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**POLICY AND ADVOCACY COMMITTEE
MEETING NOTICE
April 3, 2014**

9:00 a.m.

Department of Consumer Affairs
El Dorado Room
1625 North Market Blvd., #N220
Sacramento, CA 95834

- I. Introductions*
- II. Approval of the February 6, 2014 Committee Meeting Minutes
- III. Discussion and Recommendations for Possible Action Regarding Pending Legislation
 - a. Assembly Bill 1702 (Maienschein) - Professions and Vocations: Incarceration
 - b. Assembly Bill 2058 (Wilk) - Open Meetings
 - c. Assembly Bill 2165 (Patterson) - Professional Vocations: Licenses
 - d. Assembly Bill 2198 (Levine) - Mental Health Professionals: Suicide Prevention Training
 - e. Assembly Bill 2374 (Mansoor) – Substance Abuse: Recovery and Treatment Services
 - f. Assembly Bill 2598 (Hagman) – DCA Administrative Expenses
 - g. Senate Bill 909 (Pavely) – Dependent Children: Health Screenings
 - h. Senate Bill 1012 (Wyland) – Marriage and Family Therapists: Trainees
 - i. Senate Bill 1148 (Yee) – Marriage and Family Therapists: Records Retention
 - j. Senate Bill 1256 (Mitchell) – Medical Services: Credit
- IV. Discussion and Recommendations for Possible Action Regarding Other Pending Legislation Affecting the Board
- V. Update Regarding Consideration of English as a Second Language as the Basis for Additional Time to Take Board Examinations
- VI. Legislative Update
- VII. Rulemaking Update
- VIII. Suggestions for Future Agenda Items



Governor
Edmund G. Brown Jr.
State of California

Business, Consumer Services
and Housing Agency

Department of
Consumer Affairs

IX. Public Comment for Items not on the Agenda

X. 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.

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.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1702 **VERSION:** INTRODUCED FEBRUARY 13, 2014

AUTHOR: MAIENSCHIN **SPONSOR:** AFSCME LOCAL 2620

RECOMMENDED POSITION: NONE

SUBJECT: PROFESSIONS AND VOCATIONS: INCARCERATION

Overview:

This bill would prohibit a board under the Department of Consumer Affairs (DCA) from denying or delaying an application solely on the grounds that the applicant was incarcerated.

Existing Law:

- 1) Permits a board under DCA to deny a license on the grounds that the applicant has been convicted of a crime, only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which they are applying for licensure. (Business and Professions Code (BPC) §480)
- 2) Permits a board to suspend, revoke, or exercise any authority to discipline a licensee for conviction of a crime only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license is issued. (BPC §490)
- 3) States that a crime or act is substantially related to the qualifications, functions, or duties of a person holding a license if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by his or her license in a manner consistent with public health, safety, or welfare. (California Code of Regulations (CCR) Title 16, Division 18, §1812)

This Bill:

- 1) Prohibits a board from delaying the processing of an application, or denying a license to, an otherwise eligible applicant who has satisfied any licensing requirements while incarcerated, solely based on the fact that the applicant was incarcerated. (BPC §480.5(a))
- 2) Allows for delay in processing, or denial of licensure, if the incarceration was for a crime substantially related to the qualifications, functions, or duties of the business or profession. (BPC §4980.5(a))
- 3) States that this provision does not apply to a petition for reinstatement of a license. (BPC §480.5(b))
- 4) States that this provision does not apply to the licensure of chiropractors. (BPC §480.5(c))

Comment:

- 1) Background.** The author's office is running this bill in an effort to reduce crime and reward rehabilitation. They note that two-thirds of former inmates will re-offend, many within the first year of being released from prison.

The author notes studies that show if an inmate learns vocational skills in prison, he or she is less likely to re-offend upon release. However, if the inmate learns vocational skills that require a license, he or she often must wait longer to receive a license, because the law allows licensing boards to impose licensing restrictions on those who have criminal convictions.

- 2) Intent Unclear.** The author's office cites a problem with the law giving licensing boards the power to impose additional restrictions on those who have been convicted of a crime. However, the Board may only do this if the conviction is substantially related to the practice of the profession. This bill does not remove the provision that discipline can be taken if the conviction was substantially related to the profession.

- 3) Delays in Processing Time.** This bill prohibits a board from delaying the processing of an application based on the fact that the applicant was incarcerated.

All applicants with a conviction or other disciplinary action are automatically routed to the Board's Enforcement Division for further investigation. For these applicants, there will be a delay simply because additional staff time is needed to determine if the crime was "substantially related" and to determine if disciplinary measures are necessary.

Delays due to the enforcement process can vary from weeks to several months, depending on the complexity of the case. An applicant with a conviction from two decades ago that is not substantially related will likely be cleared quickly, while an applicant with a recent conviction may take longer while investigators gather documentation and review the facts of the case.

- 4) Support and Opposition.**

Support:

- American Federation of State, County, and Municipal Employees (AFSCME) Local 2620 (Sponsor)

Opposition:

- None on file.

- 5) History**

2014

02/20/14 Referred to Com. on B.,P. & C.P.

02/14/14 From printer. May be heard in committee March 16.

02/13/14 Read first time. To print.

ASSEMBLY BILL

No. 1702

Introduced by Assembly Member Maienschein

February 13, 2014

An act to add Section 480.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1702, as introduced, Maienschein. Professions and vocations: incarceration.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, among other entities. Existing law establishes various eligibility criteria needed to qualify for a license and authorizes a board to deny a license on the grounds that the applicant has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

This bill would provide that an individual who has satisfied any of the requirements needed to obtain a license while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing the application or a denial of the license solely based on the prior incarceration, except when the incarceration was for a crime substantially related to the qualifications, functions, or duties of the business or profession.

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

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

1 SECTION 1. Section 480.5 is added to the Business and
2 Professions Code, to read:

3 480.5. (a) An individual who has satisfied any of the
4 requirements needed to obtain a license regulated under this code
5 while incarcerated, who applies for that license upon release from
6 incarceration, and who is otherwise eligible for the license shall
7 not be subject to a delay in processing his or her application or a
8 denial of the license solely based on the prior incarceration, except
9 as provided in Section 480.

10 (b) Nothing in this section shall be construed to apply to a
11 petition for reinstatement of a license.

12 (c) This section shall not apply to the licensure of individuals
13 under the initiative act referred to in Chapter 2 (commencing with
14 Section 1000) of Division 2.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2058 **VERSION:** INTRODUCED FEBRUARY 20, 2014

AUTHOR: WILK **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: OPEN MEETINGS

Overview:

This bill would make an advisory body consisting of less than three members subject to the Bagley-Keene Open Meeting Act if the body is a standing committee with a continuing subject matter jurisdiction or a has a meeting schedule fixed by formal action of a state body.

Existing Law:

- 1) Establishes the Bagley-Keene Open Meeting Act, which requires that actions and deliberations of state agencies be conducted openly. (Government Code (GC) §11120)
- 2) Defines a “state body” to mean any of the following (GC §11121):
 - A state board, commission, or multimember body of the state created by statute to conduct official meetings.
 - A board, commission or committee that exercises authority of a state body delegated by that state body.
 - An advisory board, commission, committee, or subcommittee that consists of three or more persons and is created by formal action by the state body or any of its members.
 - A board, commission, or committee on which a member of a state body serves in official capacity as a representative.
- 3) Requires that all meetings of a state body be open and all members of the public permitted to attend. (GC §11123)
- 4) Requires a state body to provide notice at least 10 days prior to a meeting, which includes an agenda for that meeting. (GC §11125)

This Bill:

- 1) Revises the definition of a state body subject to the Bagley-Keene Open Meeting Act. Under the proposed change, an advisory body consisting of less than three members would be subject to Bagley-Keene if they are standing committees with a continuing subject matter jurisdiction or a meeting schedule fixed by formal action of a state body. (GC §11121)

Comment:

- 1) **Author's Intent.** Current law allows standing committees of a state entity to hold closed door meetings as long as they contain fewer than three members and do not vote to take action on items of discussion. The author's office is concerned that some state agencies are conducting meetings with two or fewer members specifically to avoid open meeting requirements. The author notes it is the intent of the Legislature and the public for government to conduct its business visibly and transparently.
- 2) **Brown Act for Local Governments.** Local government entities must abide by the Brown Act, which is an open meeting act similar to Bagley-Keene. In the early 1990s, the Brown Act contained a similar allowance as Bagley-Keene. The was corrected as soon as the Legislature discovered it; however, a conforming change was not made to the Bagley-Keene Act at that time.
- 3) **Current Board Process.** The Board commonly utilizes two-member standing committees to address issues requiring in-depth discussion and analysis. The intent is to create an environment that encourages discussion and sharing of ideas between Board members, staff, and interested stakeholders, which may eventually be used to generate a legislative or regulatory proposal. No votes are taken at these meetings; any action must be approved by the Board at a board meeting.

