meet in order to petition for return to practice on a full-time basis.

(12) Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

(13) If a board uses a private-sector vendor that provides diversion services, standards for immediate reporting by the vendor to the board of any and all noncompliance with any term of the diversion contract or probation; standards for the vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors;

standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and standards for a licensee's termination from the program and referral to enforcement.

(14) If a board uses a private-sector vendor that provides diversion services, the extent to which licensee participation in that program shall be kept confidential from the public.

(15) If a board uses a private-sector vendor that provides diversion services, a schedule for external independent audits of the vendor's performance in adhering to the standards adopted by the committee.

(16) Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

SEC. 4. Section 1695.1 of the Business and Professions Code is amended to read:

1695.1. As used in this article:

(a) "Board" means the Board of Dental Examiners of California.

(b) "Committee" means a diversion evaluation committee created by this article.

(c) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 5. Section 1695.5 of the Business and Professions Code is amended to read:

1695.5. (a) The board shall establish criteria for the acceptance, denial, or termination of licentiates in a diversion program. Unless ordered by the board as a condition of licentiate disciplinary probation, only those licentiates who have voluntarily requested diversion treatment and supervision by a committee shall participate in a diversion program.

(b) A licentiate who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licentiate under current investigation by the board may also request entry into the diversion program by contacting the board's Diversion Program Manager. The Diversion Program Manager may refer the licentiate requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licentiate to enter into the diversion program, the Diversion Program Manager may require the licentiate, while under current investigation for any violations of the Dental Practice Act or other violations, to execute a statement of understanding that states that the licentiate understands that his or her violations of the Dental Practice Act or other statutes that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a licentiate are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1681 of the Business and Professions Code,

or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the licentiate is accepted into the board's diversion program and successfully completes the requirements of the program. If the licentiate withdraws or is terminated from the program by a diversion evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

(e) Neither acceptance nor participation in the diversion program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licentiate for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All licentiates shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licentiate presents a threat to the public's health and safety shall result in the utilization by the board of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licentiate terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the diversion program. A licentiate who has been under investigation by the board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the board.

SEC. 6. Section 1695.6 of the Business and Professions Code is amended to read:

1695.6. A committee created under this article operates under the direction of the program manager. The program manager has the primary responsibility to review and evaluate recommendations of the committee. Each committee shall have the following duties and responsibilities:

(a) To evaluate those licentiates who request to participate in the diversion program according to the guidelines prescribed by the board and to make recommendations. In making the recommendations, a committee shall consider the recommendations of any licentiates designated by the board to serve as consultants on the admission of the licentiate to the diversion program.

(b) To review and designate those treatment facilities to which licentiates in a diversion program may be referred.

(c) To receive and review information concerning a licentiate participating in the program.

(d) To consider in the case of each licentiate participating in a program whether he or she may with safety continue or resume the practice of dentistry.

(e) To perform such other related duties, under the direction of the board or program manager, as the board may by regulation require.

SEC. 7. Section 1697 of the Business and Professions Code is amended to read:

1697. Each licentiate who requests participation in a diversion program shall agree to cooperate with the treatment program designed by the committee and approved by the program manager and to bear all costs related to the program, unless the cost is waived by the board. Any failure to comply with the provisions of a treatment program may result in termination of the licentiate's participation in a program.

SEC. 8. Section 1698 of the Business and Professions Code is amended to read:

1698. (a) After the committee and the program manager in their discretion have determined that a licentiate has been rehabilitated and the diversion program is completed, the committee shall purge and destroy all records pertaining to the licentiate's participation in a diversion program.

(b) Except as authorized by subdivision (f) of Section 1695.5, all board and committee records and records of proceedings pertaining to the treatment of a licentiate in a program shall be kept confidential and are not subject to discovery or subpoena.

SEC. 9. Section 2361 of the Business and Professions Code is amended to read:

2361. As used in this article:

(a) "Board" means the Osteopathic Medical Board of California.

(b) "Diversion program" means a treatment program created by this article for osteopathic physicians and surgeons whose competency may be threatened or diminished due to abuse of drugs or alcohol.

(c) "Committee" means a diversion evaluation committee created by this article.

(d) "Participant" means a California licensed osteopathic physician and surgeon.

