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AMENDED BOARD MEETING NOTICE May 21-22, 2014

Embassy Suites Anaheim-Orange
400 N. State College Blvd.
Orange, CA 92868
(714) 938-1111

Wednesday, May 21st
8:30 a.m.

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

- I. Petition for Modification of Probation for Maatisak Amenhetep, LCS 19290
- II. Petition for Modification of Probation for Kimberly Kupfer, MFC 27299
- III. Petition for Early Termination of Probation for Kevin Gutfeld, LCS 18523
- IV. Petition for Early Termination of Probation for Troy Nickell, IMF 70464
- V. Petition for Early Termination of Probation for Racheal Rhoades, MFC 43624
- VI. Suggestions for Future Agenda Items
- VII. Public Comment for Items not on the Agenda

FULL BOARD CLOSED SESSION

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

FULL BOARD OPEN SESSION

- IX. Adjournment



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

Thursday, May 22nd
8:30 a.m.

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

- X. Introductions*
- XI. Approval of the March 5-6, 2014, Board Meeting Minutes
- XII. Executive Officer's Report
 - a. Budget Report
 - b. Operations Report
 - c. Personnel Update
- XIII. Strategic Plan Update
- XIV. Supervision Committee Update
- XV. Policy and Advocacy Committee Report
 - a. Recommendation #1 – Oppose, Assembly Bill 1702 (Maienschein)
 - b. Recommendation #2 – Support, Assembly Bill 2058 (Wilk)
 - c. Recommendation #3 – Oppose, Assembly Bill 2165 (Patterson)
 - d. Recommendation #4 – Support, Senate Bill 909 (Pavley)
 - e. Recommendation #5 – Support, Senate Bill 1148 (Yee)
 - f. Recommendation #6 – Support, Assembly Bill 1505 (Garcia)
- XVI. Discussion and Possible Action Regarding Other Legislation Affecting the Board
 - a. Assembly Bill 809 (Logue) – Healing Arts: Telehealth
 - b. Assembly Bill 2198 (Levine) – Mental Health Professionals: Suicide Prevention
 - c. Assembly Bill 2041 (Jones) – Developmental Services: Regional Centers: Behavioral Health Treatment
 - d. Assembly Bill 2396 (Bonta) – Expungement: Licenses
 - e. Assembly Bill 1775 (Melendez) – Child Abuse and Neglect Reporting Act: Sexual Abuse
 - f. Senate Bill 1012 (Wyland) – Marriage and Family Therapists: Trainees
 - g. Other Legislation as Needed
- XVII. Discussion and Possible Action Regarding Proposed Revisions to the California Code of Regulations, Title 16, Sections 1820.5 and 1822; Add New Sections 1820.6 and 1820.7 Licensed Professional Clinical Counselors: Requirement to Work with Couples and Families.
- XVIII. Discussion and Possible Action Regarding Proposed Amendments to the Omnibus Bill Amending Business and Professions Code Sections 4980.399, 4992.09, 4999.55
- XIX. Legislative Update
- XX. Rulemaking Update
- XXI. Election of Board Officers for 2014-2015
- XXII. Discussion and Possible Action Regarding Compensation for the Executive Officer
- XXIII. Suggestions for Future Agenda Items

XXIV. Public Comment for Items not on the Agenda

XXV. Adjournment

**Introductions are voluntary for members of the public.*

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

This Agenda as well as Board Meeting minutes can be found on the Board of Behavioral Sciences website at www.bbs.ca.gov.

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

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BOARD MEETING MINUTES
March 5-6, 2014

Department of Consumer Affairs
Hearing Room
1625 N. Market Blvd.
Sacramento, CA 95834

Wednesday, March 5th

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Samara Ashley, Public Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Dr. Peter Chiu, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member

Staff Present

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

Guest List

On file

Members Absent

Eileen Colapinto, Public Member

FULL BOARD OPEN SESSION

Dr. Christine Wietlisbach, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:40 a.m. Christina Kitamura called roll, and a quorum was established. Board Members and Administrative Law Judge Roy Hewitt introduced themselves.

I. Petition for Reinstatement of License for Mimi Shevitz, MFC 25839

Karl S. Engeman, Administrative Law Judge, opened the hearing at 8:42 a.m. Kristina Jansen, Deputy Attorney General (DAG), presented the facts of the case on behalf of the Board of Behavioral Sciences. Mimi Shevitz was represented by her attorney, Mr. Hart.

DAG Jansen presented the background of Ms. Shevitz's revocation of licensure. Mr. Hart provided an opening statement. Ms. Shevitz was sworn in. Mr. Hart presented Ms. Shevitz's

1 request for reinstatement of license and information to support the request, and questioned Ms.
2 Shevitz. DAG Jansen cross-examined Ms. Shevitz. Board Members also questioned Ms.
3 Shevitz. After Ms. Shevitz answered all questions, Judge Engeman closed the hearing at
4 approximately 9:58 a.m.
5

6 *Dr. Wietlisbach called for a break at 10:00 a.m. The Board reconvened at 10:14 a.m.*
7

8 **II. Petition for Early Termination of Probation for Graham Danzer, ASW 29082**

9 Judge Engeman opened the hearing at 10:15 a.m. Stephanie Alamo-Latif, DAG, presented the
10 facts of the case on behalf of the Board of Behavioral Sciences. Graham Danzer was not
11 represented by an attorney.
12

13 DAG Alamo-Latif presented the background of Mr. Danzer's probation. Mr. Danzer was sworn
14 in. Mr. Danzer presented his request for early termination of probation and information to
15 support the request. DAG Alamo-Latif and Board Members posed questions to Mr. Danzer.
16 Judge Engeman closed the hearing at approximately 10:55 a.m.
17

18 **III. Petition for Modification of Probation for Douglas Meyer, IMF 73370**

19 Dr. Chiu noted that he works for Kaiser Permanente in Santa Clara; however, he does not know
20 the petitioner, Douglas Meyer. Dr. Chiu expressed that his participation in Mr. Meyer's petition
21 hearing will not present a conflict of interest.
22

23 Judge Engeman opened the hearing at 10:59 a.m. Kristina Jansen, DAG, presented the facts
24 of the case on behalf of the Board of Behavioral Sciences. Mr. Meyer was not represented by
25 an attorney.
26

27 DAG Jansen presented the background of Mr. Meyer's probation. Mr. Meyer was sworn in. Mr.
28 Meyer presented his request for modification of probation and information to support the
29 request. DAG Jansen and Board Members posed questions to Mr. Meyer. Mr. Meyer called a
30 witness, Steve Evan Macy, who answered questions posed by Mr. Meyer, DAG Jansen, and
31 Board Members. Judge Engeman closed the hearing at approximately 12:07 p.m.
32

33 **IV. Petition for Modification of Probation for Jennifer Weeks, MFC 47271**

34 Judge Engeman opened the hearing at 1:34 p.m. Stephanie Alamo-Latif, DAG, presented the
35 facts of the case on behalf of the Board of Behavioral Sciences. Jennifer Weeks was not
36 represented by an attorney.
37

38 DAG Alamo-Latif presented the background of Ms. Weeks' probation. Ms. Weeks was sworn
39 in. Ms. Weeks presented her request for modification of probation and information to support
40 the request. DAG Alamo-Latif and Board Members posed questions to Ms. Weeks. Judge
41 Engeman closed the hearing at approximately 2:18 p.m.
42

43 **V. Suggestions for Future Agenda Items**

44 There were no suggestions for future agenda items.
45

46 **VI. Public Comment for Items Not on the Agenda**

47 There were no public comments.
48

49 The Board went into closed session at 2:20 p.m.
50
51
52

1 **FULL BOARD CLOSED SESSION**

2
3 **VII. Pursuant to Section 11126(c)(3) of the Government Code, the Board will Meet in Closed**
4 **Session for Discussion and Take Action on Disciplinary Matters**

5
6 **VIII. Pursuant to Section 11126(a) of the Government Code, the Board Will Meet in Closed**
7 **Session to Discuss Revision of the Board's Executive Officer Performance Evaluation**
8 **Tool**

9 *This item was removed from the agenda.*

10
11 **FULL BOARD OPEN SESSION**

12
13 **IX. Adjournment**

14 The Board adjourned at approximately 4:50 p.m.

Thursday, March 6th

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Dr. Peter Chiu, Public Member
Samara Ashley, Public Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member

Staff Present

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

Guest List

On file

Members Absent

Eileen Colapinto, Public Member

FULL BOARD OPEN SESSION

Dr. Christine Wietlisbach called the meeting to order at 9:32 a.m. Christina Kitamura called roll, and a quorum was established.

X. Introductions

The Board Members, Board staff, and guests introduced themselves.

XI. Approval of the November 20-21, 2013 Board Meeting Minutes

The following corrections were made:

Page 5, line 52: Licensed Educational Psychologists

Page 12, line 18: met to develop the Board's Strategic Plan

Page 13, line 19: core competency areas

Page 13, line 47: A provider with a valid current license without sanctions

Page 13, line 52: expressed concern

Page 14, line 33-34: rewording needed

Page 18, line 47: Dr. Chiu suggested extending time to take the examination to all candidates to make it fair for everyone.

Christina Wong moved to approve the minutes as amended. Dr. Leah Brew seconded. The Board voted (9 yea, 3 abstentions) to pass the motion.

XII. Executive Officer's Report

a. Budget Report

Kim Madsen provided a brief summary of the Board budget report:

- 2013/2014 budget is \$8,240,648;
- As of January 31, 2014, 48% of the total budget has been spent;
- Total revenue collected is \$5,030,693.42;
- Fund condition reflects 3.2 months in reserve; and

- A \$1.4 million dollar loan repayment is scheduled this fiscal year.

The Board's 2014/2015 budget is \$9,139,000 and includes additional staffing resources for the licensing and enforcement programs. Three positions will be in the licensing program and the remaining five positions will be in the enforcement program.

Additionally, the Governor's budget includes a repayment schedule for all loans to the General Fund.

b. Operations Report

Ms. Madsen provided a summary of the Operations Report. She noted that statistical data is not available for review.

The Board was approved to hire additional staff for eight (8) new positions. Ms. Madsen met with the executive staff at the Department of Consumer Affairs (DCA) and requested to fill some of the new positions now instead of waiting until July, provided the Board's fund could support the hiring of new staff. Since the Board's fund can support the new hires, Ms. Madsen decided to fill the most critical positions immediately: three positions in Licensing Unit and an additional manager and analyst in the Enforcement Unit.

The Board office will soon undergo a remodel to accommodate the new staff. The cost of the project is estimated to be \$200,000. Construction will begin in mid-spring and be completed in July.

The Board managers continue to evaluate current processes and functionality in the BreEZe system. The managers identified that the Examination Unit as an area that needed additional resources. A position was redirected to the Examination Unit to address re-exam applications and questions.

The Cashier Unit was another unit that needed additional resources. Since moving to BreEZe, staff noticed that additional steps were now required for cashiering processes that cannot be handled by current staffing resources in the Cashier Unit. The Board recruited for a seasonal clerical position to assist with routine clerical duties required in the Cashier Unit.

A seasonal clerk was recruited for the Enforcement Unit to perform clerical and archiving duties.

The Board began using the services of the DCA Call Center to answer incoming phone calls. The Call Center is the first point of contact for the public seeking to speak to Board staff.

The Board is also using the resources of AARP, a federal program, for an additional staff person.

c. Personnel Update

Joanna Huynh was promoted to Staff Services Analyst in the Licensed Professional Clinical Counselor (LPCC) Unit, effective January 1, 2014.

Julie Ruprecht was hired as an Office Technician in the Enforcement Unit, effective January 13, 2014.

Crystal Martinez was hired as a Fingerprint Technician in the Enforcement Unit. Ms. Martinez vacated this position 8 months ago, and returns to the Board effective January 21, 2014.