The Continuing Education Provider Review Committee is an example of one of the Board's recent two-member standing committees. The Board still notices an agenda for these two-member meetings ten days prior, as Bagley-Keene requires.

If this bill were to become law, additional staff time would be required to complete and post meeting minutes, but otherwise the Board is already in compliance with Bagley-Keene in regards to its two-member committee meetings.

- 4) **Urgency Statute.** This bill is an urgency statute. Therefore, if signed by the Governor, it would become effective immediately.
- 5) **Support and Opposition.**
 - Support:*
 - None on file.
 - Opposition:*
 - None on file.

6) **History**

2014

03/03/14 Referred to Com. on G.O.

02/21/14 From printer. May be heard in committee March 23.

02/20/14 Read first time. To print.

ASSEMBLY BILL

No. 2058

Introduced by Assembly Member Wilk
(Coauthor: Senator DeSaulnier)

February 20, 2014

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2058, as introduced, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in any meeting of a state body, subject to certain conditions and exceptions.

This bill would modify the definition of “state body” to exclude an advisory body with less than 3 individuals, except for certain standing committees. This bill would also make legislative findings and declarations in this regard.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) The unpublished decision of the Third District Court of
2 Appeals in *Funeral Security Plans v. State Board of Funeral*
3 *Directors* (1994) 28 Cal. App.4th 1470 is an accurate reflection of
4 legislative intent with respect to the applicability of the
5 Bagley-Keene Open Meeting Act (Article 9 (commencing with
6 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
7 the Government Code) (Bagley-Keene Act) to a two-member
8 standing advisory committee of a state body. A two-member
9 standing committee of a state body, even if operating solely in an
10 advisory capacity, already is a “state body,” as defined in
11 subdivision (d) of Section 11121 of the Government Code,
12 irrespective of its size, if a member of the state body sits on the
13 committee and the committee receives funds from the state body.
14 For this type of two-member standing advisory committee, this
15 bill is declaratory of existing law.

16 (b) A two-member standing committee of a state body, even if
17 operating solely in an advisory capacity, already is a “state body,”
18 as defined in subdivision (b) of Section 11121 of the Government
19 Code, irrespective of its composition, if it exercises any authority
20 of a state body delegated to it by that state body. For this type of
21 two-member standing advisory committee, this bill is declaratory
22 of existing law.

23 (c) All two-member standing advisory committees of a local
24 body are subject to open meeting requirements under the Ralph
25 M. Brown Act (Chapter 9 (commencing with Section 54950) of
26 Part 1 of Division 2 of Title 5 of the Government Code) (Brown
27 Act). It is the intent of the Legislature in this act to reconcile
28 language in the Brown Act and Bagley-Keene Act with respect to
29 all two-member standing advisory committees, including, but not
30 limited to, those described in subdivisions (a) and (b).

31 SEC. 2. Section 11121 of the Government Code is amended
32 to read:

33 11121. As used in this article, “state body” means each of the
34 following:

35 (a) Every state board, or commission, or similar multimember
36 body of the state that is created by statute or required by law to
37 conduct official meetings and every commission created by
38 executive order.

1 (b) A board, commission, committee, or similar multimember
2 body that exercises any authority of a state body delegated to it by
3 that state body.

4 (c) An advisory board, advisory commission, advisory
5 committee, advisory subcommittee, or similar multimember
6 advisory body of a state body, if created by formal action of the
7 state body or of any member of the state body, ~~and if the advisory~~
8 ~~body so created consists of three or more persons.~~ *Advisory bodies*
9 *created to consist of fewer than three individuals are not a state*
10 *body, except that standing committees of a state body, irrespective*
11 *of their composition, which have a continuing subject matter*
12 *jurisdiction, or a meeting schedule fixed by resolution, policies,*
13 *bylaws, or formal action of a state body are state bodies for the*
14 *purposes of this chapter.*

15 (d) A board, commission, committee, or similar multimember
16 body on which a member of a body that is a state body pursuant
17 to this section serves in his or her official capacity as a
18 representative of that state body and that is supported, in whole or
19 in part, by funds provided by the state body, whether the
20 multimember body is organized and operated by the state body or
21 by a private corporation.

22 SEC. 3. This act is an urgency statute necessary for the
23 immediate preservation of the public peace, health, or safety within
24 the meaning of Article IV of the Constitution and shall go into
25 immediate effect. The facts constituting the necessity are:

26 In order to avoid unnecessary litigation and ensure the people's
27 right to access of the meetings of public bodies pursuant to Section
28 3 of Article 1 of the California Constitution, it is necessary that
29 act take effect immediately.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2165 **VERSION:** INTRODUCED FEBRUARY 20, 2014

AUTHOR: PATTERSON **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: PROFESSIONS AND VOCATIONS: LICENSES

Overview:

This bill would require licensing boards to review licensing applications within 45 days, and to issue a license within that 45 days if the applicant meets licensing requirements.

Existing Law:

- 1) Defines a "license" as a license, certificate, registration, or other means to engage in a business or profession. (Business and Professions Code (BPC) §23.7)
- 2) Requires an applicant for licensure as a marriage and family therapist (LMFT), educational psychologist (LEP), clinical social worker (LCSW), or professional clinical counselor (LPCC), who meets specified education and experience requirements to be examined by the Board. (BPC §§4980.50, 4989.20, 4996.2, and 4999.50)
- 3) Requires the LMFT and LPCC licensing exams to be given at least twice a year. (BPC §§4980.50(a), 4999.52(b))

This Bill:

- 1) Requires a licensing board to review each licensure application within 45 days of the filing date. (BPC §101.8)
- 2) If the applicant has satisfied all requirements for licensure, requires the licensing board to issue the license within the same 45 day period. (BPC §101.8)
- 3) Requires a licensing board to offer each required examination a minimum of six times per year. (BPC §101.8)

Comment:

- 1) **Author's Intent.** The author's office introduced this bill because professional and vocational applicants are currently experiencing major delays in licensure application processing times. They are also concerned that several professions do not allow for testing upon graduation from school. Instead, the applicant must wait for their application to be processed before they obtain approval to take the test.

The purpose of this bill is to decrease application processing delays so that applicants are not forced to be unemployed while waiting for their application process to be completed.

- 2) Background.** The Board is currently experiencing significant backlogs in license processing times. This is due to several factors, including mandatory furloughs and hiring freezes that took place over the last several years, an increase in the licensing population, and the introduction of the new licensed professional clinical counselor (LPCC) license type.

The Board staff is beginning to recover from these setbacks, and is attempting to reduce the current backlog. Furloughs and hiring freezes are no longer in effect, and the LPCC program is now up and running. However, because the furloughs and hiring freezes went on so long at the same time the licensing population was increasing, this is not an overnight undertaking.

The Board recently received some good news, as the Governor's 2014-2015 budget includes eight additional positions for the Board's licensing and enforcement units. The Board has been authorized to hire some seasonal help as well. DCA recently granted the Board's request to hire some of the 8 authorized positions early, before the 2014-2015 budget takes effect. Therefore, the newly authorized positions in the licensing unit are expected to be in place shortly.

These new positions will provide significant relief in applicant processing times, once the new staff are fully trained. Therefore, the Board expects processing times to be significantly reduced within the next six months.

- 3) Flow of Applications.** Any requirements that the Board maintain a particular number of days as its processing time is problematic because the flow of applications is never constant. For example, the Board receives the highest volume of applications in May and June during graduation season. During times of furloughs and hiring freezes, loss of staff time becomes an issue beyond the Board's control if the Board is not permitted to hire to replace departing staff, or to obtain new staff when increases in application volume occur. Any request for a specific processing time would need to include an increased number of positions to get the job done, as well as a guarantee that those positions could be replaced regardless of the economic condition of the state.

Intent to Allow Testing Upon Graduation. The author's office notes the intent of this bill is to allow all applicants to test upon graduation from an accredited school. However, this is not consistent with the Board's licensing process, which requires applicants for each of the Board's license types to complete supervised post-graduate experience before taking an examination. Allowing testing prior to all qualifications for licensure being met exposes confidential material on licensing exams to potentially unqualified applicants.

Although allowing testing upon graduation is a stated intent, the bill does not require this at this time.

- 4) Exam Offerings.** This bill requires licensing boards to offer required licensing exams a minimum of six times per year.

This requirement will not affect the Board's testing process. The Board uses a testing vendor, Psychological Services (PSI) which has locations throughout the state and country. The exams are offered continuously at each site; meaning that an applicant may make an appointment to take the test on any day the test site has an open seat available.

The national exam accepted by the Board for LPCCs uses a similar procedure.

The Board does require a 180 day waiting period between exam retakes to ensure candidates do not take the same version of the exam twice.

5) Applies to Applicants for Licensure and Registration. This bill would apply to applicants for licensure and registration, as it references BPC §23.7, which includes registrations in the definition of a license.