(e) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 10. Section 2365 of the Business and Professions Code is amended to read:

2365. (a) The board shall establish criteria for the acceptance, denial, or termination of participants in the diversion program. Unless ordered by the board as a condition of disciplinary probation, only those participants who have voluntarily requested diversion treatment and supervision by a committee shall participate in the diversion program.

(b) A participant who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A participant under current investigation by the board may also request entry into the diversion program by contacting the board's Diversion Program Manager. The Diversion Program Manager may refer the participant requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licentiate to enter into the

diversion program, the Diversion Program Manager may require the licentiate, while under current investigation for any violations of the Medical Practice Act or other violations, to execute a statement of understanding that states that the licentiate understands that his or her violations of the Medical Practice Act or other statutes that would otherwise be the basis for discipline may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a participant are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 2239, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the board may close the investigation without further action if the licentiate is accepted into the board's diversion program and successfully completes the requirements of the program. If the participant withdraws or is terminated from the program by a diversion evaluation committee, and the termination is approved by the program manager, the investigation may be reopened and disciplinary action imposed, if warranted, as determined by the board.

(e) Neither acceptance nor participation in the diversion program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any participant for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All participants shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licentiate presents a threat to the public's health and safety shall result in the utilization by the board of diversion treatment records in disciplinary or criminal proceedings.

(g) Any participant terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the diversion program. A participant who has been under investigation by the board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the board.

SEC. 11. Section 2366 of the Business and Professions Code is amended to read:

2366. A committee created under this article operates under the direction of the diversion program manager. The program manager has the primary responsibility to review and evaluate recommendations of the committee. Each committee shall have the following duties and responsibilities:

(a) To evaluate those licensees who request participation in the program according to the guidelines prescribed by the board, and to make recommendations.

(b) To review and designate those treatment facilities and services to which a participant in the program may be referred.

(c) To receive and review information concerning participants in the program.

(d) To consider whether each participant in the treatment program may safely continue or resume the practice of medicine.

(e) To prepare quarterly reports to be submitted to the board, which include, but are not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance and a cost analysis of the program.

(f) To promote the program to the public and within the profession, including providing all current licentiates with written information concerning the program.

(g) To perform such other related duties, under the direction of the board or the program manager, as the board may by regulation require.

SEC. 12. Section 2367 of the Business and Professions Code is amended to read:

2367. (a) Each licensee who requests participation in a treatment program shall agree to cooperate with the treatment program designed by the committee and approved by the program manager. The committee shall inform each participant in the program of the procedures followed, the rights and responsibilities of the participant, and the possible results of noncompliance with the program. Any failure to comply with the treatment program may result in termination of participation.

(b) Participation in a program under this article shall not be a defense to any disciplinary action which may be taken by the board. Further, no provision of this article shall preclude the board from commencing disciplinary action against a licensee who is terminated from a program established pursuant to this article.

SEC. 13. Section 2369 of the Business and Professions Code is amended to read:

2369. (a) After the committee and the program manager, in their discretion, have determined that a participant has been rehabilitated and the program is completed, the committee shall purge and destroy all records pertaining to the participation in a treatment program.

(b) Except as authorized by subdivision (f) of Section 2365, all board and committee records and records of proceedings pertaining to the treatment of a participant in a program shall be confidential and are not subject to discovery or subpoena except in the case of discovery or subpoena in any criminal proceeding.

SEC. 14. Section 2663 of the Business and Professions Code is amended to read:

2663. The board shall establish and administer a diversion program for the rehabilitation of physical therapists and physical therapist assistants whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency or a private organization to perform its duties under this article. The board may establish one or more diversion evaluation committees to assist it in carrying out its duties under this article. Any diversion evaluation committee established by the board shall operate under the direction of the diversion program manager, as designated by the executive officer of the board. The program manager has

the primary responsibility to review and evaluate recommendations of the committee.

SEC. 15. Section 2665 of the Business and Professions Code is amended to read:

2665. Each diversion evaluation committee has the following duties and responsibilities:

(a) To evaluate physical therapists and physical therapist assistants who request participation in the program and to make recommendations. In making recommendations, the committee shall consider any recommendations from professional consultants on the admission of applicants to the diversion program.

(b) To review and designation of treatment facilities to which physical therapists and physical therapist assistants in the diversion program may be referred.

(c) To receive and review information concerning physical therapists and physical therapist assistants participating in the program.

(d) Calling meetings as necessary to consider the requests of physical therapists and physical therapist assistants to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.