1 Lupe Baltazar was promoted to a Management Services Technician in the Licensing Unit.
2 Effective March 3, 104, Ms. Baltazar will act as a Marriage & Family Therapist (MFT)
3 Evaluator.
4

5 Andrea Flores was hired a Management Services Technician in the Licensing Unit.
6 Effective March 10, 2014, Ms. Flores will act as an MFT Evaluator.
7

8 Angie Ramos-Zizumbo has accepted a promotion to an Associate Governmental Program
9 Analyst with the Department of Public Health. Her last day with the Board will be February
10 28, 2014. Angie performed the duties of an Enforcement Analyst.
11

12 It was originally reported that Alicia Day would be transferring to the Central Cashiering Unit
13 within DCA. Ms. Day has decided to remain with the Board.
14

15 Over the next few months, management will be recruiting for vacancies created by the
16 recent promotions, departures, and for the new positions.
17

18 **XIII. BreEZe Update**

19
20 Brandon Rushman, Project Manager for BreEZe, provided a status of the BreEZe project.
21

22 Statistical reports are not yet available. The BreEZe team is working on those reports. There
23 are some enhancements in BreEZe that need to be made. Mr. Rushman thanked Board staff
24 for working with the BreEZe team while they work with the vendor to make these changes.
25

26 The team had some contract challenges that have not allowed the team to get as many updates
27 into the system as they would like. The team is working with vendor to revise the maintenance
28 structure so that the enhancements can get into the system in a more timely fashion. The team
29 acknowledges the need to be more flexible so that when problems come up, the team will have
30 the ability to respond. Therefore, they asked the vendor to divert resources to Release One, in
31 order to make Release One successful and keep it successful before the team focuses on other
32 boards and bureaus that are still on Legacy.
33

34 Discussions began this week with the vendor. The priority is to make Release One successful.
35

36 **XIV. Strategic Plan Update**

37 Following the adoption of the 2014-2017 Strategic Plan at the November Board Meeting, Board
38 managers met with SOLID to identify the tasks necessary to accomplish each objective within
39 the Strategic Plan. For each objective, there are several tasks needed to complete the
40 objective. Each task was assigned a due date. Due dates were determined using legislative
41 direction and the desire to distribute the work equally across the span of time within the
42 Strategic Plan.
43

44 The Strategic Plan is an internal working document that will aid Board staff to ensure the goals
45 and objectives are achieved. Updates regarding the progress in achieving the goals and
46 objectives in the Strategic Plan will be reported at each Board meeting.
47

48 Currently, some objectives have been completed, and work has begun on several other
49 objectives.
50

1 **XV. Policy and Advocacy Committee Report**

2 **a. Recommendation #1 – Regarding Proposed Additional Items to the Omnibus Bill**
3 **Amending Business and Professions Code Sections 4980.36, 4980.399, 4992.09,**
4 **4999.55, 4989.16, 4989.22, and 4996.17**

5 Several omnibus bill amendments were approved by the Board at its November 2013
6 meeting. Staff has identified a need for additional amendments since that time. Rosanne
7 Helms presented the proposed additional items to the omnibus bill:

- 8
9 1. Amend Business and Professions Code (BPC) §4980.36 – Practicum Hours
- 10 At the February 2014 Policy and Advocacy Committee meeting, a concern regarding the
11 current law was discussed. The law stating 75 hours must be either client centered
12 advocacy or face-to-face counseling implies that no combination of the two can be
13 credited toward the 75 hours. Staff does not believe this was the intent of the Board.
14
15 Recommendation: Amend the BPC to state that 75 hours must be either client centered
16 advocacy, face-to-face counseling, or a combination thereof.
17
18 2. Amend BPC Sections 4980.399, 4992.09, and 4999.55 – Law and Ethics Exam – 12-Hour
19 Course

20 Beginning January 1, 2016, LMFT, Licensed Clinical Social Worker (LCSW), and LPCC
21 registrants must obtain a passing score on a California law and ethics exam to qualify for
22 licensure. The registrant must participate in this exam each year prior to his or her
23 registration renewal, until the exam is passed. If the applicant fails the exam during the
24 renewal period, he or she must take a 12-hour course in California law and ethics in
25 order to be able to participate in the exam in his or her next renewal period.

26
27 Currently, the law states that if the registrant fails the exam within his or her first renewal
28 period, he or she must complete the 12-hour course. This statement is technically
29 incomplete. The course must be taken after any renewal period in which the exam is
30 failed, not just the first renewal period.

31
32 Recommendation: Amend the BPC so that it no longer specifies that the course must be
33 taken only after the first renewal period in which the exam was failed.

- 34
35 3. Amend BPC Sections 4980.399, 4992.09, and 4999.55 – Law and Ethics Exam –
36 Subsequent Registration Number

37 A current proposed amendment approved by the Board at its November 2013 meeting
38 would allow a registrant needing a subsequent registration number between January 1,
39 2016 and January 1, 2017 to obtain it without first passing the California law and ethics
40 exam.

41
42 Currently, the proposed language states that an applicant needing a subsequent
43 registration number within this timeframe could obtain one without passing the California
44 law and ethics exam *“as long as the examination is passed at the next renewal period or
45 prior to licensure, whichever occurs first.”*

46
47 Recommendation: Amend the proposed language to replace the term *“at the next renewal
48 period”* with the term *“during the next renewal period”*. This would increase clarity of
49 exactly when the exam must be passed.
50

1 4. Amend BPC §4989.16 - Inclusion of LPCCs

2 The Licensed Educational Psychologist (LEP) licensing law states that no part of the
3 LEP licensing law is meant to constrict or limit the practice of medicine, nursing,
4 psychology, LMFTs, or LCSWs. LPCCs are not identified in this list.

5
6 Recommendation: Add LPCCs to this list.

7
8 5. Amend BPC §4989.22 – LEP Written Licensing Exam

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

12
13 Recommendation: Delete references to the “standard written” and “clinical vignette”
14 licensing exams, as they are not required exams for LEP licensure.

15
16 6. Amend BPC §4996.17 – Law and Ethics Course for Out-of-State LCSW and ASW
17 Applicants

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

23
24 This omission makes it unclear whether an unlicensed applicant with education gained
25 out-of-state would be required to take the 18-hour California law and ethics course
26 described in §4996.17, or the California law and ethics course described in §4996.18.

27
28 The use of the term “experience” gained out-of-state also implies that someone who got
29 their education in California, but went out-of-state to obtain their experience, would still
30 need to take an additional 18-hour California law and ethics course even if the course
31 was included in their California Master’s degree program.

32
33 Recommendation: Amend the BPC to replace the term “experience” with the term
34 “education.” The law would then state that an applicant with education gained outside of
35 California must complete an 18-hour California law and ethics course covering specified
36 topic areas.

37
38 Janlee Wong, National Association of Social Workers California Chapter (NASW-CA),
39 commented on the law and ethics course. He stated that the 18-hour course is excessive and
40 should not be 18 hours in length. He also stated that there is a discrepancy between the 12-
41 hour course and the 18-hour course, explaining that an Associate Clinical Social Worker
42 (ASW) is required to take a 12-hour course when he/she fails an exam. However, an LCSW
43 from another state is required to take an 18-hour course.

44
45 Ms. Helms responded that an ASW has already had the coursework in their degree program.
46 The 12-hour course is a “refresher” course. The out-of-state LCSW is coming to California
47 without experience in California.

48
49 **Leah Brew moved to direct staff to make any discussed changes, and any non-**
50 **substantive changes to the proposed language and submit to the legislature for**
51 **inclusion of the 2014 omnibus bill. Renee Lonner seconded. The Board voted**
52 **unanimously (12-0) to pass the motion.**

1 **b. Recommendation #2 – Regarding Possible Action Regarding Proposed Revisions to**
2 **Requirements for Out-of-State Licensed Marriage and Family Therapists**

3 In 2013, the Board formed the Out-of-State Education Review Committee (Committee)
4 to examine concerns about upcoming changes to the education requirements for out-of-
5 state LMFT applicants. There were concerns that the out-of-state requirements may be
6 too stringent, restricting portability of these license types to California.
7

8 Specific areas of concern included the following:

- 9
- 10 • Lack of ability, under the new requirements, to remediate certain coursework while
registered as an intern;
 - 11 • Lack of ability, under the new requirements, to remediate certain coursework
12 through continuing education classes; and
 - 13 • Lack of hour or unit requirements for several required course topics, making it
14 unclear to applicants and Board evaluators whether or not coursework taken was
15 sufficient to satisfy the requirement.
16

17 Ms. Helms presented the Committee's proposed amendments to the out-of-state LMFT
18 requirements, which would apply to applicants beginning January 1, 2016.

19 1. Required Units

20 Require either 48 or 60 semester unit degrees for all out-of-state applicants depending
21 on when the Master's degree was obtained. If the applicant is required to have a 60-
22 semester unit degree based on the timing of when the degree was obtained, he or she
23 may remediate up to 12 semester units, if necessary. This remediation may occur while
24 the applicant is registered as an intern.
25

26 2. Practicum

- 27 a. For applicants without an out-of-state license: Require six-semester/nine-quarter
28 units of practicum, 150 hours of face-to-face counseling, and an additional 75 hours
29 of either face-to-face counseling or client-centered advocacy. No remediation of the
30 practicum requirement is permitted.
- 31 b. For applicants with an out-of-state license: Require six-semester/nine-quarter units
32 of practicum, 150 hours of face-to-face counseling experience, and an additional 75
33 hours of either face-to-face counseling or client-centered advocacy.
- 34 • Applicants who have been licensed for at least two (2) years in clinical practice
35 are exempt from this requirement.
 - 36 • Applicants who are licensed out-of-state but have held that license less than two
37 (2) years, may remediate the entire practicum requirement by obtaining 150
38 hours of face to face counseling, and the additional 75 hours of face-to-face or
39 client-centered advocacy, while registered as an intern. These hours must be in
40 addition to the 3,000 experience hours already required.
41

42 3. Marriage and Family Child Counseling Content

43 All out-of-state applicants will still be required to have 12-semester or 18-quarter units in
44 the areas of marriage, family and child counseling and marriage and family systems
45 approaches to treatment. This must be part of the degree program and cannot be
46 remediated. This requirement is already in law and no further amendments are being
47 proposed.
48

1 4. California Law and Ethics Content

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

- 4 • If the two-semester unit law and ethics course specified in BPC §4980.81(a)(7) was
5 completed but does not contain California content, then the applicant must complete
6 an 18-hour California law & ethics course.
- 7 • If the applicant is deficient the law and ethics course specified by BPC
8 §4980.81(a)(7), a two-semester unit course must be taken and must include
9 California law and ethics content.

10
11 The required course content in California law and ethics must be obtained prior to the
12 issuance of a license or intern registration.

13
14 5. Course Content Requirements

15 Committee members expressed concern that the coursework in specified in BPC
16 §4980.36(d) is only a list; there are no hour or unit requirements. While this is
17 acceptable for in-state students, because their schools have worked with the Board to
18 integrate these topics into the degree programs, it will be more difficult for out-of-state
19 students and Board evaluators to judge whether or not their degree contains sufficient
20 coverage of the listed topic areas.

21
22 Staff proposes a new section in the BPC that would quantify the requirements listed in
23 BPC §4980.36(d) whenever possible. In some cases, topic areas have been removed
24 because they overlapped with other topic areas.

25
26 The amendments allow the coursework to be from an accredited or approved
27 educational institution, or from a Board-accepted continuing education (CE) provider, as
28 long as it is graduate-level coursework. This coursework may be remediated while
29 registered as an intern, which previously was not going to be allowed.

30
31 6. Principles of Mental Health and Cultures Coursework

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

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

44
45 Both of these requirements can now be taken from an accredited or approved school or
46 a CE provider, must be graduate-level coursework, and may be taken while registered
47 as an intern.

48
49 Additional Amendment - Experience Credit for Time Actively Licensed in Another State

50 The BPC sets examination eligibility requirements for LMFT applicants who are licensed out-
51 of-state. One of the requirements is that the applicant's supervised experience is

1 substantially equivalent to the Board's experience requirements. It states that the Board will
2 consider out-of-state experience obtained during the six-year period immediately preceding
3 the date the applicant obtained his or her out-of-state license.
4

5 If a licensee has been licensed out of state for many years, it may be inappropriate to look
6 only at experience obtained prior to licensure. The Board's out-of-state LCSW applicants
7 are permitted to count time actively licensed at a rate of 100 hours per month up to a
8 maximum of 1,200 hours, if they are short hours of supervised experience. These hours are
9 applied toward the required direct clinical counseling hours. This method takes into account
10 experience as a licensee in addition to pre-licensure experience.
11

12 This proposal includes an amendment to out-of-state licensee experience requirements for
13 LMFT applicants to count time actively licensed as experience at a rate of 100 hours per
14 month up to 1,200 hours. Like LCSW applicants, these hours would be applied toward the
15 required direct clinical counseling hours. Per the Committee's request, after January 1,
16 2016, the applicant can only do this if he or she meets the practicum requirement without
17 exemptions or remediation. This is because BPC §4980.79 proposes to allow out-of-state
18 applicants exemptions or remediation options for the practicum requirement under certain
19 conditions. The Committee did not believe an applicant should be permitted
20 exemptions/remediation for practicum and also be able to count time actively licensed
21 toward experience hours.
22

23 Clarification Regarding Practicum

24 Current law requires an LMFT applicant to obtain 150 hours of face-to-face counseling
25 experience, and an additional 75 hours of either client centered advocacy or face-to face
26 experience counseling individuals, couples, families, or groups.
27