6) Support and Opposition.

Support:

- None on file.

Opposition:

- None on file.

7) History

2014

03/06/2014 Mar. 6 Referred to Com. on B.,P. & C.P.

02/21/2014 Feb. 21 From printer. May be heard in committee March 23.

02/20/2014 Feb. 20 Read first time. To print.

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ASSEMBLY BILL

No. 2165

Introduced by Assembly Member Patterson

February 20, 2014

An act to add Section 101.8 to the Business and Professions Code, relating to licensing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2165, as introduced, Patterson. Professions and vocations: licenses.

Under existing law, boards within the Department of Consumer Affairs license and regulate persons practicing various healing arts, professions, vocations, and businesses. Existing law requires these boards to establish eligibility and application requirements, including examinations, to license, certificate, or register each applicant who successfully satisfies applicable requirements.

This bill would require each board to complete within 45 days the application review process with respect to each person who has filed with the board an application for issuance of a license, and to issue, within that 45 days, a license to an applicant who successfully satisfied all licensure requirements. The bill also requires each board to offer each examination the board provides for the applicant's passage of which is required for licensure, a minimum of 6 times per year.

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

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

- 1 SECTION 1. Section 101.8 is added to the Business and
2 Professions Code, to read:
3 101.8. (a) Notwithstanding any other law, every board, as
4 defined in Section 22, within 45 days following the filing date of
5 an application with the board for issuance of a license, as defined
6 in Section 23.7, to engage in the business or profession regulated
7 by that board, the board shall do both of the following:
8 (1) Complete the application review process.
9 (2) If the applicant has satisfied all of the requirements for
10 licensure under the applicable licensing act, issue the applicant the
11 applicable license.
12 (b) Every board that offers an examination that an applicant is
13 required to complete successfully for licensure, shall offer that
14 examination a minimum of six times per year.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2198 **VERSION:** INTRODUCED FEBRUARY 20, 2014

AUTHOR: LEVINE **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: MENTAL HEALTH PROFESSIONALS: SUICIDE PREVENTION TRAINING

Existing Law:

- 1) Provides that the Board of Behavioral Sciences (Board) is the state licensing entity for marriage and family therapists (LMFTs), educational psychologists (LEPs), clinical social workers (LCSWs) and professional clinical counselors (LPCCs), and sets specific education and experience requirements for licensure. (Business and Professions Code (BPC) §§4980, 4980.36, 4980.37, 4989.12, 4989.20, 4996, 4996.2, 4999.30, 4999.32, 4999.33)
- 2) Specifies that crisis intervention is within the scope of practice of an LPCC, and requires LPCC applicants to have coursework in crisis or trauma counseling. This coursework must include multidisciplinary responses to crises, and brief, intermediate, and long-term approaches to crises. (BPC §§4999.20(a)(1), 4999.32(c)(1)(D), 4999.33(c)(1)(L))
- 3) Requires the director of the Department of Consumer Affairs to establish, by regulation, guidelines to prescribe components for mandatory continuing education programs administered by any board within the department. The guidelines shall be developed to ensure that mandatory continuing education is used as a means to create a more competent licensing population, thereby enhancing public protection. ((Business and Professions Code §166)
- 4) Requires licensees of the Board of Behavioral Sciences (Board), upon renewal of their license, to certify to the Board that he or she has completed at least 36 hours of approved continuing education in or relevant to their field of practice. (BPC §§4980.54(c), 4989.34(a), 4996.22(a), 4999.76(a)).

This Bill:

- 1) States the intent of the Legislature to help lower the suicide rate in California by requiring certain health professionals to complete training in suicide assessment, treatment, and management as part of their continuing education. (BPC §4999.150)
- 2) Would require a mental health professional, commencing January 1, 2015, to complete a training program in suicide assessment, treatment, and management. (BPC §4999.152)
- 3) Would require this training to be administered by the relevant board or state entity responsible for licensure and regulation of the mental health professional. (BPC §4999.152)
- 4) States that a “mental health professional” includes, but is not limited to, a psychologist, marriage and family therapist, and clinical social worker. (BPC §4999.151)

- 5) Requires the Department of Consumer Affairs (DCA) to conduct a study evaluating the effect of evidence-base suicide assessment, treatment and management training on the ability of licensed health care professionals to identify, refer, treat, and manage patients with suicidal ideation. (BPC §4999.153)
- 6) Requires that DCA submit this study to the Legislature by January 1, 2016. (BPC §4999.153)

Comments:

1) **Author's Intent.** The intent of this bill is to ensure mental health professionals have concentrated training in suicide assessment, treatment, and management. In 2008, over 36,000 people died by suicide in the U.S., making it the 10th leading cause of death nationally. Several organizations, including the United States Department of Health and Human Services, and the Institute of Medicine, have indicated a need for improved education and training in suicide assessment.

2) **Current Education Requirements.** There is currently no specific requirement that a licensee of the Board must have coursework in his or her degree, or complete continuing education, which covers suicide assessment.

The Board's LPCC licensees have "crisis intervention" specifically listed in their scope of practice. They are required to complete coursework in crisis or trauma counseling.

Conversations with one of the Board's subject matter experts indicated that suicide assessment is likely covered in Master's degree programs, both in basic counseling skills courses and also in trauma courses.

3) **Continuing Education Requirements.** The Board has several one-time continuing educational requirements that must be completed by its LMFT, LCSW, and LPCC licensees. These additional courses must be completed prior to licensure or at the first renewal, depending on when the applicant began graduate study. These courses are as follows:

- Spousal/partner abuse (7 hours);
- Human Sexuality (10 hours);
- Child Abuse (7 hours);
- Substance Abuse (15 hours);
- Aging/long term care (3 hours); and
- HIV/AIDS (7 hours).

All licensees must take a six-hour law and ethics course every renewal period. In total, a licensee must complete 36 hours of continuing education every renewal period.

4) **Administration of the Course.** This bill requires the suicide assessment course to be administered by the board or state entity responsible for the licensure and regulation of the mental health professional. This implies that the Board itself must develop and offer the course to its licensees.

The Board does not currently develop and administer required coursework, and does not have the resources and expertise to do so. Applicants and licensees take needed coursework either through and accredited or approved educational institution, or from a continuing education provider that is accepted by the Board.

- 5) Inclusion of All Board License Types.** As written, a mental health professional subject to the training requirement “includes, but is not limited to” a psychologist, a marriage and family therapist, and a clinical social worker.

The Board also licenses professional clinical counselors, and educational psychologists, both of which are also mental health professionals.

Staff recommends that the bill be amended to list all types of mental health professionals that the author’s office intends to include in this training requirement. Otherwise, it is unclear to licensees and Board staff exactly which licenses are subject to the requirement.

- 6) Length of the Course.** Currently, the bill does not specify the length of the required course. Typically, coursework requirements specify a certain number of units or hours, so that it is clear to applicants, licensees, and Board evaluators if the requirement is met.

- 7) Compliance Date.** Staff recommends adding a compliance date by which licensees must complete this newly required coursework.

If this bill becomes law, it will become effective on January 1, 2015. Currently, it states that effective January 1, 2015, a licensee shall complete the coursework. It is unclear when this coursework must be completed. A phase in date is recommended, so that licensees have sufficient time to find and complete a course.

- 8) Equivalent Education.** Many licensees will already have taken coursework that fulfills this requirement, either as part of their master’s degree program, or as a separate course. Staff recommends that the following language be inserted into the bill:

Coursework taken in fulfillment of other educational requirements for licensure, or in a separate course of study, may, at the discretion of the board, fulfill the requirement of this section. In order to satisfy the coursework requirement of this section, the applicant shall submit to the board a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution’s required curriculum for graduation, or within the coursework, that was completed by the applicant.

- 9) Report to the Legislature.** The bill requires that the Department of Consumer Affairs submit a study to the Legislature, by January 1, 2016, that evaluates the effect of the training on the ability of licensees to identify, refer, treat, and manage suicidal patients.

The Board does not have the technical expertise to conduct this type of study internally.

10) Support and Opposition.

Support:

- None at this time.

Opposition:

- None at this time.

11) History

2014

03/06/14 Referred to Com. on B.,P. & C.P.

02/21/14 From printer. May be heard in committee March 23.

02/20/14 Read first time. To print.

ASSEMBLY BILL

No. 2198

Introduced by Assembly Member Levine
(Principal coauthor: Senator Hill)

February 20, 2014

An act to add Chapter 17 (commencing with Section 4999.150) to Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2198, as introduced, Levine. Mental health professionals: suicide prevention training.

Existing law provides for the licensure and regulation of various professionals who provide mental health-related services, including psychologists, marriage and family therapists, educational psychologists, and clinical social workers. Under existing law, an applicant for licensure in these professions is required to complete certain coursework or training in order to be eligible for a license. Existing law also requires these professionals to participate in continuing education as a prerequisite for renewing their license.