(e) To consider whether each participant in the diversion program may with safety continue or resume the practice of physical therapy.

(f) To set forth in writing the terms and conditions of the diversion agreement that is approved by the program manager for each physical therapist and physical therapist assistant participating in the program, including treatment, supervision, and monitoring requirements.

(g) Holding a general meeting at least twice a year, which shall be open and public, to evaluate the diversion program's progress, to prepare reports to be submitted to the board, and to suggest proposals for changes in the diversion program.

(h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a diversion evaluation committee shall be considered a public employee. No board or diversion evaluation committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.

SEC. 16. Section 2666 of the Business and Professions Code is amended to read:

2666. (a) Criteria for acceptance into the diversion program shall include all of the following:

(1) The applicant shall be licensed as a physical therapist or approved as a physical therapist assistant by the board and shall be a resident of California.

(2) The applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner which may affect his or her ability to practice physical therapy safely or competently.

(3) The applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action.

(4) The applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program.

(5) The applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program.

(6) The applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her.

Any applicant may be denied participation in the program if the board, the program manager, or a diversion evaluation committee determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

(b) A participant may be terminated from the program for any of the following reasons:

(1) The participant has successfully completed the treatment program.

(2) The participant has failed to comply with the treatment program designated for him or her.

(3) The participant fails to meet any of the criteria set forth in subdivision (a) or (c).

(4) It is determined that the participant has not substantially benefited from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare. Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of physical therapy by that individual creates too great a risk to the public health, safety, and welfare, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board. Each physical therapist or physical therapy assistant who requests participation in a diversion program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program.

The diversion evaluation committee shall inform each participant in the program of the procedures followed in the program, of the rights and responsibilities of a physical therapist or physical therapist assistant in the program, and the possible results of noncompliance with the program.

(c) In addition to the criteria and causes set forth in subdivision (a), the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.

SEC. 17. Section 2770.1 of the Business and Professions Code is amended to read:

2770.1. As used in this article:

(a) “Board” means the Board of Registered Nursing.

(b) “Committee” means a diversion evaluation committee created by this article.

(c) “Program manager” means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 18. Section 2770.7 of the Business and Professions Code is amended to read:

2770.7. (a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the diversion program. Only those registered nurses who have voluntarily requested to participate in the diversion program shall participate in the program.

(b) A registered nurse under current investigation by the board may request entry into the diversion program by contacting the board. Prior to authorizing a registered nurse to enter into the diversion program, the board may require the registered nurse under current investigation for any violations of this chapter or any other provision of this code to execute a statement of understanding that states that the registered nurse understands that his or her violations that would otherwise be the basis for discipline may still be investigated and may be the subject of disciplinary action.

(c) If the reasons for a current investigation of a registered nurse are based primarily on the self-administration of any controlled substance or dangerous drug or alcohol under Section 2762, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drug for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the registered nurse is accepted into the board’s diversion program and successfully completes the requirements of the program. If the registered nurse withdraws or is terminated from the program by a diversion evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

(d) Neither acceptance nor participation in the diversion program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any registered nurse for any unprofessional conduct committed before, during, or after participation in the diversion program.

(e) All registered nurses shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when the program manager or diversion evaluation committee determines the licensee presents a threat to the public’s health and safety shall result in the utilization by the board of diversion treatment records in disciplinary or criminal proceedings.

(f) Any registered nurse terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the

diversion program. A registered nurse who has been under investigation by the board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the board.

SEC. 19. Section 2770.8 of the Business and Professions Code is amended to read:

2770.8. A committee created under this article operates under the direction of the diversion program manager. The program manager has the primary responsibility to review and evaluate recommendations of the committee. Each committee shall have the following duties and responsibilities:

(a) To evaluate those registered nurses who request participation in the program according to the guidelines prescribed by the board, and to make recommendations.

(b) To review and designate those treatment services to which registered nurses in a diversion program may be referred.

(c) To receive and review information concerning a registered nurse participating in the program.

(d) To consider in the case of each registered nurse participating in a program whether he or she may with safety continue or resume the practice of nursing.

(e) To call meetings as necessary to consider the requests of registered nurses to participate in a diversion program, and to consider reports regarding registered nurses participating in a program.

(f) To make recommendations to the program manager regarding the terms and conditions of the diversion agreement for each registered nurse participating in the program, including treatment, supervision, and monitoring requirements.