28 At the February 2014 Policy and Advocacy Committee meeting, a concern regarding the
29 current law was discussed. It was discussed that the law stating 75 hours must be either
30 client centered advocacy or face-to-face counseling implies that no combination of the two
31 can be credited toward the 75 hours. Staff does not believe this was the intent of the Board.
32 Therefore, this language has been updated in Sections 4980.78 and 4980.79, and in
33 §4980.36 in the omnibus bill to state that the 75 hours must be client-centered advocacy,
34 face-to-face counseling, or a combination thereof.
35

36 Continuing Education Coursework

37 At its February 2014 meeting, the Policy and Advocacy Committee discussed a concern
38 regarding the proposal to allow some coursework to be remediated through a Board-
39 accepted CE provider.
40

41 This proposal allows certain coursework, including human sexuality, spousal or partner
42 abuse, principals of mental health recovery-oriented care, and understanding of California
43 cultures, to be obtained through a continuing education provider, as long as the content of
44 the coursework is of a graduate level.
45

46 The Out-of-State Education Committee had recommended this language to ensure that CE
47 coursework was taught at a master's level, rather than at an undergraduate or introductory
48 level. However, a concern was raised at the Policy and Advocacy Committee meeting that
49 there is no straightforward way to define for applicants and CE providers exactly what
50 makes each required course a graduate-level course.
51

52 The Board is in the process of proposing new CE regulations. These regulations are
53 expected to be approved this summer and are expected to become effective in early 2015.
54

1 When the new CE regulations become effective, the Board will no longer be approving CE
2 providers. Instead, the Board will accept CE credits only from providers who have been
3 approved or registered by a Board-recognized approval agency, or by an entity that is
4 recognized by the Board as a CE provider.
5

6 Due to the new CE requirements coming online at approximately the same time as this
7 proposal would go into effect, the Policy and Advocacy Committee recommended that the
8 Board consider removing the requirement that CE coursework be “of a graduate level” from
9 the proposed language.
10

11 Dr. Brew referred to the service credit for out-of-state licensees. Older degrees have fewer
12 hours than what is required now. Dr. Brew asked if someone who has an older degree and
13 practiced for 30 years would have to remediate the practicum and start collecting intern
14 hours. Ms. Helms confirmed that was correct. Dr. Brew expressed that this penalizes
15 experienced licensees.
16

17 Dr. Brew referred to the CE coursework. She recommended not removing the requirement
18 that CE coursework “be of a graduate level.” She explained that the National Board of
19 Clinical Counselors (NBCC) is a CE provider for LMFTs, and NBCC is going to ensure that it
20 is graduate-level work. Dr. Brew feels that it will deter people from taking undergraduate
21 classes to meet the requirement.
22

23 Sarita Kohli asked how one remediates practicum when there is no mechanism to remediate
24 practicum. Ms. Kohli suggested using language that clarifies how to remediate practicum.
25

26 Ms. Helms replied that the proposed amendments outlined under “Practicum” provide a way
27 to remediate practicum.
28

29 Ms. Kohli asked if current California licensees will be required to complete instruction in the
30 principles of mental health recovery-oriented care, instruction that includes an
31 understanding of the various California cultures, and instruction in structured meetings with
32 various consumers and family members of mental health services.
33

34 Ms. Madsen replied that it is not required, but it can be fulfilled through CE.
35

36 Ms. Kohli stated that this coursework is very important.
37

38 Dr. Wietlisbach suggested this as a future agenda item.
39

40 Ben Caldwell, American Association for Marriage and Family Therapy California Division
41 (AAMFT-CA), stated that most common complaints AAMFT-CA receives from out-of-state
42 licensees is how difficult it is to become licensed in California. One of the most common
43 outcomes of that process is that people give up because it is going to take several years
44 and thousands of dollars.
45

46 Mr. Caldwell commented on the “graduate level” CE coursework. Concerns have been
47 raised by CE providers that they do not understand, operationally, what that means.
48 AAMFT-CA wants the education to be at a high level, but they do not want the requirements
49 to have such an effect on providers who may be unwilling to provide the coursework.
50

51 Mr. Caldwell expressed that his preference is to remove the phrase.
52

53 Ms. Lonner stated an undergraduate-level course is not sufficient to meet the requirement.
54 It may be easier to specify what does not qualify as graduate-level coursework, rather than
55 to define “graduate-level coursework.”

1 Ms. Madsen recalled the reason why the Committee voted to remove the phrase, explaining
2 that the phrase was specifically attached to CE providers. The language specifically states
3 that the content of the coursework must be of a graduate level. That takes care of the
4 university issue. The issue is the definition of “graduate level” to a CE provider. If the
5 phrase is left in the language, the Board must define the phrase so that CE providers are
6 compliant.

7
8 Mr. Wong, NASW-CA, requested the Board to keep in mind that graduate-level courses and
9 CE courses are completely different from each other.

10
11 Mr. Caldwell agreed with Ms. Lonner’s comment regarding undergraduate-level coursework.

12
13 Sara Kashing, California Association of Marriage and Family Therapists (CAMFT), stated
14 that it is very important to define “graduate-level coursework.” Ms. Kashing feels there will
15 be a lot of confusion unless this is clarified.

16
17 Mr. Caldwell suggested using language that specifies that if coursework is taken at an
18 undergraduate level, it is not sufficient to meet the standard.

19
20 Dianne Dobbs, DCA Legal Counsel, feels that it will still cause confusion because
21 “undergraduate level” needs to be defined.

22
23 Dr. Wietlisbach suggested not specifying “undergraduate level” but instead state that
24 “undergraduate coursework” is not sufficient.

25
26 Ms. Helms suggested coursework taken from an accredited school, college or university
27 must be of a graduate-level.

28
29 *The Board took a break at 11:14 a.m. and reconvened at 11:32 a.m.*

30
31 After further discussion, the following language was suggested: Undergraduate courses will
32 not meet this requirement.

33
34 ***Patricia Lock-Dawson moved to accept discussed changes, and to direct staff to make***
35 ***discussed changes and any non-substantive changes to the proposed language and***
36 ***submit to the legislature as Board-sponsored legislation. Dr. Peter Chiu seconded.***
37 ***The Board voted unanimously (12-0) to pass the motion.***

38
39 **c. Recommendation #3 – Regarding Possible Action Regarding Proposed Revisions to**
40 **Requirements for Out-of-State Licensed Professional Clinical Counselors**

41 Most of the proposed revisions for the out-of-state LPCCs are identical to the proposed
42 revisions for the out-of-state LMFTs. Ms. Helms presented the revisions that were different
43 from the out-of-state LMFTs.

44
45 1. Required Units

46 The Out-of-State Education Committee (Committee) proposed the same revision as
47 proposed for the out-of-state LMFTs.

48
49 2. Practicum

- 50 a. For applicants without an out-of-state license: Require six (6) semester/nine (9)
51 quarter units of practicum, including 280 hours of face-to-face counseling. No
52 remediation of the practicum requirement is permitted.

- 1 b. For applicants with an out-of-state license: Require six (6) semester/nine (9) quarter
2 units of practicum, including 280 hours of face-to-face counseling.
- 3 • Applicants who have been licensed for at least two (2) years in clinical practice are
4 exempt from the practicum requirement.
 - 5 • Applicants who are licensed out-of-state but have held that license less than two
6 years may remediate the entire practicum requirement by demonstrating
7 completion of 280 hours of face-to-face counseling. Any post-degree hours gained
8 to meet this requirement must be in addition to the 3,000 experience hours already
9 required for a license, and must be gained while registered as an intern.

10
11 3. Core Content Requirements

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

19
20 4. California Law and Ethics Content

21 The Committee proposed the same revision as proposed for the out-of-state LMFTs.

22
23 5. Advanced Coursework

24 All out-of-state applicants who have not already done so must complete 15 semester or
25 22.5 quarter units of advanced coursework focusing on specific treatment issues or
26 special populations. This coursework must be in addition to the core content
27 requirements. The coursework must be from an accredited or approved school. All
28 applicants may remediate this coursework while registered as an intern.

29
30 6. Additional Coursework Requirements

31 Current law states that the applicant must complete the coursework specified in BPC
32 §4999.33(d) if they had not already done so.

33
34 The Committee determined that the first six (6) subject areas were now being covered in
35 the principles of mental health recovery-oriented care (45 hours) and California cultures
36 (15 hours) coursework that is proposed to be required of out-of-state applicants.

37
38 The remaining topic areas have now been given a required number of hours to make it
39 clear to applicants and the Board's evaluators whether or not their completed
40 coursework is sufficient. These requirements match the hour requirements that had
41 previously been required in degrees:

- 42 • Human sexuality (10 hours)
- 43 • Spousal/partner abuse (15 hours)
- 44 • Child abuse assessment (7 hours)
- 45 • Aging/long term care (10 hours)

46
47 The new amendments would allow the coursework to be from an accredited or approved
48 educational institution, or from a Board-accepted CE provider, as long as its content is
49 graduate level. Also, an amendment has been made to allow this coursework to be
50 remediated while registered as an intern.

1 7. Principles of Mental Health and Cultures Coursework

2 The Committee proposed the same revision as proposed for the out-of-state LMFTs.

3
4 Additional Amendment - Experience Credit for Time Actively Licensed in Another State

5 The Committee proposed the same revision as proposed for the out-of-state LMFTs.

6
7 Continuing Education Coursework

8 The Committee proposed the same revision as proposed for the out-of-state LMFTs.

9
10 Dr. Brew referred to the core content requirements. She asked if there are a minimum
11 number of courses that the applicant must have, or are they only required to have the 48
12 units. Ms. Helms responded that they must have the 48 units. Dr. Brew was concerned that
13 an applicant can have 48 units in courses not related to counseling and be allowed to make
14 up all of the core content courses.

15
16 Ms. Berger clarified that the core content courses can be remediated as long as the degree
17 was in "counseling in nature."

18
19 Dr. Brew stated that there are other states that have very low, very minimal requirements,
20 and applicants with those degrees should not be practicing in California.

21
22 Dr. Brew also noted that at least seven (7) of the core content courses are standard courses
23 across the country. She suggested requiring a minimum number of the core courses,
24 specifically, seven (7) courses as the minimum.

25
26 Charles Johnson, LPCC Evaluator, stated that many of the degree programs were not
27 designed to meet the requirements of the current law. He asked if it was possible for either
28 staff to determine on a case-by-case basis to determine what is substantially equivalent, or
29 bring to Board to determine on a case-by-case basis what is substantially equivalent.

30
31 Ms. Madsen stated that in-state applicants, who received degrees in counseling before the
32 law was enacted, are required to have ten (10) of the core content courses. Some of those
33 in-state applicants have only four (4) quarter units, not 4.5 quarter units; and they cannot
34 remediate. If the Board requires out-of-state applicants to have seven (7) of those courses,
35 that will raise conflict.

36
37 Ms. Dobbs reminded the Board to not make decisions without regulations in place. When
38 staff makes decisions on a case-by-case basis for a matter such as this, the Board is at risk
39 of doing underground regulations.

40
41 Dr. Douglas suggested a mechanism where an applicant would have to pass an
42 examination. If the applicant fails the exam, he/she would then be required to take the
43 deficient coursework.

44
45 Ms. Madsen responded that Dr. Douglas' suggestion appears to be an educational
46 component, and the Board does not get involved with that as a regulatory agency. The
47 testing comes after the educational requirements are met.

48
49 Dr. Brew stated that seven (7) out of ten (10) courses would be a reasonable requirement.

50
51 Ms. Berger requested that the Board take into consideration that four (4) of the required
52 courses were added in 2012 and are California specific, and out-of-state applicants are not
53 going to have these courses.

1 Mr. Johnson added that in the grandparenting process, applicants had difficulty meeting
2 seven (7) of the courses and had to apply through the out-of-state path.

3
4 Ms. Brown expressed that she does not want any advantage given to either in-state
5 applicants or out-of-state applicants.

6
7 Dean Porter, California Association for Licensed Professional Clinical Counselors
8 (CALPCC), stated that all other states have various requirements regarding practicum.
9 Many states measure the practicum by the total of hours instead of units; for example, some
10 states require a 3-credit practicum. Only five states have an hourly requirement for
11 practicum, ranging from 100 hours to 300 hours of face-to-face counseling. Ms. Porter
12 suggested allowing non-licensed applicants to remediate the practicum.

13
14 Ms. Madsen stated that practicum cannot be remediated. The Board can move forward with
15 the proposals as presented. In the meantime, staff can track these applicants, and if it is
16 discovered that there are a significant number of applicants that fall into this category, the
17 Board can revisit this matter.

18
19 In regards to CE coursework, the changes that applied to the LMFTs CE coursework will
20 apply to the LPCC CE coursework (“undergraduate courses will not meet this requirement”).