This bill would require a mental health professional, defined to include, but not be limited to, certain types of professionals, to complete a training program in suicide assessment, treatment, and management that is administered by the relevant board or other state entity responsible for the licensure and regulation of the mental health professional. The bill would require the Department of Consumer Affairs to conduct a study evaluating the effect of evidence-based suicide assessment, treatment, and management training on the ability of licensed health care professionals to identify, refer, treat, and manage patients with

suicidal ideation, and would require the department, no later than January 1, 2016, to prepare and submit to the Legislature report summarizing the findings of that study.

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

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

1 SECTION 1. Chapter 17 (commencing with Section 4999.150)
2 is added to Division 2 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 17. MENTAL HEALTH PROFESSIONAL SUICIDE
6 PREVENTION TRAINING
7

8 4999.150. The Legislature finds and declares all of the
9 following:

10 (a) According to the federal Centers for Disease Control and
11 Prevention:

12 (1) In 2008, more than 36,000 people died by suicide in the
13 United States, making it the 10th leading cause of death nationally.

14 (2) During 2007 to 2008, inclusive, an estimated 569,000 people
15 visited hospital emergency departments with self-inflicted injuries
16 in the United States, 70 percent of whom had attempted suicide.

17 (b) According to a national study, veterans face an elevated risk
18 of suicide as compared to the general population, more than twice
19 the risk among male veterans. Another study has indicated a
20 positive correlation between posttraumatic stress disorder and
21 suicide.

22 (c) Research continues on how the effects of wartime service
23 and injuries such as traumatic brain injury, posttraumatic stress
24 disorder, or other service-related conditions, may increase the
25 number of veterans who attempt suicide.

26 (d) As more men and women separate from the military and
27 transition back into civilian life, community mental health
28 providers will become a vital resource to help these veterans and
29 their families deal with issues that may arise.

30 (e) Suicide has an enormous impact on the family and friends
31 of the victim as well as the community as a whole.

1 (f) Approximately 90 percent of people who die by suicide had
2 a diagnosable psychiatric disorder at the time of death. Most suicide
3 victims exhibit warning signs or behaviors prior to an attempt.

4 (g) Improved training and education in suicide assessment,
5 treatment, and management has been recommended by a variety
6 of organizations, including the United States Department of Health
7 and Human Services and the Institute of Medicine.

8 (h) It is the intent of the Legislature to help lower the suicide
9 rate in this state by requiring certain health professionals to
10 complete training in suicide assessment, treatment, and
11 management as part of their continuing education, continuing
12 competency, or recertification requirements.

13 (i) The Legislature does not intend to expand or limit the existing
14 scope of practice of any health professional affected by this chapter.

15 4999.151. As used in this chapter, “mental health professional”
16 includes, but is not limited to, all of the following:

17 (a) A psychologist.

18 (b) A marriage and family therapist.

19 (c) A clinical social worker.

20 4999.152. Commencing January 1, 2015, a mental health
21 professional subject to this chapter shall complete a training
22 program in suicide assessment, treatment, and management as
23 prescribed by this chapter and administered by the relevant board
24 or other state entity responsible for the licensure and regulation of
25 the mental health professional.

26 4999.153. (a) The Department of Consumer Affairs shall
27 conduct a study evaluating the effect of evidence-based suicide
28 assessment, treatment, and management training on the ability of
29 licensed health care professionals to identify, refer, treat, and
30 manage patients with suicidal ideation.

31 (b) The Department of Consumer Affairs shall prepare and
32 submit to the Legislature, no later than January 1, 2016, a report
33 summarizing the findings of the study pursuant to subdivision (a).
34 The report shall be submitted in compliance with Section 9795 of
35 the Government Code.

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

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 909 **VERSION:** AMENDED MARCH 20, 2014

AUTHOR: PAVLEY **SPONSOR:** COUNTY OF LOS ANGELES

RECOMMENDED POSITION: NONE

SUBJECT: DEPENDENT CHILDREN: HEALTH SCREENINGS

Overview:

This bill makes it clear in law that a social worker may authorize an initial medical, dental, and mental health screening for a child taken into temporary custody by a county welfare agency due to an immediate danger.

Existing Law:

- 1) Requires that when a minor is taken into temporary custody due to an immediate danger, the social worker may authorize the performance of medical, surgical, dental, or other remedial care only if recommended by the attending physician and surgeon or dentist, and if the parent or guardian is notified and does not object. (Welfare and Institutions Code (WIC) §369)
- 2) Provides that if the parent or guardian is notified and objects to the care, the care shall only be given if the court orders it. (WIC §369)
- 3) Provides that if a child is placed under the supervision of a social worker and there is no parent or guardian available to authorize medical, surgical, dental or other remedial care, that the court may order that the social worker may authorize the care. (WIC §369)
- 4) Provides that if a child taken into temporary custody appears to require immediate medical, surgical, or remedial care in an emergency situation, the care may be provided by a licensed physician and surgeon, or a licensed dentist, if applicable, without a court order upon authorization of a social worker. (WIC §369)

This Bill:

- 1) Allows a social worker to authorize an initial medical, dental, and mental health screening for a child taken into temporary custody due to an immediate danger. The screening may be prior to the required detention hearing, and may be for any of the following reasons (WIC §369):
 - a. To determine if the child has an urgent medical, dental, or mental health need requiring immediate attention;
 - b. To determine if the child poses a health risk to others; and

- c. To determine an appropriate placement to meet the child's medical and mental health care needs identified in the initial health screening.
- 2) Adds mental health care to the types of care that can be authorized for a child taken into temporary custody. (WIC §369)
- 3) Adds a mental health provider to the list of individuals who may do the following:
 - a. Recommend that the social worker authorize medical, surgical, mental health, dental, or other remedial care, if the consent of the parent or guardian can be obtained;
 - b. Provide the court with a written recommendation that the child needs care so that the court may make an order authorizing the care if the parent or guardian cannot or will not provide authorization. (WIC §369)
 - c. Provide care in an emergency situation, without a court order, if authorized by a social worker. (WIC §369)
- 4) Adds mental health care to the list of remedial care that a court may order that the social worker may authorize for a child under the social worker's supervision, if the parent or guardian is unable or unwilling to authorize the treatment. (WIC §369)

Comment:

1) Author's Intent. The author's office states that there is no clear statutory authority for a social worker to provide consent for initial health screenings when a child is taken into temporary custody by a county welfare agency. Such screenings are important because these children sometimes have health conditions such as communicable diseases, chronic health conditions, or mental health crises that may not be immediately evident to the social worker. Examples cited by the author's office are as follows:

- An infant with a urinary tract infection that may go unnoticed because it cannot be communicated.
- A child with behavioral or medical effects due to pre-natal drug exposure.
- A child with asthma who needs an inhaler.
- A child with vision or hearing issues which may require special home placement.

The purpose of this bill is to grant social workers clear-cut authority to provide consent to initial health screenings so that these types of issues can be identified.

2) Support and Opposition.

Support:

- County of Los Angeles (Sponsor)

Opposition:

- None on file.

3) History

2014

03/20/14 From committee with author's amendments. Read second time and amended. Referred to Com. on HUMAN S.

03/07/14 Set for hearing April 8.

02/06/14 Referred to Coms. on HUMAN S., JUD., and APPR.

01/24/14 From printer. May be acted upon on or after February 23.

01/23/14 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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Introduced by Senator Pavley

January 23, 2014

An act to amend Section 369 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 909, as amended, Pavley. Dependent children: health screenings.

Existing law provides that a child may become a dependent child of the juvenile court under certain circumstances, including in cases of abuse and neglect. Existing law authorizes a peace officer, without a warrant, to take a minor into temporary custody when there is reasonable cause to believe the minor comes within the jurisdiction of the juvenile court. Under existing law, a social worker is required to acquire the consent of a parent or permission from the court to authorize medical, surgical, dental, or other remedial care to a child who is in temporary custody. Existing law permits, under specified emergency conditions, a licensed physician to provide emergency medical, surgical, or other remedial care to a child in temporary custody without the consent of a parent or permission from the court.

This bill would additionally permit a social worker to authorize an initial medical, dental, and mental health screening of a child in temporary custody, without parental consent or a court order. The bill would also add mental health treatment to the medical and dental care that may be authorized for a child who is a dependent of the juvenile court, who is in temporary custody, or for whom a dependency petition has been filed.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The state has a compelling interest in ensuring the physical
4 and mental health of children in the child welfare system.

5 (b) Both the American Academy of Pediatrics and the Child
6 Welfare League of America have found children entering foster
7 care to be in poor health with chronic and acute health,
8 developmental, and psychiatric disorders.

9 (c) The American Academy of Pediatrics recommends that upon
10 entry into foster care every child receive an initial health screening
11 to identify any immediate medical, dental, or mental health care
12 needs.