SEC. 20. Section 2770.11 of the Business and Professions Code is amended to read:

2770.11. (a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

SEC. 21. Section 2770.12 of the Business and Professions Code is amended to read:

2770.12. (a) After the committee and the program manager in their discretion have determined that a registered nurse has successfully completed the diversion program, all records pertaining to the registered nurse's participation in the diversion program shall be purged.

(b) All board and committee records and records of a proceeding pertaining to the participation of a registered nurse in the diversion program shall be kept confidential and are not subject to discovery or subpoena, except as specified in subdivision (b) of Section 2770.11 and subdivision (c).

(c) A registered nurse shall be deemed to have waived any rights granted by any laws and regulations relating to confidentiality of the diversion program, if he or she does any of the following:

(1) Presents information relating to any aspect of the diversion program during any stage of the disciplinary process subsequent to the filing of an accusation, statement of issues, or petition to compel an examination pursuant to Article 12.5 (commencing with Section 820) of Chapter 1. The waiver shall be limited to information necessary to verify or refute any information disclosed by the registered nurse.

(2) Files a lawsuit against the board relating to any aspect of the diversion program.

(3) Claims in defense to a disciplinary action, based on a complaint that led to the registered nurse's participation in the diversion program, that he or she was prejudiced by the length of time that passed between the alleged violation and the filing of the accusation. The waiver shall be limited to information necessary to document the length of time the registered nurse participated in the diversion program.

SEC. 22. Section 3501 of the Business and Professions Code is amended to read:

3501. As used in this chapter:

(a) "Board" means the Medical Board of California.

(b) "Approved program" means a program for the education of physician assistants that has been formally approved by the committee.

(c) "Trainee" means a person who is currently enrolled in an approved program.

(d) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the committee.

(e) "Supervising physician" means a physician and surgeon licensed by the board or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

(f) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

(g) "Committee" or "examining committee" means the Physician Assistant Committee.

(h) “Regulations” means the rules and regulations as contained in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

(i) “Routine visual screening” means uninvasive nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

(j) “Program manager” means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 23. Section 3534.1 of the Business and Professions Code is amended to read:

3534.1. The examining committee shall establish and administer a diversion program for the rehabilitation of physician assistants whose competency is impaired due to the abuse of drugs or alcohol. The examining committee may contract with any other state agency or a private organization to perform its duties under this article. The examining committee may establish one or more diversion evaluation committees to assist it in carrying out its duties under this article. As used in this article, “committee” means a diversion evaluation committee. A committee created under this article operates under the direction of the diversion program manager, as designated by the executive officer of the examining committee. The program manager has the primary responsibility to review and evaluate recommendations of the committee.

SEC. 23. Section 3534.3 of the Business and Professions Code is amended to read:

3534.3. Each committee has the following duties and responsibilities:

(a) To evaluate physician assistants who request participation in the program and to make recommendations to the program manager. In making recommendations, a committee shall consider any recommendations from professional consultants on the admission of applicants to the diversion program.

(b) To review and designate treatment facilities to which physician assistants in the diversion program may be referred, and to make recommendations to the program manager.

(c) The receipt and review of information concerning physician assistants participating in the program.

(d) To call meetings as necessary to consider the requests of physician assistants to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the examining committee.

(e) To consider whether each participant in the diversion program may with safety continue or resume the practice of medicine.

(f) To set forth in writing the terms and conditions of the diversion agreement that is approved by the program manager for each physician assistant participating in the program, including treatment, supervision, and monitoring requirements.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the diversion program's progress, to prepare reports to be submitted to the examining committee, and to suggest proposals for changes in the diversion program.

(h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a committee shall be considered a public employee. No examining committee or committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.

SEC. 24. Section 3534.4 of the Business and Professions Code is amended to read:

3534.4. Criteria for acceptance into the diversion program shall include all of the following: (a) the applicant shall be licensed as a physician assistant by the examining committee and shall be a resident of California; (b) the applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner which may affect his or her ability to practice medicine safely or competently; (c) the applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action; (d) the applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program; (e) the applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program; and (f) the applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her.