21
22 Ms. Helms summarized the amendments to the Proposed Language for LPCCs regarding
23 core content areas that were discussed:

- 24
- 25 • Page 6, item (1)(A): For applicants who obtained their degree within the timeline
26 prescribed by Section 4999.33(a), the degree shall contain no less than 60 graduate
27 semester or 90 graduate quarter units of instruction, and must include 3.5 semester or 4
quarter units in the 7 of the 13 core content areas.
 - 28 • Page 6, item D(i): An applicant whose degree is deficient in no more than 6 of the
29 required areas.
- 30

31 ***Renee Lonner moved accept the discussed changes and to direct staff to make any
32 discussed changes, as well as any non-substantive changes, and submit to the
33 legislature as Board-sponsored legislation. Deborah Brown seconded. The Board
34 voted unanimously (12-0) to pass the motion.***

35
36 The Board took a break at 12:28 p.m. and reconvened at 1:45 p.m.

37
38 **d. Recommendation #4 – Regarding Possible Rulemaking Action Regarding Revisions
39 to the California Code of Regulations, Title 16, Section 1820.5 and 1822; Add New
40 Sections 1820.6 and 1820.7 Licensed Professional Clinical Counselors: Requirements
41 to Work with Couples and Families and Supervisory Plan**

42 Ms. Berger presented the proposed rulemaking action regarding additions and revisions to
43 the LPCC requirements to work with couples and families and the supervisory plan.

44
45 LPCCs may not treat couples or families unless they complete specified training and
46 education:

- 47
- 48 1. Either six (6) semester or nine (9) quarter units focused on theory and application of
49 marriage and family therapy, or a named specialization or emphasis area of the
50 qualifying degree in marriage (or marital) and family therapy, marriage, family and child
51 counseling, or couple and family therapy;
 - 52 2. At least 500 hours of documented supervised experience working directly with couples,
families or children; and

1 3. Completion of at least six (6) hours of CE specific to marriage and family therapy during
2 each two-year renewal cycle.
3

4 Currently, there is no process established by law to determine whether a practitioner has
5 met these requirements. Several questions have been raised as individuals attempt to gain
6 the experience and education necessary to treat couples or families.
7

8 This issue was addressed by the Policy and Advocacy Committee (Committee) at its
9 November 2012 meeting, as well as the full Board at its November 2012 meeting. The
10 Board approved the originally proposed language; however, staff has not yet begun the
11 regulatory process. This provides the opportunity to answer additional questions that have
12 arisen:
13

- 14 1. How should the specialized education and experience be documented, and how will the
15 LPCC or PCC Intern know if the coursework and experience is acceptable?
- 16 2. How would a consumer, employer or supervisee verify whether the practitioner meets
17 the requirements to treat couples and families?
18

19 At this time, licensees and registrants are not required to obtain Board approval prior to
20 treating couples or families. Once practitioners determine they have met the requirements,
21 they may begin treating couples or families. The only way the Board may determine
22 whether a licensee or registrant meets the requirements to treat couples or families is to (1)
23 perform random audits of licensees and registrants, (2) request documentation of
24 qualifications if a complaint is filed against the practitioner, or (3) when a licensee has
25 supervised MFT interns or trainees.
26

27 Staff recommends that LPCC licensees be required to submit a form to the Board upon
28 completion of the specialized education and experience. Board staff would evaluate the
29 documentation, and send the practitioner a letter that states he or she is now qualified to
30 treat couples and families (or that he or she has not met the requirements and why). This
31 would allow the practitioner to provide the letter to consumers, employers and supervisees.
32

- 33 3. Must the 500 hours supervised experience be obtained from an approved supervisor?
34

35 Currently, the experience required to treat couples or families must be gained under the
36 supervision of either an LMFT or an LPCC who has already met the requirements to treat
37 couples and families. The code is silent on whether the supervisor must meet the
38 qualifications of an “approved supervisor” as defined in law, which pertains to experience
39 required for licensure.
40

41 Although the “approved supervisor” definition was designed for licensing purposes, it makes
42 sense to require the same qualifications for supervision of couples and families experience
43 to help ensure quality of supervision. If the “approved supervisor” definition is adopted, it
44 would additionally allow LCSWs, licensed Clinical Psychologists, and Psychiatrists to
45 supervise this experience. All of these professions are permitted to treat couples and
46 families, increasing the availability of supervisors.
47

48 Staff recommends an amendment to require the experience be supervised by an “approved
49 supervisor.”
50

- 51 4. How can a LPCC or intern who does not yet meet the requirements to treat couples and
52 families treat children, but not the child’s family
53

1 Similar to other Board licensees, all LPCCs may provide psychotherapeutic services to
2 individuals and groups, including children, all of whom may be treated within the scope of
3 practice without any additional training or experience. However, treatment of children nearly
4 always involves the child's family or legal guardian.
5

6 If a family requires actual treatment by the LPCC who is also treating the child, then the
7 LPCC must possess the qualifications to treat families. If the LPCC does not meet the
8 requirements, he or she may only provide collateral contact with the family for issues such
9 as treatment planning, providing resources, monitoring progress, etc.
10

11 At the request of county employers, staff recommends clarifying this issue in regulations.
12

13 Other technical amendments are proposed regarding clinical counselor trainees in
14 practicum, the Weekly Summary of Experience Hours form, and the Supervisory Plan form.
15

16 Current "couples and families treatment" regulations group clinical counselor trainees in
17 practicum with licensees and interns. Trainees have not yet completed their degree
18 program and are not permitted to gain hours of experience toward licensure. They also
19 cannot gain experience toward meeting the couples and families requirement. However,
20 trainees are permitted by law to treat "individuals, families, or groups" during practicum, and
21 are required to work under the supervision of the school at all times.
22

23 Staff is proposing an amendment to clarify that trainees may treat couples and families if
24 they are gaining practicum hours, and to clarify that they may not count such hours toward
25 the 500 hours of supervised experience.
26

27 At its February 2014 meeting, the Policy and Advocacy Committee (Committee) discussed
28 the following issues and recommended that staff take the proposal to the Board for
29 consideration:
30

- 31 1. The Committee recommended clarifying that those who supervise licensees or interns
32 gaining experience required to treat couples and families must themselves have
33 sufficient training to competently practice marriage and family therapy in California.
- 34 2. The Committee considered whether an LPCC licensee or intern should be required to
35 meet the specialized education and experience requirements in a particular order.
36

37 Currently existing regulations require licensees to complete the six units of coursework
38 before beginning the 500 hours of supervised experience. However, interns are permitted to
39 complete the coursework and experience in any order. The Committee believed it was not
40 warranted to require a different standard for licensees than for interns. Additionally,
41 requiring a certain order for completion would be more complicated for staff to implement
42 and more challenging for stakeholders to accomplish.
43

- 44 3. The Committee considered whether applicants who have held a license in another state
45 for at least two years should be subject to a streamlined process.
46

47 All other states in the U.S. permit LPCCs to treat couples and families as part of their scope
48 of practice, and the National Mental Health Counselors Examination, used by most states,
49 contains content on couples and families. However, the Committee concluded that even
50 individuals who have been licensed and in practice for a significant amount of time cannot
51 be assumed to have adequate training to treat couples and families. The Committee
52 decided it would be best to continue to require out-of-state licensees to demonstrate that
53 they meet the requirements in the same manner any other applicant.
54

1 Dr. Brew explained that the reason why other states permit LPCCs to treat couples and
2 families as part of the scope of practice is because some “perceive a systemic way of
3 working with couples and families as one theoretical orientation.”
4

5 ***Renee Lonner moved to direct staff to make any discussed changes, and any non-***
6 ***substantive changes, and to run as a regulatory proposal. Sarita Kohli seconded.***
7 ***The Board voted unanimously (12-0) to pass the motion.***
8

9 **e. Recommendation #5 – Regarding Possible Rulemaking Action to Implement Senate**
10 **Bill 704, Statutes of 2011, Chapter 387 – Examination Restructure**

11 Dr. Wietlisbach tabled this item. Tabling this item will not affect the implementation date of
12 January 1, 2016.
13

14 **XVI. Discussion and Possible Action Regarding Possible Rulemaking Action to Implement**
15 **Senate Bill 1441, Statutes of 2008, Chapter 548, Uniform Standards for Substance**
16 **Abusing Licensee**

17 The Board approved the Uniform Standards for Substance Abusing Licensee regulations at its
18 November 2012 meeting. However, DCA Legal has requested one additional amendment to
19 clarify that the Board has the authority to impose additional probation terms, above and beyond
20 what the uniform standards prescribe, if determined necessary for public protection.
21

22 Board staff drafted amendments which incorporated the uniform standards into the Disciplinary
23 Guidelines, as appropriate. Standards 13 through 16 were not incorporated. These standards
24 involve either diversion programs, which the Board does not have, or data collection, which is
25 an internal Board function not appropriately addressed through regulations.
26

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

- 29 1. Uniform Standards Related to Substance Abuse: This is a new section and would apply to
30 licensees or registrants who test positive for a controlled substance, or whose license or
31 registration is on probation due to a substance abuse problem.
- 32 2. Penalty Guidelines: This section was already part of the Disciplinary Guidelines; it lists
33 types of violations and the range of penalties that may be imposed.
- 34 3. Disciplinary Orders: This section was already part of the Disciplinary Guidelines. It contains
35 language for proposed optional and standard terms and conditions of probation. It has been
36 modified, where appropriate, to include the new uniform standards related to substance
37 abuse.
- 38 4. Board Policies and Guidelines: Already part of the Disciplinary Guidelines, this section
39 explains the policies and guidelines for various enforcement actions.
40

41 ***Patricia Lock-Dawson moved to direct staff to make any discussed or any non-***
42 ***substantive changes and to pursue as a regulatory proposal. Dr. Peter Chiu seconded.***
43 ***The Board voted unanimously (12-0) to pass the motion.***
44

45 **XVII. Legislative Update**

46 Ms. Helms reported on legislative proposals that the Board is currently pursuing:

- 47 • AB 2213 - LMFT and LPCC Out-of-State Applicant Requirements

48 The Board discussed and approved the proposed language earlier in this meeting (March
49 6th).

- 50 • AB 1843 - Child Custody Evaluations: Confidentiality

1 Staff is scheduling meetings with stakeholders to discuss the bill and specifics of the
2 language. The first meeting will take place on March 7th.

3 • Omnibus Legislation

4 This bill has not been introduced yet. The Board discussed and approved the proposed
5 language earlier in this meeting.
6

7 **XVIII. Rulemaking Update**

8 Ms. Berger reported on the following regulations:

9 • Continuing Education

10 This proposal is currently under review by the Business, Consumer Services, and Housing
11 Agency.

12 • Disciplinary Guidelines and SB 1441: Uniform Standards for Substance Abuse

13 The Board discussed and approved this proposal earlier in this meeting. Staff will submit
14 the proposal to OAL for publication in the California Regulatory Notice Register, which will
15 begin the 45-day public comment period.

16 • Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families

17 The Board discussed and approved this proposal earlier in this meeting. Staff will submit
18 the proposal to OAL for publication, which will begin the 45-day public comment period.

19 • Implementation of SB 704, Examination Restructure

20 A revised proposal was approved by the Policy and Advocacy Committee at its meeting in
21 February 2014. Staff plans to bring this proposal for consideration by the Board at its
22 meeting in May 2014 once additional details have been worked through.
23

24 **XIX. Suggestions for Future Agenda Items**

25 Dr. Chiu suggested a future discussion regarding the Board's role in supporting and promoting
26 mental health, and what the Board can do to de-stigmatize mental health so people will seek
27 mental health support.
28

29 Ms. Kohli suggested a future discussion regarding possible requirements for current California
30 licensees to complete instruction in the principles of mental health recovery-oriented care,
31 instruction that includes an understanding of the various California cultures, and instruction in
32 structured meetings with various consumers and family members of mental health services.
33

34 **XX. Public Comment for Items Not on the Agenda**

35 There were no public comments.
36

37 **XXI. Adjournment**

38 The Board adjourned at 2:19 p.m.

2013/2014 Budget

The 2013/2014 budget for the Board is \$8,240,648. As of March 31, 2014, the Board has spent \$5,126,675 reflecting 62% of the total budget. The chart below provides a breakdown of expense categories and percentages. The Board is projecting an unencumbered balance of \$160,000.

| Expense Category | Amount | Percentage |
|--|---------------------|-------------------|
| Personnel | \$ 2,273,470 | 28% |
| OE&E | \$ 1,761,123 | 21% |
| Enforcement | \$ 678,848 | 8% |
| Minor Equipment <i>Includes LPCC category</i> | \$ 413,235 | 5% |
| Total | \$ 5,126,675 | 62% |

As of March 31, 2014, total revenue collected is \$6,246,068.

Board Fund Condition

The Board’s fund condition reflects 3.3 months in reserve.