13 (d) The completion of an initial health screening as
14 recommended by the American Academy of Pediatrics will
15 improve the health of children entering foster care.

16 SEC. 2. Section 369 of the Welfare and Institutions Code is
17 amended to read:

18 369. (a) Whenever a child is taken into temporary custody
19 under Article 7 (commencing with Section 305), the social worker
20 may authorize an initial medical, dental, and mental health
21 screening of the child, prior to the detention hearing held pursuant
22 to Section 319, for any of the following purposes:

23 (1) To determine whether the child has an urgent medical, dental,
24 or mental health need that requires immediate attention.

25 (2) To determine whether the child poses a health risk to other
26 persons.

27 (3) To determine an appropriate placement to meet the child’s
28 medical and mental health care needs *identified in the initial health*
29 *screening*.

30 (b) Whenever a child is taken into temporary custody under
31 Article 7 (commencing with Section 305) and is in need of medical,
32 surgical, mental health, dental, or other remedial care, the social
33 worker may, upon the recommendation of the attending physician
34 and surgeon or ~~licensed~~ mental health provider, or, if the ~~person~~
35 *child* needs dental care and there is an attending dentist, the

1 attending dentist, authorize the performance of the medical,
2 surgical, mental health, dental, or other remedial care. The social
3 worker shall notify the parent, guardian, or person standing in loco
4 parentis of the ~~person~~ *child*, if any, of the care found to be needed
5 before that care is provided, and if the parent, guardian, or person
6 standing in loco parentis objects, that care shall be given only upon
7 order of the court in the exercise of its discretion.

8 (c) Whenever it appears to the juvenile court that a ~~person~~ *child*
9 concerning whom a petition has been filed with the court is in need
10 of medical, surgical, mental health, dental, or other remedial care,
11 and that there is no parent, guardian, or person standing in loco
12 parentis capable of authorizing or willing to authorize the remedial
13 care or treatment for that ~~person~~ *child*, the court, upon the written
14 recommendation of a licensed physician and surgeon or ~~licensed~~
15 mental health provider, or, if the ~~person~~ *child* needs dental care, a
16 licensed dentist, and after due notice to the parent, guardian, or
17 person standing in loco parentis, if any, may make an order
18 authorizing the performance of the necessary medical, surgical,
19 mental health, dental, or other remedial care for that ~~person~~ *child*.

20 (d) Whenever a dependent child of the juvenile court is placed
21 by order of the court within the care and custody or under the
22 supervision of a social worker of the county where the dependent
23 child resides and it appears to the court that there is no parent,
24 guardian, or person standing in loco parentis capable of authorizing
25 or willing to authorize medical, surgical, mental health, dental, or
26 other remedial care or treatment for the dependent child, the court
27 may, after due notice to the parent, guardian, or person standing
28 in loco parentis, if any, order that the social worker may authorize
29 the medical, surgical, mental health, dental, or other remedial care
30 for the dependent child, by licensed practitioners, as necessary.

31 (e) Whenever it appears that a child otherwise within subdivision
32 (a), (b), (c), or (d) requires immediate emergency medical, surgical,
33 mental health, or other remedial care in an emergency situation,
34 that care may be provided by a licensed physician and surgeon or
35 ~~licensed~~ mental health provider, or, if the child needs dental care
36 in an emergency situation, by a licensed dentist, without a court
37 order and upon authorization of a social worker. The social worker
38 shall make reasonable efforts to obtain the consent of, or to notify,
39 the parent, guardian, or person standing in loco parentis prior to
40 authorizing emergency medical, surgical, mental health, dental,

1 or other remedial care. “Emergency situation,” for the purposes
2 of this subdivision means a child requires immediate treatment for
3 the alleviation of severe pain or an immediate diagnosis and
4 treatment of an unforeseeable medical, surgical, mental health,
5 dental, or other remedial condition or contagious disease which if
6 not immediately diagnosed and treated, would lead to serious
7 disability or death.

8 (f) In any case in which the court orders the performance of any
9 medical, surgical, mental health, dental, or other remedial care
10 pursuant to this section, the court may also make an order
11 authorizing the release of information concerning that care to social
12 workers, parole officers, or any other qualified individuals or
13 agencies caring for or acting in the interest and welfare of the child
14 under order, commitment, or approval of the court.

15 (g) Nothing in this section shall be construed as limiting the
16 right of a parent, guardian, or person standing in loco parentis,
17 who has not been deprived of the custody or control of the child
18 by order of the court, in providing any medical, surgical, mental
19 health, dental, or other remedial treatment recognized or permitted
20 under the laws of this state.

21 (h) The parent of a ~~person~~ *child* described in this section may
22 authorize the performance of medical, surgical, mental health,
23 dental, or other remedial care provided for in this section
24 notwithstanding his or her age or marital status. In nonemergency
25 situations, the parent authorizing the care shall notify the other
26 parent prior to the administration of that care.

27 (i) Nothing in this section shall be construed as limiting the
28 rights of dependent children, pursuant to Chapter 3 (commencing
29 with Section 6920) of Part 4 of Division 11 of the Family Code,
30 to consent to, among other things, the diagnosis and treatment of
31 sexual assault, medical care relating to the prevention or treatment
32 of pregnancy, including contraception, abortion, and prenatal care,
33 treatment of infectious, contagious, or communicable diseases,
34 mental health treatment, and treatment for alcohol and drug abuse.
35 If a dependent child is 12 years of age or older, his or her social
36 worker is authorized to inform the child of his or her right as a
37 minor to consent to and receive those health services, as necessary.
38 Social workers are authorized to provide dependent children access
39 to age-appropriate, medically accurate information about sexual

1 development, reproductive health, and prevention of unplanned
2 pregnancies and sexually transmitted infections.

3 *(j) Nothing in this section shall be construed to affect the*
4 *application of Division 105 (commencing with Section 120100) of*
5 *the Health and Safety Code with regard to communicable disease*
6 *prevention and control.*

7 *(k) For purposes of this section, the term “mental health*
8 *provider” has the same meaning as that term is defined in*
9 *subdivision (a) of Section 865 of the Business and Professions*
10 *Code.*

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1012 **VERSION:** INTRODUCED FEBRUARY 13, 2014

AUTHOR: WYLAND **SPONSOR:** CALIFORNIA ASSOCIATION OF
MARRIAGE AND FAMILY THERAPISTS
(CAMFT)

RECOMMENDED POSITION: NONE

SUBJECT: MARRIAGE AND FAMILY THERAPISTS: TRAINEES

Overview:

Current law allows an MFT intern to count no more than 5 hours of supervision gained per week toward the 3,000 hours of experience required for licensure. This bill would remove the 5 hour supervision limitation.

Existing Law:

- 1) Requires an applicant for licensure as a marriage and family therapist (LMFT) to complete a minimum of 3,000 hours of supervised experience over a period of at least 104 weeks. (Business and Professions Code (BPC) §4980.43(a)(1))
- 2) Allows no more than 40 hours of supervised experience to be obtained in any seven consecutive days. (BPC §4980.43(a)(2))
- 3) Allows no more than a combined total of 1,000 hours of the required supervised experience to be direct supervisor contact and professional enrichment activities. (BPC §4980.43(a)(7))
- 4) Requires supervision to include at least one hour of direct supervisor contact for each week for which experience is credited in each work setting. (BPC §4980.43(c))
- 5) Defines "one hour of direct supervisor contact" to mean one hour per week of face-to-face contact on an individual basis, or two hours per week of face-to-face contact in a group. (BPC §4980.43(c)(3))
- 6) Requires an intern to receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. (BPC §4980.43(c)(2))
- 7) Allows no more than 5 hours of supervision, whether individual or group supervision, to be credited toward the required experience hours in any one week. (BPC §4980.43(c)(2))
- 8) Requires direct supervisor contact to occur within the same week as the experience hours claimed. (BPC §4980.43(c)(4))

- 9) Requires the applicant to have a minimum of 52 weeks of supervised experience in which at least one supervised hour was individual, face-to-face supervision. (California Code of Regulations (CCR) Title 16, Division 18, Section 1833(b)(2))

This Bill:

- 1) Would remove the limitation that only 5 hours of supervision may be credited toward the required experience hours in any one week.

Comment:

1) **Author’s Intent.** Currently, MFT interns are limited to counting five hours of supervision per week toward their required experience hours for licensure. The sponsor of this bill states that often, MFT interns are working in a number of settings simultaneously in order to gain the experience hours required for licensure. Interns working in multiple settings may be required by law to have more than five supervised hours per week. Therefore, these individuals may be required to obtain some hours of supervision that they cannot count.