An applicant may be denied participation in the program if the examining committee, the program manager, or a committee determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

SEC. 25. Section 3534.9 of the Business and Professions Code is amended to read:

3534.9. If the examining committee contracts with any other entity to carry out this section, the executive officer of the examining committee or the program manager shall review the activities and performance of the contractor on a biennial basis. As part of this review, the examining committee shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

SEC. 26. Section 4371 of the Business and Professions Code is amended to read:

4371. (a) The executive officer of the board shall designate a program manager of the pharmacists recovery program. The program manager shall have background experience in dealing with substance abuse issues.

(b) The program manager shall review the pharmacists recovery program on a quarterly basis. As part of this evaluation, the program manager shall review files of all participants in the pharmacists recovery program.

(c) The program manager shall work with the contractor administering the pharmacists recovery program to evaluate participants in the program according to established guidelines and to develop treatment contracts and evaluate participant progress in the program.

SEC. 27. The responsibilities imposed on a licensing board by this act shall be considered a current operating expense of that board, and shall be paid from the fund generally designated to provide operating expenses for that board, subject to the appropriation provisions applicable to that fund.

## Senate Bill No. 1172

### CHAPTER 517

An act to amend Section 156.1 of, and to add Sections 315.2 and 315.4 to, the Business and Professions Code, relating to regulatory boards.

[Approved by Governor September 29, 2010. Filed with Secretary of State September 29, 2010.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1172, Negrete McLeod. Regulatory boards: diversion programs.

(1) Existing law provides for the regulation of specified professions and vocations by various boards, as defined, within the Department of Consumer Affairs. Under existing law, individuals or entities contracting with the department or any board within the department for the provision of services relating to the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs are required to retain all records and documents pertaining to those services for 3 years or until they are audited, whichever occurs first. Under existing law, those records and documents are required to be kept confidential and are not subject to discovery or subpoena.

This bill would specify that those records and documents shall be kept for 3 years and kept confidential and are not subject to discovery or subpoena unless otherwise expressly provided by law.

(2) Existing law provides for the licensure and regulation of various healing arts by boards within the Department of Consumer Affairs. Under existing law, these boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against their licensees.

Existing law establishes diversion and recovery programs to identify and rehabilitate dentists, osteopathic physicians and surgeons, physical therapists, physical therapy assistants, registered nurses, physician assistants, pharmacists and intern pharmacists, veterinarians, and registered veterinary technicians whose competency may be impaired due to, among other things, alcohol and drug abuse.

The bill would require a healing arts board to order a licensee to cease practice if the licensee tests positive for any prohibited substance under the terms of the licensee's probation or diversion program. The bill would also authorize a board to adopt regulations authorizing it to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation, as specified. The bill would provide that these provisions do not affect the Board of Registered Nursing.

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

SECTION 1. Section 156.1 of the Business and Professions Code is amended to read:

156.1. (a) Notwithstanding any other provision of law, individuals or entities contracting with the department or any board within the department for the provision of services relating to the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs shall retain all records and documents pertaining to those services until such time as these records and documents have been reviewed for audit by the department. These records and documents shall be retained for three years from the date of the last treatment or service rendered to that licentiate, after which time the records and documents may be purged and destroyed by the contract vendor. This provision shall supersede any other provision of law relating to the purging or destruction of records pertaining to those treatment and rehabilitation programs.

(b) Unless otherwise expressly provided by statute or regulation, all records and documents pertaining to services for the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs provided by any contract vendor to the department or to any board within the department shall be kept confidential and are not subject to discovery or subpoena.

(c) With respect to all other contracts for services with the department or any board within the department other than those set forth in subdivision (a), the director or chief deputy director may request an examination and audit by the department's internal auditor of all performance under the contract. For this purpose, all documents and records of the contract vendor in connection with such performance shall be retained by such vendor for a period of three years after final payment under the contract. Nothing in this section shall affect the authority of the State Auditor to conduct any examination or audit under the terms of Section 8546.7 of the Government Code.

SEC. 2. Section 315.2 is added to the Business and Professions Code, to read:

315.2. (a) A board, as described in Section 315, shall order a licensee of the board to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program.

(b) An order to cease practice under this section shall not be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A cease practice order under this section shall not constitute disciplinary action.

(d) This section shall have no effect on the Board of Registered Nursing pursuant to Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2.

SEC. 3. Section 315.4 is added to the Business and Professions Code, to read:

315.4. (a) A board, as described in Section 315, may adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315.

(b) An order to cease practice under this section shall not be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A cease practice order under this section shall not constitute disciplinary action.