General Fund Loans

The Board’s loan balance to the General Fund is \$12.3 million dollars. The Board is scheduled to receive a \$1.4 million dollar loan repayment this fiscal year. This repayment is reflected in the current fund condition; leaving a General Fund loan balance of \$10.9 million dollars.

2014/2015 Budget

The Board’s proposed budget for fiscal year 2014-15 is \$ 9,139,000 and increases Board staffing levels from 42.5 positions to 50 positions. In April, the legislature began the process to review the Governor’s proposed budget. During the subcommittee hearings, the Board’s proposal to add an additional 7.5 staff was reviewed. Following this initial review, the Board’s request for additional staff remained in the Governor’s budget as proposed.

The budget language authorizing the additional 7.5 positions to the Board staff requires the Board to submit statistics to the legislature regarding enforcement and licensing on annual basis through 2018. The report is due to the legislature by January 10 each year beginning in 2016.

May Revision – Adjustments to the Governor’s Proposed Budget

Annually the Governor submits an update to his budget in mid-May. The May revision contains a revised estimate of General Fund revenues for the current and ensuing fiscal years, any proposals to adjust expenditures to reflect updated revenue estimates, and all proposed adjustments to Proposition 98.

According to the State Controller's office, the forecast for the last quarter of the fiscal year is "good." To date, revenues have exceeded expectations. This is welcomed news for California's budget and suggests that major adjustments to the Governor's budget will not occur. However, the Governor remains focused on paying down debt and building up reserves with the increased revenue. Therefore, it is unlikely that any new or increased spending not already included in the Governor's budget will occur.

BBS EXPENDITURE REPORT FY 2013/14

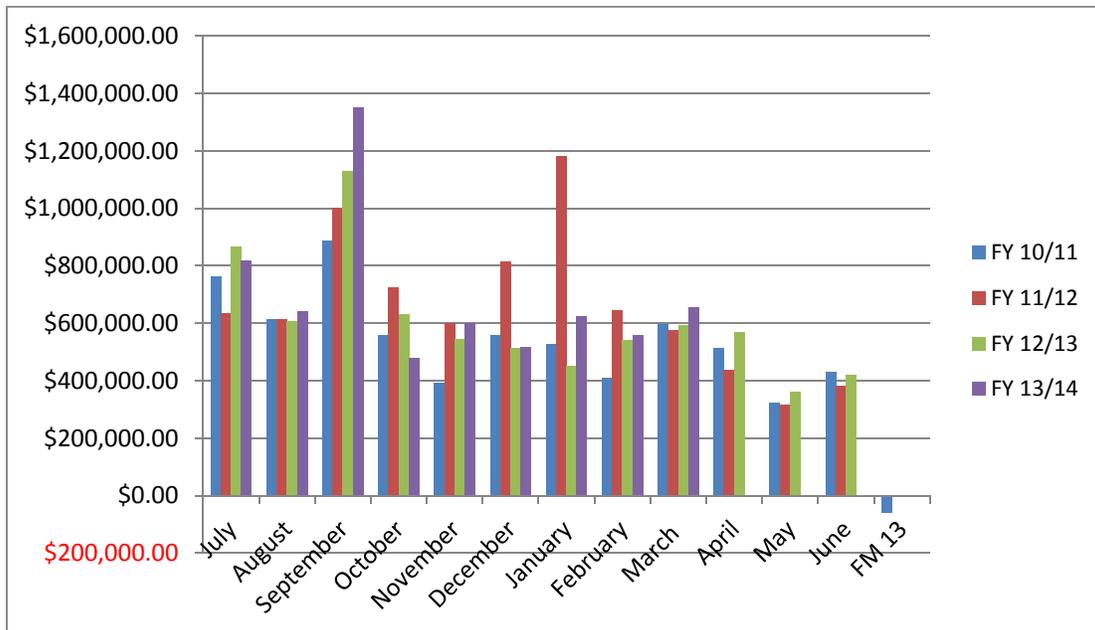
| OBJECT DESCRIPTION | 12/13 | FY 2013/14 | | | |
|--|---------------------|--------------------|-----------------------|--------------------|----------------------|
| | ACTUAL EXPENDITURES | BUDGET ALLOTMENT | CURRENT AS OF 3/31/14 | PROJECTIONS | UNENCUMBERED BALANCE |
| PERSONAL SERVICES | | | | | |
| Salary & Wages (Civ Svc Perm) | 1,742,679 | 2,109,422 | 1,420,065 | 2,260,000 | (150,578) |
| Salary & Wages (Stat Exempt) | 86,941 | 91,152 | 70,416 | 94,000 | (2,848) |
| Temp Help (907)(Seasonals) | 41,657 | 0 | 0 | 0 | 0 |
| Temp Help (915)(Proctors) | | 444 | | 0 | 444 |
| Board Memb (Per Diem) | 23,000 | 12,900 | 10,300 | 25,000 | (12,100) |
| Overtime | 3,161 | 1,500 | 11,073 | 15,000 | (13,500) |
| Totals Staff Benefits | 957,923 | 1,080,258 | 761,616 | 1,175,000 | (94,742) |
| Salary Savings | | | | | |
| TOTALS, PERSONAL SERVICES | 2,855,361 | 3,295,676 | 2,273,470 | 3,569,000 | (273,324) |
| OPERATING EXP & EQUIP | | | | | |
| Fingerprint Reports | 11,099 | 14,827 | 9,936 | 15,000 | (173) |
| General Expense | 75,835 | 78,724 | 63,490 | 80,000 | (1,276) |
| Printing | 61,667 | 58,000 | 60,135 | 85,000 | (27,000) |
| Communication | 12,972 | 11,513 | 9,773 | 13,500 | (1,987) |
| Insurance | 0 | 325 | | 0 | 325 |
| Postage | 99,352 | 89,489 | 55,107 | 85,000 | 4,489 |
| Travel, In State | 79,289 | 55,684 | 50,023 | 90,000 | (34,316) |
| Travel, Out-of-State | 13,665 | 72,000 | 15,466 | 25,000 | 47,000 |
| Training | 1,990 | 20,463 | 450 | 2,000 | 18,463 |
| Facilities Operations | 246,574 | 227,925 | 188,512 | 430,000 | (202,075) |
| Utilities | 0 | 4,330 | | 0 | 4,330 |
| C&P Services - Interdept. | 39,717 | 14,939 | 14,442 | 62,000 | (47,061) |
| C&P Services-External Contracts | 19,854 | 207,978 | 0 | 80,000 | 127,978 |
| DEPARTMENTAL PRORATA | | | | | |
| DP Billing (424.03) | 735,792 | 860,256 | 177,994 | 860,256 | 0 |
| Indirect Distribution Costs (427) | 342,050 | 435,137 | 326,353 | 435,137 | 0 |
| Public Affairs (427.34) | 19,703 | 19,567 | 14,675 | 19,567 | 0 |
| D of I Prorata (427.30) | 15,946 | 13,934 | 10,451 | 13,934 | 0 |
| Consumer Relations Division (427. | 25,118 | 16,765 | 12,574 | 16,765 | 0 |
| OPP Support Services (427.01) | 0 | 490 | 0 | 490 | 0 |
| Interagency Services (OER IACs) | 200,552 | 325,065 | 143,032 | 236,700 | 88,365 |
| Consolidated Data Services (428) | 2,035 | 24,096 | 622 | 24,096 | 0 |
| Data Proc (Maint,Supplies,Cont) (43 | 15,110 | 10,448 | 5,947 | 10,448 | 0 |
| Statewide Pro Rata (438) | 434,880 | 361,763 | 271,323 | 361,763 | 0 |
| EXAM EXPENSES | | | | | |
| Exam Site Rental | 32,907 | 99,630 | 26,751 | 43,000 | 56,630 |
| Exam Contract (PSI) (404.00) | 505,834 | 358,659 | 221,537 | 300,000 | 58,659 |
| C/P Svs - Expert Examiners (404.01) | 0 | 45,000 | | 0 | 45,000 |
| C/P Svs - External Subj Matter (404 | 145,870 | 365,260 | 82,530 | 175,000 | 190,260 |
| ENFORCEMENT | | | | | |
| Attorney General | 817,778 | 801,588 | 562,220 | 765,000 | 36,588 |
| Office of Admin. Hearing | 111,244 | 154,926 | 50,155 | 110,000 | 44,926 |
| Court Reporters | 7,041 | 0 | 4,092 | 8,000 | (8,000) |
| Evidence/Witness Fees | 27,482 | 94,955 | 16,753 | 30,000 | 64,955 |
| Division of Investigation | 86,357 | 60,836 | 45,627 | 60,836 | 0 |
| <i>LPCC</i> | <i>457,325</i> | | <i>349,951</i> | | <i>0</i> |
| Minor Equipment (226) | 36,685 | 21,400 | 63,284 | 73,000 | (51,600) |
| Equipment, Replacement (452) | 0 | 0 | 0 | 0 | 0 |
| Equipment, Additional (472) | 0 | 0 | 0 | 0 | 0 |
| Vehicle Operations | 0 | 19,000 | 0 | 0 | 19,000 |
| TOTAL, OE&E | 4,681,723 | 4,944,972 | 2,853,205 | 4,511,492 | 433,480 |
| TOTAL EXPENDITURES | \$7,537,084 | \$8,240,648 | \$5,126,675 | \$8,080,492 | \$160,156 |

| Reimbursements | FY 12/13 Actuals | Budget Alotment | Current as of 3/31/14 |
|-----------------------------|------------------|-----------------|-----------------------|
| Fingerprints | (10,969) | (24,000) | (5,520) |
| Other Reimbursements | (8,620) | (26,000) | (6,630) |
| Unscheduled Reimbursements | (123,771) | | (101,880) |
| Total Reimbursements | (143,360) | (50,000) | (114,030) |

BLUE PRINT INDICATES THE ITEMS ARE SOMEWHAT DISCRETIONARY.

BBS Revenue Analysis

| Month | FY 10/11 | FY 11/12 | FY 12/13 | FY 13/14 |
|-----------|---------------|----------------|----------------|----------------|
| July | \$762,284.90 | \$636,305.00 | \$865,553.99 | \$817,394.34 |
| August | \$612,879.75 | \$614,882.97 | \$605,609.87 | \$641,178.70 |
| September | \$888,896.00 | \$1,002,602.57 | \$1,130,230.37 | \$1,349,479.66 |
| October | \$560,370.10 | \$723,621.83 | \$631,685.86 | \$480,531.87 |
| November | \$393,690.35 | \$601,895.03 | \$545,880.97 | \$600,316.56 |
| December | \$560,118.27 | \$816,772.93 | \$514,784.93 | \$516,264.24 |
| January | \$527,079.68 | \$1,180,871.34 | \$452,850.71 | \$625,528.05 |
| February | \$409,637.17 | \$646,040.15 | \$541,115.50 | \$559,755.55 |
| March | \$597,687.20 | \$576,972.25 | \$593,123.75 | \$655,619.38 |
| April | \$512,561.91 | \$437,016.67 | \$569,381.90 | |
| May | \$322,487.96 | \$317,204.07 | \$360,131.06 | |
| June | \$432,003.03 | \$383,326.67 | \$421,329.60 | |
| FM 13 | (\$59,968.77) | (\$1,375.78) | (\$266.97) | |



Board Statistics

Board staff continues to experience challenges in obtaining statistical data to compile quarterly statistics. Board staff continues to work with the BreEZe team and the vendor to resolve these challenges.

Facilities

Construction to remodel the Board's suite is scheduled to begin May 5. This first phase builds the file room to accommodate the Board's licensing and enforcement files as well as office supplies. The second phase will begin approximately 30 to 45 days from May 5. This phase will reduce the size of the Board's existing file and break room, remove walls to open up the suite, and install additional cubicles. The project is scheduled to be completed late June or early July. Some staff may be temporarily relocated during the second phase of construction. The total cost is estimated to be under \$200,000.

Staffing

Board management recently completed interviews to hire five of the eight positions in the Governor's 2014-15 budget. The new hires will begin with the Board in May. The remaining three positions will be hired after July 1, 2014 and will be assigned to the Enforcement Unit. Below are the assignments for the new staff.

Licensing Unit – Three positions

The additional staff allows the Board to begin efforts to reduce its processing times in the licensing unit. The LMFT unit will have four positions dedicated to evaluate LMFT examination eligibility applications. Previously the Board had two positions. The LCSW unit will have three positions to evaluate LCSW examination eligibility applications. Previously the Board had 1.5 positions.

Enforcement Unit – Two positions

A staff position to review an applicant's criminal conviction has been added to the Enforcement Unit. Previously the Board had one position doing this duty. The Board will now have two enforcement managers. An additional manager allows the Board to realign the Enforcement Unit and equitably distribute the managerial responsibility.