2) **Background.** The law currently requires the following with respect to supervised experience hours:

- A “unit” of supervision equals one hour of individual supervision or two hours of group supervision.
- An intern must gain at least one “unit” of supervision each week, per setting.
- An intern must receive at least one additional “unit” of supervision if he or she works more than 10 hours per week in any setting.
- An intern may only count up to 5 hours of direct supervision per week.
- No more than 40 hours of supervised experience hours (including direct supervision) may be obtained in any week.
- No more than a combined 1,000 hours of required experience may be direct supervisor contact and professional enrichment activities.

3) **Work Sites Only Offering Group Supervision.** CAMFT, the bill’s sponsor, notes that many work sites are only offering their interns group supervision. Therefore, an intern may easily be required to have more than 5 hours of supervision, as one unit of supervision equals two hours of supervision in a group.

4) **Scenarios.** Below are some scenarios detailing an intern’s possible weekly work schedule, along with currently required “units” of supervision.

SCENARIO 1				
	Setting 1	Setting 2	Setting 3	Total
Client Contact Hours	11	12	5	28
Required Units of Supervision	2	2	1	5

In Scenario 1, the intern has 28 hours of client counseling and is required to have 5 units of supervision. This supervision may be 5 hours of individual supervision. However, some of

the supervision may be group supervision, which is a rate of 2 hours per unit of supervision required. If the intern decided to only have group supervision, he or she would need 10 supervised hours, of which only five would count as experience hours.

SCENARIO 2			
	Setting 1	Setting 2	Total
Client Contact Hours	21	11	32
Required Units of Supervision	2	2	4

In Scenario 2, the intern has 32 hours of client counseling and is required to have 4 units of supervision. This supervision may be 4 hours of individual supervision. If all supervision is done as group supervision, 8 supervision hours would be required, of which only five would count as experience hours.

SCENARIO 3				
	Setting 1	Setting 2	Setting 3	Total
Client Contact Hours	11	11	11	33
Required Units of Supervision	2	2	2	6

In Scenario 3, the intern has 33 hours of client counseling is required to have 6 units of supervision. If the individual does all individual supervision, he or she would need 6 supervised hours but only 5 hours would count. If the individual did all group supervision, he or she would need 12 supervised hours, but only 5 hours would count as experience hours.

- 5) Percent Share of Weekly Hours.** The law allows for no more than 40 hours of supervised experience to be obtained per week.

Assuming an intern is gaining the full 40 hours of experience per week, and is obtaining the maximum 5 hours of direct supervision as permitted by law, this means that 5/40, or 12.5% of hours are permitted to be direct supervision hours.

If a client were working the hours as shown in Scenarios 1, 2, and 3 above, and there were no limit on supervised hours, the percentage of direct supervision hours would be as follows (assuming all hours are group supervision):

- **Scenario 1:** 10 group supervision hours/38 total hours = 26% direct supervision hours
- **Scenario 2:** 8 group supervision hours/40 total hours = 20% direct supervision hours
- **Scenario 3:** 7 group supervision hours/40 total hours = 17.5% direct supervision hours

Lack of a limit on direct supervision hours could, in some instances, lead to applicants gaining fewer direct client counseling experience hours because they are counting more direct supervision hours.

- 6) Law Prior to January 1, 2010.** For experience gained prior to January 1, 2010, the law required an intern to receive an average of at least one unit of direct supervisor contact for every 10 hours of client contact in each setting. (BPC §4980.43 prior to January 1, 2010).

This is different from current law (post-2010), in which supervision hours were reduced in an attempt to provide relief for applicants who were having increasing difficulty finding a supervisor. Current law only requires one additional unit of supervision if the hours worked in a setting goes over 10 hours. For example, prior to 2010, if an individual worked 21 hours in a setting, he or she would be required to have 3 units of supervised experience. Under current law, an individual who worked 21 hours in a setting would be required to have 2 units of supervised experience.

This change in law means that, post-2010, an individual would likely be required to have fewer hours of supervision in any given week.

However, the law allows experience hours gained toward licensure to be up to six years old. Therefore, applicants may have supervised experience that falls under the pre-2010 requirement (meaning they may have a higher number of direct supervision hours) for a few more years.

- 7) **Total Limit of 1,000 Hours.** Current law limits hours of direct supervisor contact and professional enrichment activities to a combined total of no more than 1,000 hours. Of these 1,000 hours, no more than 550 may be professional enrichment activities (allowed 250 hours of workshops/seminars, and 300 hours of personal psychotherapy). The Board's LMFT evaluator reports that most applicants are already at or very close to this 1,000 hour limit.
- 8) **Supervision Committee.** The Board has formed a supervision committee, which is tasked with conducting an in-depth review of the requirements for supervised work experience and the requirements for supervisors. The first meeting of this committee is April 4, 2014.
- 9) **Title of the Bill.** The title of this bill, "Marriage and Family Therapists: Trainees" may need to be revised. The change proposed by this bill would affect interns, not trainees.

10) Support and Opposition.

Support:

- California Association of Marriage & Family Therapists (Sponsor)

Opposition:

- None on file.

11) History

2014

02/27/2014 Feb. 27 Referred to Com. on B., P. & E.D.

02/14/2014 Feb. 14 From printer. May be acted upon on or after March 16.

02/13/2014 Feb. 13 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Introduced by Senator WylandFebruary 13, 2014

An act to amend Section 4980.43 of the Business and Professions Code, relating to marriage and family therapists.

LEGISLATIVE COUNSEL'S DIGEST

SB 1012, as introduced, Wyland. Marriage and family therapists: trainees.

Existing law, the Licensed Marriage and Family Therapist Act, provides for the licensure or registration of and regulation of marriage and family therapists and interns by the Board of Behavioral Sciences. Existing law imposes, as part of the licensure prerequisites for marriage and family therapists, certain supervised-experience requirements whereby a prospective licensee is required to work a specified number of hours in a clinical setting under the supervision of experienced professionals. Existing law requires an individual supervised after being granted a qualifying degree to receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting, provided however, that no more than 5 hours of supervision shall be credited during any single week.

This bill would remove the restriction that prohibits an individual with a qualifying degree from being credited with no more than 5 hours of supervision during any single week.

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

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

1 SECTION 1. Section 4980.43 of the Business and Professions
2 Code is amended to read:

3 4980.43. (a) Prior to applying for licensure examinations, each
4 applicant shall complete experience that shall comply with the
5 following:

6 (1) A minimum of 3,000 hours completed during a period of at
7 least 104 weeks.

8 (2) Not more than 40 hours in any seven consecutive days.

9 (3) Not less than 1,700 hours of supervised experience
10 completed subsequent to the granting of the qualifying master's
11 or doctoral degree.

12 (4) Not more than 1,300 hours of supervised experience obtained
13 prior to completing a master's or doctoral degree.

14 The applicant shall not be credited with more than 750 hours of
15 counseling and direct supervisor contact prior to completing the
16 master's or doctoral degree.

17 (5) No hours of experience may be gained prior to completing
18 either 12 semester units or 18 quarter units of graduate instruction
19 and becoming a trainee except for personal psychotherapy.

20 (6) No hours of experience may be gained more than six years
21 prior to the date the application for examination eligibility was
22 filed, except that up to 500 hours of clinical experience gained in
23 the supervised practicum required by subdivision (c) of Section
24 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d)
25 of Section 4980.36 shall be exempt from this six-year requirement.

26 (7) Not more than a combined total of 1,000 hours of experience
27 in the following:

28 (A) Direct supervisor contact.

29 (B) Professional enrichment activities. For purposes of this
30 chapter, "professional enrichment activities" include the following:

31 (i) Workshops, seminars, training sessions, or conferences
32 directly related to marriage and family therapy attended by the
33 applicant that are approved by the applicant's supervisor. An
34 applicant shall have no more than 250 hours of verified attendance
35 at these workshops, seminars, training sessions, or conferences.

36 (ii) Participation by the applicant in personal psychotherapy,
37 which includes group, marital or conjoint, family, or individual
38 psychotherapy by an appropriately licensed professional. An

1 applicant shall have no more than 100 hours of participation in
2 personal psychotherapy. The applicant shall be credited with three
3 hours of experience for each hour of personal psychotherapy.

4 (8) Not more than 500 hours of experience providing group
5 therapy or group counseling.

6 (9) For all hours gained on or after January 1, 2012, not more
7 than 500 hours of experience in the following:

8 (A) Experience administering and evaluating psychological
9 tests, writing clinical reports, writing progress notes, or writing
10 process notes.

11 (B) Client centered advocacy.

12 (10) Not less than 500 total hours of experience in diagnosing
13 and treating couples, families, and children. For up to 150 hours
14 of treating couples and families in conjoint therapy, the applicant
15 shall be credited with two hours of experience for each hour of
16 therapy provided.

17 (11) Not more than 375 hours of experience providing personal
18 psychotherapy, crisis counseling, or other counseling services via
19 telehealth in accordance with Section 2290.5.