(d) This section shall have no effect on the Board of Registered Nursing pursuant to Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2.

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

**To:** Board Members **Date:** February 21, 2014  
**From:** Rosanne Helms **Telephone:** (916) 574-7897  
Legislative Analyst  
**Subject: Legislative Update**

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Board staff is currently pursuing the following legislative proposals:

1. **AB 2213 (Eggman): LMFT and LPCC Out-of-State Applicant Requirements**

Licensing requirements for out-of-state LMFT and LPCC applicants were set to change on January 1, 2014. However, the Board had concerns that the new out-of state requirements may be too stringent, restricting portability of these license types to California.

Last year, the Board sponsored AB 451 (Chapter 551, Statutes of 2013), which extended the change to the out-of-state licensing requirements from January 1, 2014 to January 1, 2016. For the past year, the Board's newly formed Out-of-State Education Committee has been working to formulate new out-of-state requirements that better accommodate license portability, while still maintaining consumer protection.

The proposal for the new out-of-state licensing requirements established by the committee will go before the Board at its March 5-6, 2014 meeting. If approved, staff will be directed to sponsor legislation to make the changes.

The proposal makes changes to the practicum requirements for out-of-state applicants, as well as allows them to remediate certain coursework through continuing education, instead of requiring all coursework to be from a graduate program. It also allows certain coursework to be remediated while registered as an intern.

2. **AB 1843 (Jones and Gordon): Child Custody Evaluations: Confidentiality**

This bill proposal would allow the Board to 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.

3. **Omnibus Legislation (Senate Business, Professions, and Economic Development Committee) (No Bill Number Assigned at This Time)**

This bill proposal, approved by the Board at its November 21, 2013 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

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

**To:** Board Members

**Date:** February 21, 2014

**From:** Christy Berger  
Regulatory Analyst

**Telephone:** (916) 574-7817

**Subject:** Rulemaking Update

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## CURRENT REGULATORY PROPOSALS

**Continuing Education: Amend Title 16, California Code of Regulations (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**

This proposal would make a number of changes to the Board's continuing education program. These proposed changes are 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. The Notice has been filed with the Office of Administrative Law (OAL) and the 45-day public comment period has ended. The public hearing for this proposal was on October 22, 2013. This proposal is currently under review by the Business, Consumer Services, and Housing Agency (Agency).

**Disciplinary Guidelines and SB 1441: Uniform Standards for Substance Abuse: Amend Title 16, CCR Section 1888**

This is a regulatory proposal that the Department of Consumer Affairs (DCA) and the Legislature have asked all healing arts licensing boards to pursue. It creates uniform standards for discipline that the boards must follow 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 handling cases that involve licensees or registrants who abuse drugs or alcohol.

This proposal is up for consideration by the Board at its meeting in March 2014. If approved, staff will submit the proposal to OAL for publication in the California Regulatory Notice Register, which will begin the 45-day public comment period.

**Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families: Amend Title 16, CCR Sections 1820.5 and 1822; Add Sections 1820.6 and 1820.7**

This proposal clarifies requirements for LPCCs to treat couples and families, and outlines a process by which LPCCs and PCC Interns would receive Board confirmation that they have met the requirements to treat couples and families.

The initial proposal was approved by the Board at its meeting on November 28, 2012. However, this proposal was placed on hold, and an amended version was approved by the Policy and Advocacy Committee at its meeting in February 2014. This proposal is up for consideration by the Board at its meeting in March 2014. If approved, staff will submit the proposal to OAL for publication, which will begin the 45-day public comment period.

**Implementation of SB 704 (Examination Restructure): Amend 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, 1822.5, 1822.6, 1830, 1878**

This proposal revises current Board regulations for clarity and consistency with statutory changes made by SB 704 (Chapter 387, Statutes of 2011), which restructures the examination process for LMFT, LCSW, and LPCC applicants effective January 1, 2016.

This proposal was originally approved by the Board at its meeting in February 2013, and published in its California Regulatory Notice Register on March 15, 2013. However, the proposal was withdrawn in May 2013, as staff learned of implementation conflicts with the new BreEze database system. For this reason, the effective date of the restructure was delayed until 2016, per SB 821 (Chapter 473, Statutes of 2013).

A revised proposal was approved by the Policy and Advocacy Committee at its meeting in February 2014. Staff plans to bring this proposal for consideration by the Board at its meeting in May 2014 once additional details have been worked through.