BreEZe

Six months ago the BreEZe system was implemented. The initial release was not without its challenges. Board staff worked diligently to become familiar with the BreEZe system and to identify functionality issues. Many of these issues have been resolved with subsequent releases. There will be two additional releases. The first one will be mid-May and the second one in August. Board staff continues testing to confirm that the functionality issues are resolved prior to each release.

Outreach Activities

March

Board staff attended the NASW reception at the Capitol to honor Assembly Member Mariko Yamada and Assembly Member Susan Talamantes Eggman. Staff had the opportunity to meet both members as well as answer questions from attendees.

Board staff attended AAMFT Educators Forum which discussed the direction of the mental health profession under the Affordable Care Act. Additionally, staff provided an overview of the BBS to attendees at AAMFT Lobby Days.

Board staff presented an update on BBS activities to the members of CAMFT, Orange County Chapter during their monthly meeting.

The Board's social work evaluators conducted a webinar with the University of Southern California School of Social Work (USC) to explain the registration and licensure process. This is the second year Board staff has conducted a webinar with USC. This year several other schools of social work joined the presentation. The webinar was recorded and is available on YouTube to view.

April

The Board's social work evaluators participated in NASW Legislative Lobby Days event. The evaluators hosted an exhibit table where attendees could speak to directly to staff about the registration and licensure process.



Board of Behavioral Sciences Quarterly Statistical Report - as of March 31, 2014

Introduction

This report provides statistical information relating to various aspects of the Board's business processes. Statistics are grouped by unit. The Board is currently unable to provide some of the regularly provided statistics, as the Board and the Department are still in the process of developing statistical reports in the new Breeze system.

Reading the Report

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

Cashiering Unit

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

Initial Licenses Issued*

| | Q212 | Q312 | Q412 | Q113 | Q213 | Q313 | Q413 | Q114 | Total |
|------|------|------|------|------|------|------|------|------|-------|
| LCS | 317 | 240 | 251 | 228 | 276 | 206 | 16 | 100 | 1634 |
| LEP | 23 | 27 | 13 | 18 | 12 | 15 | 11 | 9 | 128 |
| LMFT | 442 | 473 | 519 | 368 | 477 | 381 | 25 | 126 | 2811 |
| PCE | 86 | 52 | 53 | 49 | 72 | 49 | 58 | 54 | 473 |
| LPCC | 52 | 88 | 105 | 108 | 72 | 65 | 106 | 97 | 693 |

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

Enforcement Unit

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

Complaint Intake *

| Complaints | Q212 | Q312 | Q412 | Q113 | Q213 | Q313 | Q413 | Q114 | YTD |
|---|------|------|------|------|------|------|------|------|-----|
| Received | 253 | 274 | 251 | 228 | 235 | 206 | | 259 | |
| Closed without Assignment for Investigation | 0 | 0 | 1 | 0 | 0 | 0 | | | |
| Assigned for Investigation | 216 | 294 | 240 | 255 | 202 | 241 | | 264 | |
| Average Days to Close or Assigned for Investigation | 6 | 8 | 7 | 8 | 6 | 9 | | 7 | + |
| Pending | 37 | 17 | 30 | 4 | 35 | 0 | | 9 | 0 |

| | | | | | | | | | |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|------------|
| Proposed/Default Decisions Adopted | 10 | 7 | 11 | 9 | 6 | 1 | | | |
| Stipulations Adopted | 11 | 17 | 14 | 18 | 11 | 8 | | | |
| Disciplinary Orders | Q212 | Q312 | Q412 | Q113 | Q213 | Q313 | Q413 | Q114 | YTD |
| Final Orders (Proposed Decisions Adopted, Default Decisions, Stipulations) | 21 | 24 | 25 | 30 | 17 | 9 | | 15 | |
| Average Days to Complete*** | 858 | 806 | 804 | 897 | 947 | 718 | | | + |
| Citations | Q212 | Q312 | Q412 | Q113 | Q213 | Q313 | Q413 | Q114 | YTD |
| Final Citations | 49 | 16 | 36 | 18 | 3 | 17 | | 8 | |
| Average Days to Complete**** | 97 | 134 | 80 | 287 | 435 | 417 | | | + |

Complaint Intake *

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

Investigations **

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

Disciplinary Orders Average Days to Complete ***

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

Citations ****

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

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

Licensing Unit

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

ASW Registration Applications

| | Q212 | Q312 | Q412 | Q113 | Q213 | Q313 | Q413 | Q114 | Total/Avg |
|--------------------------|------|------|------|------|------|------|------|------|-----------|
| Received | 852 | 1063 | 521 | 483 | 819 | 1289 | | | 5027 |
| Approved | 529 | 871 | 1002 | 418 | 508 | 1175 | 913 | 444 | 5860 |
| Proc Time | 43 | 52 | 48 | 50 | 43 | 42 | | | 46 |
| Proc Time Less Def Lapse | 36 | 49 | 45 | 45 | 25 | 38 | | | 40 |

MFT Intern Registration Applications

| | Q212 | Q312 | Q412 | Q113 | Q213 | Q313 | Q413 | Q114 | Total/Avg |
|-----------|------|------|------|------|------|------|------|------|-----------|
| Received | 1003 | 1565 | 953 | 828 | 1036 | 1589 | | | 6974 |
| Approved | 1162 | 1251 | 998 | 852 | 799 | 1271 | 1010 | 1102 | 8445 |
| Proc Time | 34 | 22 | 32 | 33 | 30 | 39 | | | 32 |

| | | | | | | | | | |
|--------------------------|----|----|----|----|----|----|--|--|----|
| Proc Time Less Def Lapse | 29 | 20 | 28 | 29 | 25 | 36 | | | 28 |
|--------------------------|----|----|----|----|----|----|--|--|----|

LPC Intern Registration Applications

| | Q212 | Q312 | Q412 | Q113 | Q213 | Q313 | Q413 | Q114 | Total/Avg |
|--------------------------|------|------|------|------|------|------|------|------|-----------|
| Received | 75 | 124 | 110 | 90 | 104 | 190 | | | 693 |
| Approved | 30 | 62 | 80 | 44 | 58 | 85 | 65 | 54 | 478 |
| Proc Time | 125 | 94 | 65 | 144 | 45 | 43 | | | 86 |
| Proc Time Less Def Lapse | 102 | 58 | 43 | 49 | 42 | 44 | | | 56 |

Examination Unit

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

Exam Administration

| | Q212 | Q312 | Q412 | Q113 | Q213 | Q313 | Q413 | Q114 | Total |
|--------------------------|------|------|------|------|------|------|------|------|-------|
| Total Exams Administered | 2470 | 2125 | 2511 | 2090 | 2443 | 2214 | 2052 | 1683 | 17588 |
| LCSW Written | 603 | 435 | 525 | 499 | 436 | 425 | 437 | 392 | 3752 |
| LCSW CV | 402 | 323 | 372 | 324 | 407 | 336 | 333 | 283 | 2780 |
| LMFT Written | 748 | 691 | 789 | 721 | 855 | 705 | 604 | 552 | 5665 |
| LMFT CV | 580 | 487 | 610 | 416 | 599 | 526 | 494 | 340 | 4052 |
| LPCC GAP (LMFT) | 46 | 87 | 81 | 13 | 0 | 52 | 63 | 36 | 378 |
| LPCC GAP (LCSW) | 1 | 1 | 4 | 2 | 1 | 1 | 2 | 0 | 12 |
| LPCC GP L&E | 49 | 57 | 93 | 81 | 101 | 112 | 80 | 51 | 624 |
| LPCC Traditional L&E | | 7 | 12 | 14 | 14 | 17 | 8 | 7 | 79 |
| LEP | 41 | 37 | 25 | 37 | 30 | 40 | 31 | 22 | 263 |

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www.bbs.ca.gov

To: Board Members

Date: May 1, 2014

From: Steve Sodergren
Assistant Executive Officer

Telephone: (916) 574-7847

Subject: Strategic Plan Update

Management staff met with SOLID training solutions in February 2014 to complete the final step in the strategic planning process; identifying the tasks that are necessary to accomplish each objective in the strategic plan. The tasks and objectives were discussed and refined during subsequent management meetings. Currently, management is continuing to discuss implementation strategies in order to ensure successful completion of tasks, objectives and goals.

Attached for your review is the final version of the Board's 2014-2017 Strategic Plan and the Strategic Plan update for May 2014.

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CALIFORNIA
BOARD OF
BEHAVIORAL SCIENCES

Strategic Plan

2014-2017



MEMBERS OF THE BOARD

DR. CHRISTINE WIETLISBACH, PUBLIC MEMBER – CHAIR

CHRISTINA WONG, LCSW MEMBER– VICE-CHAIR

SAMARA ASHLEY, PUBLIC MEMBER

DR. LEAH BREW, LPCC MEMBER

DEBORAH BROWN, PUBLIC MEMBER

EILEEN COLAPINTO, PUBLIC MEMBER

ELIZABETH CONNOLLY, LEP MEMBER

DR. HARRY DOUGLAS, PUBLIC MEMBER

SARITA KOHLI, LMFT MEMBER

PATRICIA LOCK-DAWSON, PUBLIC MEMBER

RENEE LONNER, LCSW MEMBER

KAREN PINES, LMFT MEMBER

EDMUND G. BROWN, JR., GOVERNOR

ANNA M. CABALLERO, SECRETARY, BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

DENISE D. BROWN, DIRECTOR, DEPARTMENT OF CONSUMER AFFAIRS

KIM MADSEN, EXECUTIVE OFFICER, BOARD OF BEHAVIORAL SCIENCES

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MESSAGE FROM THE BOARD CHAIR

The Board of Behavioral Sciences is pleased to present its 2014-2017 Strategic Plan. The strategic planning process has been a collaborative effort between Board Members, Board staff, and the public. In this document, we have identified key issues, goals for which the Board will be accountable, and actions we will take to get there. In all of this, we have been guided by the Board's mission – to protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practice.



The Board continually strives to attain meaningful improvements in our programs and services. Some of the most significant Board accomplishments over the past few years are outlined in the following pages. Moving forward, two continued areas of focus will be efficiency and consistency. You will see these threads running through the document. As we enter a period of growth and change in the mental health profession, the Board is committed to providing the highest level of service possible and aligning this commitment with the Governor's efforts to sustain California's economic recovery.

As Chair of the Board of Behavioral Sciences, I invite all interested stakeholders to join in working with us over the next three years to achieve the goals outlined in this strategic plan. The Board publishes advanced notice of all its committee and Board meetings, and encourages your participation and contribution.

Dr. Christine M. Wietlisbach

Chair, Board of Behavioral Sciences

ABOUT THE BOARD

A Pioneering Beginning

In 1945, legislation signed by Governor Earl Warren created the Board of Social Work Examiners. California became the first state to register social workers and the initial effort to protect California consumers began.

Increasing Efforts to Protect Consumers

The 1960's proved to be a busy decade. This young regulatory agency received a new responsibility: administration of the Marriage, Family, and Child Counselor Act in 1963. This additional responsibility inspired a new name: the Social Worker and Marriage Counselor Qualifications Board. In 1969, the Licensed Clinical Social Worker program was established. Change continued in 1970 with the addition of the Licensed Educational Psychologist program. This new mental health profession prompted a third name change: the Board of Behavioral Science Examiners. The Board took its current name, the Board of Behavioral Sciences, on January 1, 1997. Beginning January 1, 2010, a fourth mental health profession, Licensed Professional Clinical Counselor, was added to the Board's regulatory responsibilities.

A Consumer Protection Agency

Since 1945, the Board has been a consumer protection agency that licenses and regulates the mental health profession. Today, the Board provides regulatory oversight for four mental health professions totaling over 85,000 licensees and registrants and growing.

- Licensed Clinical Social Workers
- Licensed Marriage and Family Therapists
- Licensed Educational Psychologists
- Licensed Professional Clinical Counselors

The Board is comprised of six licensed professionals and seven public members. These members make policy decisions and determine appropriate disciplinary

action against licensees and registrants who violate the Board's laws and regulations. Through the Board staff, the decision of the Board members is implemented. These decisions ensure California consumers are protected through effective enforcement of licensee/registrant misconduct and establishing standards for examinations and professional licensure.

Board activity is organized through standing and ad-hoc committees. The Policy and Advocacy Committee is the only current standing committee. Ad-hoc committees are established to address emerging issues or concerns related to mental health practice. Each committee provides the opportunity to collaborate with stakeholders to develop policy recommendations that respond to changes in the mental health profession without compromising consumer protection. All committee recommendations are presented to the full Board for approval during a public Board meeting.

The Board Forges Ahead

Focusing on its mission, the Board of Behavioral Sciences looks to continue its commitment to protect the consumers of California through effective enforcement, ensuring credibility and high professional standards through examinations and licensing requirements, and providing excellent customer service to all its constituents.