20 (12) It is anticipated and encouraged that hours of experience
21 will include working with elders and dependent adults who have
22 physical or mental limitations that restrict their ability to carry out
23 normal activities or protect their rights.

24 This subdivision shall only apply to hours gained on and after
25 January 1, 2010.

26 (b) All applicants, trainees, and registrants shall be at all times
27 under the supervision of a supervisor who shall be responsible for
28 ensuring that the extent, kind, and quality of counseling performed
29 is consistent with the training and experience of the person being
30 supervised, and who shall be responsible to the board for
31 compliance with all laws, rules, and regulations governing the
32 practice of marriage and family therapy. Supervised experience
33 shall be gained by interns and trainees only as an employee or as
34 a volunteer. The requirements of this chapter regarding gaining
35 hours of experience and supervision are applicable equally to
36 employees and volunteers. Experience shall not be gained by
37 interns or trainees as an independent contractor.

38 (1) If employed, an intern shall provide the board with copies
39 of the corresponding W-2 tax forms for each year of experience
40 claimed upon application for licensure.

1 (2) If volunteering, an intern shall provide the board with a letter
2 from his or her employer verifying the intern's employment as a
3 volunteer upon application for licensure.

4 (c) Except for experience gained pursuant to subparagraph (B)
5 of paragraph (7) of subdivision (a), supervision shall include at
6 least one hour of direct supervisor contact in each week for which
7 experience is credited in each work setting, as specified:

8 (1) A trainee shall receive an average of at least one hour of
9 direct supervisor contact for every five hours of client contact in
10 each setting.

11 (2) An individual supervised after being granted a qualifying
12 degree shall receive at least one additional hour of direct supervisor
13 contact for every week in which more than 10 hours of client
14 contact is gained in each setting. ~~No more than five hours of~~
15 ~~supervision, whether individual or group, shall be credited during~~
16 ~~any single week.~~

17 (3) For purposes of this section, "one hour of direct supervisor
18 contact" means one hour per week of face-to-face contact on an
19 individual basis or two hours per week of face-to-face contact in
20 a group.

21 (4) Direct supervisor contact shall occur within the same week
22 as the hours claimed.

23 (5) Direct supervisor contact provided in a group shall be
24 provided in a group of not more than eight supervisees and in
25 segments lasting no less than one continuous hour.

26 (6) Notwithstanding paragraph (3), an intern working in a
27 governmental entity, a school, a college, or a university, or an
28 institution that is both nonprofit and charitable may obtain the
29 required weekly direct supervisor contact via two-way, real-time
30 videoconferencing. The supervisor shall be responsible for ensuring
31 that client confidentiality is upheld.

32 (7) All experience gained by a trainee shall be monitored by the
33 supervisor as specified by regulation.

34 (d) (1) A trainee may be credited with supervised experience
35 completed in any setting that meets all of the following:

36 (A) Lawfully and regularly provides mental health counseling
37 or psychotherapy.

38 (B) Provides oversight to ensure that the trainee's work at the
39 setting meets the experience and supervision requirements set forth

1 in this chapter and is within the scope of practice for the profession
2 as defined in Section 4980.02.

3 (C) Is not a private practice owned by a licensed marriage and
4 family therapist, a licensed psychologist, a licensed clinical social
5 worker, a licensed physician and surgeon, or a professional
6 corporation of any of those licensed professions.

7 (2) Experience may be gained by the trainee solely as part of
8 the position for which the trainee volunteers or is employed.

9 (e) (1) An intern may be credited with supervised experience
10 completed in any setting that meets both of the following:

11 (A) Lawfully and regularly provides mental health counseling
12 or psychotherapy.

13 (B) Provides oversight to ensure that the intern's work at the
14 setting meets the experience and supervision requirements set forth
15 in this chapter and is within the scope of practice for the profession
16 as defined in Section 4980.02.

17 (2) An applicant shall not be employed or volunteer in a private
18 practice, as defined in subparagraph (C) of paragraph (1) of
19 subdivision (d), until registered as an intern.

20 (3) While an intern may be either a paid employee or a
21 volunteer, employers are encouraged to provide fair remuneration
22 to interns.

23 (4) Except for periods of time during a supervisor's vacation or
24 sick leave, an intern who is employed or volunteering in private
25 practice shall be under the direct supervision of a licensee that has
26 satisfied the requirements of subdivision (g) of Section 4980.03.
27 The supervising licensee shall either be employed by and practice
28 at the same site as the intern's employer, or shall be an owner or
29 shareholder of the private practice. Alternative supervision may
30 be arranged during a supervisor's vacation or sick leave if the
31 supervision meets the requirements of this section.

32 (5) Experience may be gained by the intern solely as part of the
33 position for which the intern volunteers or is employed.

34 (f) Except as provided in subdivision (g), all persons shall
35 register with the board as an intern in order to be credited for
36 postdegree hours of supervised experience gained toward licensure.

37 (g) Except when employed in a private practice setting, all
38 postdegree hours of experience shall be credited toward licensure
39 so long as the applicant applies for the intern registration within

1 90 days of the granting of the qualifying master’s or doctoral
2 degree and is thereafter granted the intern registration by the board.

3 (h) Trainees, interns, and applicants shall not receive any
4 remuneration from patients or clients, and shall only be paid by
5 their employers.

6 (i) Trainees, interns, and applicants shall only perform services
7 at the place where their employers regularly conduct business,
8 which may include performing services at other locations, so long
9 as the services are performed under the direction and control of
10 their employer and supervisor, and in compliance with the laws
11 and regulations pertaining to supervision. Trainees and interns
12 shall have no proprietary interest in their employers’ businesses
13 and shall not lease or rent space, pay for furnishings, equipment,
14 or supplies, or in any other way pay for the obligations of their
15 employers.

16 (j) Trainees, interns, or applicants who provide volunteered
17 services or other services, and who receive no more than a total,
18 from all work settings, of five hundred dollars (\$500) per month
19 as reimbursement for expenses actually incurred by those trainees,
20 interns, or applicants for services rendered in any lawful work
21 setting other than a private practice shall be considered an
22 employee and not an independent contractor. The board may audit
23 applicants who receive reimbursement for expenses, and the
24 applicants shall have the burden of demonstrating that the payments
25 received were for reimbursement of expenses actually incurred.

26 (k) Each educational institution preparing applicants for
27 licensure pursuant to this chapter shall consider requiring, and
28 shall encourage, its students to undergo individual, marital or
29 conjoint, family, or group counseling or psychotherapy, as
30 appropriate. Each supervisor shall consider, advise, and encourage
31 his or her interns and trainees regarding the advisability of
32 undertaking individual, marital or conjoint, family, or group
33 counseling or psychotherapy, as appropriate. Insofar as it is deemed
34 appropriate and is desired by the applicant, the educational
35 institution and supervisors are encouraged to assist the applicant
36 in locating that counseling or psychotherapy at a reasonable cost.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1148 **VERSION:** INTRODUCED FEBRUARY 20, 2014

AUTHOR: YEE **SPONSOR:** CALIFORNIA ASSOCIATION OF
MARRIAGE AND FAMILY THERAPISTS
(CAMFT)

RECOMMENDED POSITION: NONE

SUBJECT: MARRIAGE AND FAMILY THERAPISTS: RECORDS RETENTION

Overview

This bill would require a licensed marriage and family therapist (LMFT) to retain patient records for a minimum of seven years from the date therapy is terminated.

Existing Law:

- Provides for the licensure of LMFTs by the Board of Behavioral Sciences (Board). (Business and Professions Code (BPC) §4980)
- Permits the Board to discipline a license or registration for conduct which violates the Board's licensing laws or regulations. (BPC §4982)
- Sets the following statutes of limitations for enforcement actions: (BPC §§4982.05 (LMFTs), 4990.32 (all Board licensees))
 - An accusation filled against a licensee must be filed within three years from the date of Board discovery, or within seven years of the act occurring, whichever occurs first. This may be tolled for the length of time required to gain compliance by the licensee to provide the information. It may also be tolled if material evidence is unavailable to the Board due to an ongoing criminal investigation.
 - There is no statute of limitations for an allegation that a license was obtained by fraud or misrepresentation.
 - An accusation alleging sexual misconduct must be filed within three years from the date of Board discovery, or within ten years of the act occurring, whichever occurs first. However, if certain acts of sexual contact with a minor are alleged after the limitations period expire, an accusation shall be filed within three years of the date of Board discovery, if there is independent evidence corroborating the allegation.
 - Provides that if the act involves a minor, the seven and ten year limitations discussed above are tolled until the minor reaches age 18.