SIGNIFICANT ACCOMPLISHMENTS

Through strategic action and ongoing collaboration, the Board has had many accomplishments in recent years. This section briefly reviews the key accomplishments as identified by the Board during its 2013 strategic planning session.

Conducted holistic review of the Board's examination program and proposed legislative changes in 2011 to revise the examination process.

The Board established the Examination Program Review Committee to bring together stakeholders and Board staff to discuss the Board's current examination process and consider possible revisions to improve the process. As a result of this collaboration, the Board proposed legislative changes to revise the sequence of board licensure examinations. The new examination sequence will require all registrants to take and pass a law and ethics examination within the first year of registration. The second and final licensure examination will be administered following completion of the registrant's supervised experience hours.

Assessed the use of the Association of Social Work Board (ASWB) national social worker examination for professional licensure in California and initiated steps to implement its use by 2016.

The Board conducted an assessment of the ASWB national examination and determined the examination was appropriate to use for licensure in California. Effective January 1, 2016, the Board will use this national examination for licensure, which improves license portability among the states.

Partnered with the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) to jointly conduct an occupational analysis to be used for both the national examination and California examination for licensure as a Licensed Marriage and Family Therapist.

This unique partnership allowed AMFTRB to solicit practice information from California Licensed Marriage and Family Therapists (LMFT) in larger numbers than in previous occupational analyses. AMFTRB included California LMFTs in the

national examination development process. The inclusion of California LMFTs allowed the Board to examine the national examination for possible use for licensure in California.

Established ad-hoc committees, such as the Continuing Education Provider Review Committee and the Out-of-State Education Review Committee, to address emerging trends in the mental health professions and improve board programs.

The use of ad-hoc committees allows the Board to thoroughly discuss issues and concerns with its stakeholders to determine a solution that increases licensee competency and consumer protection. Specifically, the Board and stakeholders collaborated to propose revisions to the educational requirements for Licensed Marriage and Family Therapists.

Established business processes and proposed regulations to implement the licensed professional clinical counselor program.

In 2009, Board staff analyzed the statutory requirements for this new mental health profession to identify business processes and promulgate regulations necessary to implement the licensed professional clinical counselor program. The licensure of professional clinical counselors began January 1, 2010.

Communicated and publicized revisions to the educational requirements for licensed marriage and family therapists through outreach activities and on the Board's website.

In 2010, Board staff collaborated with professional associations to host outreach events that provided training and technical assistance to educators regarding the revisions to the educational requirements for licensed marriage and family therapists. These efforts assisted educators in developing curriculum that would comply with the new educational requirements that were effective August 1, 2012.

OUR MISSION

Protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practice.

OUR VISION

All Californians are able to access the highest quality mental health services.

OUR VALUES

INTEGRITY

We are honest, fair and respectful in our treatment of everyone.

QUALITY

We will deliver service, information, and products that reflect excellence with the most efficient use of our resources.

RESPECT

We will be responsive, considerate, and courteous to all, both inside and outside the organization.

ACCOUNTABILITY

We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible.

CUSTOMER SERVICE

We acknowledge all stakeholders as our customers, with professionalism, listen to them, and take their needs into account.

LICENSING

Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.

Licensing Goal 1.1

Identify and implement improvements to the licensing process to decrease application processing times.

SUCCESS MEASUREMENT: *The Board has a reduction in application processing cycle times.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|-------------------|-----------------|
| 1.1.1 | Review and assess current application approval process. | Licensing Manager | Q3 2014 |
| 1.1.2 | Identify areas for improvement and existing barriers to timely processing. | Licensing Manager | Q3 2014 |
| 1.1.3 | Develop strategy to implement process improvement initiatives. | Licensing Manager | Q4 2014 |
| 1.1.4 | Implement program changes. | Licensing Manager | Q1 2015 |

Licensing Goal 1.2 (COMPLETED)

Complete the processing of Licensed Professional Clinical Counselor grandfathered licensing application.

SUCCESS MEASUREMENT: *Processing of Licensed Professional Clinical Counselor grandfather applications is completed.*

Licensing Goal 1.3

Review the current eligibility process for Licensed and Marriage and Family and Licensed Professional Clinical Counselors to identify and reduce barriers and implement process improvements.

SUCCESS MEASUREMENT: *The Board has improved processing times and reduced barriers to the profession.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|---|-----------------|
| 1.3.1 | Establish a supervision committee. | Executive Officer/Assistant Executive Officer | Q2 2014 |
| 1.3.2 | Evaluate current eligibility requirements for licensure. | Supervision Committee | Q2 2014 |
| 1.3.3 | Collaborate with stakeholders to determine appropriate changes. | Executive Officer/Assistant Executive Officer | Q4 2015 |
| 1.3.4 | Draft legislation to address changes and find a sponsor. | Licensing Manager/ Administration Manager | Q1 2017 |
| 1.3.5 | Promulgate regulations to clarify chaptered legislation. | Licensing Manager/ Administration Manager | Q1 2018 |
| 1.3.6 | Educate Board staff, members and stakeholders about the new requirements. | Licensing Manager | Q3 2018 |
| 1.3.7 | Implement program changes. | Licensing Manager | Q4 2018 |

Licensing Goal 1.4

Explore development of uniform clinical supervision standards to ensure consistent supervision of registrants and trainees.

SUCCESS MEASUREMENT: *Board Staff has developed and submitted a recommendation report for possible Board action.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|---|-----------------|
| 1.4.1 | Survey current supervisors to determine current practices. | Licensing Manager | Q2 2015 |
| 1.4.2 | Research best practices nationally to determine how other states are managing this requirement. | Licensing Manager/Supervision Committee | Q3 2015 |
| 1.4.3 | Review current practices and make recommendations for requirement changes. | Supervision Committee | Q4 2015 |
| 1.4.4 | Present recommendations to Board for possible action. | Supervision Committee | Q1 2016 |

Licensing Goal 1.5

Investigate the use of technology for record keeping and therapeutic services and its effects on patient safety and confidentiality and establish best practices for licensees.

SUCCESS MEASUREMENT: *Board staff has developed and submitted a recommendation for possible Board action.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|---|-----------------|
| 1.5.1 | Research current trends and law regarding use of technology in therapeutic services. | Executive Officer/Assistant Executive Officer | Q1 2016 |
| 1.5.2 | Meet with stakeholders to gather opinions on patient safety and confidentiality. | Executive Officer/Assistant Executive Officer | Q2 2016 |
| 1.5.3 | Survey other state regulatory agencies and national associations to assess use of technology in other states. | Executive Officer/Assistant Executive Officer | Q2 2016 |
| 1.5.4 | Work with stakeholders to develop best practice guidelines. | Executive Officer/Assistant Executive Officer | Q3 2016 |
| 1.5.5 | Present recommendations to Board for possible action. | Executive Officer/Assistant Executive Officer | Q4 2016 |

Licensing Goal 1.6

Determine feasibility of license portability and pursue legislation if needed.

SUCCESS MEASUREMENT: *Board staff has developed and submitted a recommendation report for possible Board action.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|------------------------|-----------------|
| 1.6.1 | Compare California requirements against other state requirements to determine differences in how the portability issue is addressed. | Administration Manager | Q4 2016 |
| 1.6.2 | Assess parity between California and other states. | Administration Manager | Q2 2017 |
| 1.6.3 | Make recommendations to Board on possible Memorandum of Understanding (MOU's) with certain states with similar professional standards. | Administration Manager | Q4 2017 |
| 1.6.4 | Meet with stakeholders to discuss portability issues. | Administration Manager | Q1 2018 |
| 1.6.5 | Draft legislation to address changes and find a sponsor, if necessary. | Administration Manager | Q1 2019 |
| 1.6.6 | Promulgate regulations to clarify chaptered legislation, if necessary. | Administration Manager | Q1 2020 |
| 1.6.7 | Educate Board staff, members and stakeholders about the new requirements, if necessary. | Administration Manager | Q2 2020 |
| 1.6.8 | Implement program changes, if necessary. | Administration Manager | Q3 2020 |

Licensing Goal 1.7

Establish ongoing process to evaluate requirements for all license types to promote parity between licensing programs

SUCCESS MEASUREMENT: *Regulatory process established.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|-------------------|-----------------|
| 1.7.1 | Establish a process for tracking and reviewing needed regulatory and statutory changes. | Executive Officer | Q4 2015 |
| 1.7.2 | Establish quarterly regulation and statute review meeting with internal program managers. | Executive Officer | Q4 2015 |
| 1.7.3 | Make regulation change recommendations to Board annually. | Executive Officer | Q4 2016 |

Licensing Goal 1.8

Evaluate the feasibility of online application submission through the Breeze system and implement if possible.

SUCCESS MEASUREMENT: *The Board has requested feasible programming changes.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|-----------------------------|-----------------|
| 1.8.1 | Evaluate current Board applications and determine which are conducive to online submission. | Assistant Executive Officer | Q4 2015 |
| 1.8.2 | Meet with BreEZe team to discuss application needs. | Assistant Executive Officer | Q1 2016 |
| 1.8.3 | Request programming changes if determined feasible. | Assistant Executive Officer | Q2 2016 |

EXAMINATIONS

Administer fair, valid, comprehensive, and relevant licensing examinations.

Examinations Goal 2.1

Implement recommendations made by the Exam Program Review Committee to restructure the examination process and promulgate regulations if necessary.

SUCCESS MEASUREMENT: *The Board has implemented the restructured exam.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|------------------------|-----------------|
| 2.1.1 | Draft regulations to restructure exam sequence. | Administration Manager | Q1 2014 |
| 2.1.2 | Obtain Board approval of regulations packet. | Administration Manager | Q1 2014 |
| 2.1.3 | Submit regulation package to OAL. | Administration Manager | Q1 2014 |
| 2.1.4 | Conduct public comment hearing. | Administration Manager | Q1 2014 |
| 2.1.5 | Obtain regulation approval by OAL. | Administration Manager | Q3 2014 |
| 2.1.6 | Revise sequence with Office of Professional Examination Standards (OPES) and develop exam for Licensed Marriage Family Therapists, Licensed Professional Clinical Counselor, and Licensed Clinical Social Worker. | Administration Manager | Q3 2015 |

| Major Actionable Tasks to Accomplish (Continued for Examinations Goal 2.1) | | Responsible Party | Completion Date |
|---|---|--|------------------------|
| 2.1.7 | Initiate exam contract with Association of Social Work Boards (ASWB) and National Board of Certified Counselors (NBCC) to utilize national exams. | Administration Manager | Q3 2015 |
| 2.1.8 | Make necessary changes to BreEZe. | Administration Manager/ Assistant Executive Officer | Q4 2015 |
| 2.1.9 | Train staff on new exam requirements. | Administration Manager/ Assistant Executive Officer | Q4 2015 |
| 2.1.10 | Educate exam applicants on new requirements. | Administration Manager/ Assistant Executive Officer | Q1 2016 |

Examinations Goal 2.2

Establish a recruitment process for Subject Matter Experts (SMEs) to ensure a diverse pool on which to draw for examination development.

SUCCESS MEASUREMENT: *The Board has SMEs with a diverse range of experience and work setting.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|------------------------|-----------------|
| 2.2.1 | Review current pool and recruitment process to evaluate needs. | Administration Manager | Q1 2015 |
| 2.2.2 | Identify criteria/expertise with OPES for Subject Matter Expert (SME) qualifications. | Administration Manager | Q2 2015 |
| 2.2.3 | Develop a criteria list that includes expertise and experience. | Administration Manager | Q3 2015 |
| 2.2.4 | Create new process to recruit candidates based on the new criteria. | Administration Manager | Q1 2016 |
| 2.2.5 | Implement the new recruitment process to create a candidate pool. | Administration Manager | Q2 2016 |

Examinations Goal 2.3

Create a process for evaluating the performance of Subject Matter Experts assisting with exam development.

SUCCESS MEASUREMENT: *The Board has a SME evaluation procedure in place.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|------------------------|-----------------|
| 2.3.1 | Identify the evaluation criteria with OPES. | Administration Manager | Q2 2015 |
| 2.3.2 | Develop the analysis tool (worksheet). | Administration Manager | Q3 2015 |
| 2.3.3 | Establish frequency of evaluation. | Administration Manager | Q3 2015 |
| 2.3.4 | Train staff on how to conduct evaluation and compile and analyze the data. | Administration Manager | Q4 2015 |
| 2.3.5 | Implement the new evaluation system. | Administration Manager | Q4 2015 |

ENFORCEMENT

Protect the health and safety of consumers through the enforcement of laws and regulations.

Enforcement Goal 3.1

Establish a recruitment process for Subject Matter Experts (SMEs) to ensure a diverse pool on which to draw for case expert evaluations.