- Requires licensed psychologists to retain patient records for a minimum of seven years from the patient's discharge date. For minors, records must be retained for at least seven years from the date the patient reaches age 18. (BPC §2919)

This Bill:

- 1) Requires a marriage and family therapist to retain a patient's records for a minimum of seven years from the date that therapy is terminated. (BPC §4980.49)
- 2) Requires a marriage and family therapist to retain a minor patient's records for a minimum of seven years from the date the patient reaches age 18. (BPC §4980.49)

Comment:

- 1) **Author's Intent.** This bill seeks to clarify the length of time an LMFT must retain his or her patient records. According to the author's office, there is no state or federal law that requires LMFTs to keep patient records for a specified length of time. This results in non-standardized record retention among LMFTs, and opens these licensees up to the possibility of inconsistent expectations of record retention from the Board and the court system.

The law currently requires licensed psychologists, health facilities, mental health clinics, home skilled nursing service providers, and day health care providers to retain records for seven years.

- 2) **No Current Limit in Place.** Board licensees frequently call the Board to ask staff if there is a specified length of time for which they must keep their records.

Examples of situations where a licensee has contacted the Board to ask this type of question are as follows:

- a) A licensee who was retiring in poor health who was concerned about the confidentiality of many years of patient records if he or she were no longer around to safeguard them.
- b) A licensee who had saved records from as far back as the 1980s who was wondering if he or she was required to save them indefinitely.

- 3) **Enforcement Statute of Limitations.** The Board's enforcement statute of limitations requires an accusation be filed within three years from the date of Board discovery, or within seven years of the act occurring, whichever occurs first, in most cases. There are a few exceptions:

- Tolling is allowed for the period of time the licensee is not compliant with providing records, or if material evidence is unavailable due to an ongoing criminal investigation.
- There is no statute of limitations for an allegation that a license was obtained by fraud or misrepresentation.
- Allegations that allege sexual misconduct have a statute of limitations of three years from the date of Board discovery, or within ten years of the act occurring, whichever occurs first.

- Allegations that involve a minor may be tolled until the minor reaches age 18. However, if certain acts of sexual contact with a minor are alleged after the limitations period expire, an accusation shall be filed within three years of the date of Board discovery, if there is independent evidence corroborating the allegation.

In most cases, the requirement that licensees keep their records for seven years should be sufficient. The Board of Psychology has an identical recordkeeping requirement, and similar statute of limitation provisions.

Allegations of a license obtained by fraud (no statute of limitations) or sexual misconduct (potential ten year statute of limitations, which may be longer for minors in certain circumstances) could potentially have statutes of limitations which exceed the seven year recordkeeping requirement. However, the Board's Enforcement Unit notes that proving cases of fraud or sexual misconduct don't make use of treatment records.

- 4) Other Board Licensees.** This bill sets a time period for which LMFTs must keep patient records, but it does not specify a time period for the Board's other three license types. It may be appropriate to provide this clarification to other Board licensees as well.
- 5) Previous Legislation.** AB 2257 (Chapter 89, Statutes of 2007) created the current seven year record-keeping requirement for licensed psychologists.

6) Support and Opposition.

Support:

- CAMFT (Sponsor)

Opposition:

- None on file.

7) History

2014

03/06/2014 Mar. 6 Referred to Com. on B., P. & E.D.

02/21/2014 Feb. 21 From printer. May be acted upon on or after March 23.

02/20/2014 Feb. 20 Introduced. Read first time. To Com. on RLS. for assignment. To print.

8) Attachments

Attachment A: Enforcement Statute of Limitations Code Sections (LMFTs, All Board Licensees, Board of Psychology)

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Attachment A
Enforcement Statute of Limitations Code Sections
LMFTs, All Board Licensees, Board of Psychology

LMFTs

Business and Professions Code (BPC) §4982.05.

- (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.
- (b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).
- (c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.
- (d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority.
- (e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action, or within 10 years after the act or omission alleged as the grounds for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.
- (f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.
- (g) For purposes of this section, “discovers” means the later of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:
- (1) The date the board received a complaint or report describing the act or omission.
 - (2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.
 - (3) The date the board receives from the complainant a written release of information pertaining to the complainant’s diagnosis and treatment.

All Board Licensees

BPC §4990.32

- (a) Except as otherwise provided in this section, an accusation filed pursuant to Section 11503 of the Government Code against a licensee or registrant under the chapters the board administers and enforces shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.
- (b) An accusation filed against a licensee alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).
- (c) The limitations period provided by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.
- (d) An accusation alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action or within 10 years after the act or omission alleged as the grounds for disciplinary action occurred, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.
- (e) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (d) shall be tolled until the minor reaches the age of majority. However, if the board discovers an alleged act of sexual contact with a minor under Section 261, 286, 288, 288.5, 288a, or 289 of the Penal Code after the limitations periods described in this subdivision have otherwise expired, and there is independent evidence that corroborates the allegation, an accusation shall be filed within three years from the date the board discovers that alleged act.
- (f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.
- (g) For purposes of this section, “discovers” means the latest of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:
- (1) The date the board received a complaint or report describing the act or omission.
 - (2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.
 - (3) The date the board receives from the complainant a written release of information pertaining to the complainant’s diagnosis and treatment.

Board of Psychology

BPC §2960.05

(a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

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Introduced by Senator YeeFebruary 20, 2014

An act to add Section 4980.49 to the Business and Professions Code, relating to marriage and family therapists.

LEGISLATIVE COUNSEL'S DIGEST

SB 1148, as introduced, Yee. Marriage and family therapists: records retention.

Existing law, the Licensed Marriage and Family Therapist Act, provides for the licensure or registration and the regulation of marriage and family therapists by the Board of Behavioral Sciences, and makes a violation of the law a misdemeanor.

This bill would require a marriage and family therapist to retain a patient's health service records for a minimum of 7 years from the date therapy is terminated, and would also require a minor patient's health service records to be retained for a minimum of 7 years from the date the patient reaches 18 years of age. Because a violation of the bill would be a crime, it would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 4980.49 is added to the Business and
2 Professions Code, to read:

3 4980.49. A marriage and family therapist shall retain a patient’s
4 health service records for a minimum of seven years from the date
5 therapy is terminated. If the patient is a minor, the patient’s health
6 service records shall be retained for a minimum of seven years
7 from the date the patient reaches 18 years of age.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

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To: Committee Members

Date: March 21, 2014

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Legislative Update

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 resulting 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. **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 and March 6, 2014 meetings, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

3. **AB 1843 (Jones and Gordon): Child Custody Evaluations: Confidentiality**

The Board is seeking statutory authority 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.

The Board conducted a series of stakeholder meetings in early March. These meetings consisted of representatives from the Assembly Judiciary Committee, the professional associations of the

Board's licensees, representatives from the Board of Psychology and their professional association, associations representing family law attorneys, and representatives from the Administrative Office of the Courts.

At these meetings, there was general consensus that licensees acting unprofessionally or unethically should be subject to discipline, and that the confidentiality of the child custody evaluation reports is essential. There were differing opinions on the conditions under which the report should be made available.

At the stakeholder meetings, two questions were raised that Board staff is now investigating with the Attorney General's (AG's) office:

1. Family Code section 3025.5(b) states a federal or state law enforcement office is one of the parties the report may be disclosed to. The stakeholders inquired if a Division of Investigation (DOI) investigator could be used to obtain the report for the boards. DOI is a unit within DCA that employs peace officers for investigative purposes. The Board is currently seeking guidance from the AG's office to see if DOI investigators qualify as state law enforcement for purposes of receiving the reports, and if so, if the Board would legally be able use this report for investigative purposes, and in a subsequent disciplinary action.
2. While Board was advised by the Administrative Office of the Courts that it may not legally have access to the report, the Board of Psychology has been advised by their DAG that if a party provides the report, they may use it in their investigation. The Board of Psychology is required to use a different unit within the AG's office, called the Health Quality Enforcement Unit. Board staff has asked the AG's office for a clarification of why this direction is not consistent.

The AG's office is currently looking in to these issues. While staff waits for their answers, the Assembly Judiciary Committee has recommended the bill proceed with two technical clean-up provisions that are needed in Family Code Sections 3111 and 3025.5:

1. Add a cross reference to Section 3111 regarding who may have access to the child custody evaluator's report, so that it is clear that the parties in specified in Section 3025.5 may have access to the report.
2. Amend Section 3025.5 to delete a reference that no longer exists.

If the AG's office advises that DOI investigators may access the report as state law enforcement officers, it is possible that no further amendments are needed, or the AG's office may suggest clarifying amendments. If the AG's office determines DOI investigators may not access the reports, additional meetings with stakeholders and the Assembly Judiciary Committee will be needed to determine how to proceed with gaining access to the reports.

Attachment A shows the current language proposed in AB 1843.

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To: Policy & Advocacy Committee

Date: March 24, 2014

From: Christy Berger
Regulatory Analyst

Telephone: (916) 574-7817

Subject: Rulemaking Update

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 was approved by the Board at its meeting in March 2014. Next, 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.

This proposal is was approved by the Board at its meeting in March 2014. Next, 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 back to the Committee at its next meeting once additional details have been worked through.