SUCCESS MEASUREMENT: *The Board has access to SME's with a diverse range of experience and work setting.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|---------------------|-----------------|
| 3.1.1 | Review current pool and recruitment process to evaluate needs. | Enforcement manager | Q3 2014 |
| 3.1.2 | Identify criteria and expertise for SME qualifications. | Enforcement manager | Q3 2014 |
| 3.1.3 | Develop a criteria list that includes expertise and experience. | Enforcement manager | Q3 2014 |
| 3.1.4 | Select SME's that meets diversity criteria. | Enforcement manager | Q1 2015 |

Enforcement Goal 3.2

Develop a training program, including uniform standards for reports and evaluations, for all enforcement Subject Matter Experts.

SUCCESS MEASUREMENT: *The Board has developed and implemented a SME training program.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|---------------------|-----------------|
| 3.2.1 | Review existing training manuals. | Enforcement manager | Q4 2014 |
| 3.2.2 | Establish criteria for reports with the AG's office. | Enforcement manager | Q4 2014 |
| 3.2.3 | Recruit experts from AG's office, DOI, and current SME's as trainers. | Enforcement manager | Q1 2015 |
| 3.2.4 | Develop training materials. | Enforcement manager | Q1 2015 |
| 3.2.5 | Establish training dates and locations. | Enforcement manager | Q1 2015 |
| 3.2.6 | Conduct training for SMEs. | Enforcement manager | Q1 2015 |

Enforcement Goal 3.3

Improve internal process to regularly consult with the Attorney General's (AG) office to advance pending disciplinary cases.

SUCCESS MEASUREMENT: *The Board has reduced cycle times for disciplinary cases.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|---------------------|-----------------|
| 3.3.1 | Review current process used to track cases at AG's office. | Enforcement manager | Q1 2014 |
| 3.3.2 | Hire and train staff person dedicated to monitoring/managing all pending disciplinary cases. | Enforcement manager | Q2 2014 |
| 3.3.3 | Hire or reassign staff position to monitor/manage all cases at the AG's office. | Enforcement manager | Q4 2014 |

Enforcement Goal 3.4

Establish uniform standards and template for reports and evaluations submitted to the Board related to disciplinary matters.

SUCCESS MEASUREMENT: *The Board has more consistency in reports and evaluations on disciplinary matters.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|---------------------|-----------------|
| 3.4.1 | Meet with select board members and DCA legal to identify criteria that would assist in decision process. | Enforcement manager | Q3 2014 |
| 3.4.2 | Consult with legal counsel to determine feasibility of Board member recommendations. | Enforcement manager | Q3 2014 |
| 3.4.3 | Develop template for report and evaluation. | Enforcement manager | Q4 2014 |
| 3.4.4 | Obtain legal and board member approval. | Enforcement manager | Q1 2015 |
| 3.4.5 | Implement new template. | Enforcement manager | Q2 2015 |

Enforcement Goal 3.5

Create a process for evaluating the performance of Subject Matter Experts assisting on enforcement cases.

SUCCESS MEASUREMENT: *The Board has a SME evaluation procedure in place.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|---------------------|-----------------|
| 3.5.1 | Identify the evaluation criteria. | Enforcement manager | Q4 2014 |
| 3.5.2 | Develop the analysis tool (worksheet). | Enforcement manager | Q1 2015 |
| 3.5.3 | Establish frequency of evaluation. | Enforcement manager | Q1 2015 |
| 3.5.4 | Train staff on how to conduct evaluation and compile and analyze the data. | Enforcement manager | Q2 2015 |
| 3.5.5 | Implement the new evaluation system. | Enforcement manager | Q2 2015 |

Enforcement Goal 3.6

Identify and implement improvements to the investigation process to decrease enforcement processing times.

SUCCESS MEASUREMENT: *The Board has reduced enforcement processing times.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|---------------------|-----------------|
| 3.6.1 | Review and assess current investigative process. | Enforcement manager | Q4 2014 |
| 3.6.2 | Identify areas for improvement and existing barriers to the timely processing. | Enforcement manager | Q4 2014 |
| 3.6.3 | Develop strategy to implement process improvement initiatives. | Enforcement manager | Q1 2015 |
| 3.6.4 | Implement proposed new processes. | Enforcement manager | Q2 2015 |

LEGISLATION AND REGULATION

Ensure the statutes, regulations, policies, and procedures strengthen the Board's mandate and mission.

Legislation and Regulation Goal 4.1

Adopt regulations to incorporate Uniform Standards for Substance Abuse to align with other healing arts boards.

SUCCESS MEASUREMENT: *The Board's regulations are aligned with other Boards regarding Uniform Standards.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|------------------------|-----------------|
| 4.1.1 | Draft regulations for Board to align with SB 1441 regarding uniform standards. | Administration Manager | Q1 2014 |
| 4.1.2 | Obtain Board approval of regulations packet. | Administration Manager | Q2 2014 |
| 4.1.3 | Submit regulation package to OAL. | Administration Manager | Q2 2014 |
| 4.1.4 | Conduct public comment hearing(s). | Administration Manager | Q3 2014 |
| 4.1.5 | Obtain regulation approval by OAL. | Administration Manager | Q1 2015 |
| 4.1.6 | Train staff on new requirements. | Administration Manager | Q4 2015 |
| 4.1.7 | Educate licensees on new requirements. | Administration Manager | Q4 2015 |

Legislation and Regulation Goal 4.2

Modify regulations to shift oversight of continuing education providers to approval agencies.

SUCCESS MEASUREMENT: *The Board has shifted approval oversight to approval agencies.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|------------------------|-----------------|
| 4.2.1 | Draft necessary regulations to shift education oversight. | Administration Manager | Q1 2014 |
| 4.2.2 | Obtain Board approval of regulations packet. | Administration Manager | Q1 2014 |
| 4.2.3 | Submit regulation package to OAL. | Administration Manager | Q1 2014 |
| 4.2.4 | Conduct public comment hearing(s). | Administration Manager | Q1 2014 |
| 4.2.5 | Obtain regulation approval by OAL. | Administration Manager | Q3 2014 |
| 4.2.6 | Make necessary changes to BreZE. | Administration Manager | Q3 2014 |
| 4.2.7 | Train staff on new requirements. | Administration Manager | Q4 2014 |
| 4.2.8 | Educate licensees on new requirements. | Administration Manager | Q1 2015 |

Legislation and Regulation Goal 4.3

Pursue legislation to implement the recommendations of the Out of State Education Review Committee to ensure parity with California educational requirements.

SUCCESS MEASUREMENT: *The Board has chaptered legislation on educational requirements in California.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|------------------------|-----------------|
| 4.3.1 | Draft legislation to address changes. | Administration Manager | Q1 2014 |
| 4.3.2 | Obtain author and introduce legislation. | Administration Manager | Q1 2014 |
| 4.3.3 | Obtain legislative approval. | Administration Manager | Q4 2014 |
| 4.3.4 | Make necessary changes to BreZE. | Administration Manager | Q2 2015 |
| 4.3.5 | Train staff on new requirements. | Administration Manager | Q3 2015 |
| 4.3.6 | Educate licensees on new requirements. | Administration Manager | Q3 2015 |

Legislation and Regulation Goal 4.4

Pursue legislation to resolve the conflict in law that prohibits the Board's access to information necessary for investigation regarding child custody reports.

SUCCESS MEASUREMENT: *The Board has enacted legislation to obtain access to necessary child custody information.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|------------------------|-----------------|
| 4.4.1 | Draft legislation to address changes. | Administration Manager | Q1 2014 |
| 4.4.2 | Obtain author and introduce legislation. | Administration Manager | Q1 2014 |
| 4.4.3 | Obtain legislative approval. | Administration Manager | Q4 2014 |
| 4.4.4 | Train staff on new requirements. | Administration Manager | Q4 2014 |
| 4.4.5 | Educate licensees on new requirements. | Administration Manager | Q4 2014 |

Legislation and Regulation Goal 4.5

Review regulatory parameters for exempt settings and modify, if necessary, to ensure adequate public protection.

SUCCESS MEASUREMENT: *The Board has reviewed and modified exempt settings, if necessary.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|------------------------|-----------------|
| 4.5.1 | Establish Exempt Settings Committee. | Administration Manager | Q3 2014 |
| 4.5.2 | Research current law. | Administration Manager | Q4 2014 |
| 4.5.3 | Meet with stakeholders to determine best practices. | Administration Manager | Q2 2016 |
| 4.5.4 | Identify areas to improve oversight and make recommendations to the Board for legislative changes. | Administration Manager | Q4 2016 |
| 4.5.5 | Draft legislation to address changes. | Administration Manager | Q4 2016 |
| 4.5.6 | Obtain author and introduce legislation. | Administration Manager | Q1 2017 |
| 4.5.7 | Obtain legislative approval. | Administration Manager | Q4 2017 |
| 4.5.8 | Train staff on new requirements. | Administration Manager | Q4 2017 |
| 4.5.9 | Educate licensees on new requirements. | Administration Manager | Q4 2017 |

Organizational Effectiveness

Build an excellent organization through proper Board governance, effective leadership, and responsible management.

Organizational Effectiveness Goal 5.1

Pursue adequate staffing levels across all functional areas within the Board.

SUCCESS MEASUREMENT: *The functional areas within the Board are able to operate within Board established timeframes.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|---|-----------------|
| 5.1.1 | Conduct work unit specific workload assessment. | Executive Officer/Assistant Executive Officer | Q1 2015 |
| 5.1.2 | Work with program managers to establish reasonable processing goals. | Executive Officer/Assistant Executive Officer | Q1 2015 |
| 5.1.3 | Identify staffing deficiencies. | Executive Officer/Assistant Executive Officer | Q2 2015 |
| 5.1.4 | Take steps to obtain new staff, if need is identified. | Executive Officer/Assistant Executive Officer | Q3 2015 |

Organizational Effectiveness Goal 5.2

Evaluate internal procedures to identify areas for improvement to ensure prompt and efficient work process.

SUCCESS MEASUREMENT: *The Board has modified internal processes to increase efficiency.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|---|-----------------|
| 5.2.1 | Map out processes and timeframes for all functional areas with the Board. | Executive Officer/Assistant Executive Officer | Q1 2015 |
| 5.2.2 | Work with unit managers to identify areas of inefficiency or improvement. | Executive Officer/Assistant Executive Officer | Q1 2015 |
| 5.2.3 | Set processing benchmarks and timeframes for selected processes to track efficiency. | Executive Officer/Assistant Executive Officer | Q2 2015 |
| 5.2.4 | Implement program changes. | Executive Officer/Assistant Executive Officer | Q3 2015 |
| 5.2.5 | Monitor timeframes on selected processes to ensure efficiency. | Executive Officer/Assistant Executive Officer | Q1 2016 |

Organizational Effectiveness Goal 5.3

Enhance Board employee recognition program to reward exceptional performance and service.

SUCCESS MEASUREMENT: *The Board has implemented and employee recognition program.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|---|-----------------|
| 5.3.1 | Develop and send out survey to staff for recognition suggestions. | Executive Officer/Assistant Executive Officer | Q3 2014 |
| 5.3.2 | Look at staff suggestions and develop a recognition strategy. | Executive Officer/Assistant Executive Officer | Q3 2014 |
| 5.3.3 | Work with management and staff to develop and implement recognition plan. | Executive Officer/Assistant Executive Officer | Q3 2014 |
| 5.3.4 | Discuss with management enforcement- specific achievements worthy of note. | Executive Officer/Assistant Executive Officer | Q4 2014 |
| 5.3.5 | Implement recognition program. | Executive Officer/Assistant Executive Officer | Q4 2014 |

Organizational Effectiveness Goal 5.4

Implement an internal training and education program for all Board staff to enhance skills and abilities for professional development.

SUCCESS MEASUREMENT: *Board staff meets promotional minimum qualifications.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|---|-----------------|
| 5.4.1 | Revise and implement new employee orientation to better inform staff about Board operations. | Executive Officer/Assistant Executive Officer | Q3 2014 |
| 5.4.2 | Review Minimum Qualifications for current staff classifications (Staff Service Analysts, Associate Governmental Program Analysts, and Managers). | Executive Officer/Assistant Executive Officer | Q4 2014 |
| 5.4.3 | Identify and develop Board staff employee skillsets and determine training needs for existing staff. | Executive Officer/Assistant Executive Officer | Q1 2015 |
| 5.4.4 | Identify training needs to increase staff qualifications for key areas of Board operations (e.g. leg/reg, budgets, investigations, enforcement). | Executive Officer/Assistant Executive Officer | Q2 2015 |
| 5.4.5 | Provide training or encourage staff participation in external training that will enhance Board staff skillset. | Executive Officer/Assistant Executive Officer | Q3 2015 |

Organizational Effectiveness Goal 5.5

Establish standing Board committees that align with the Board's strategic goal areas.

SUCCESS MEASUREMENT: *The Board has established committees aligned with Board goal areas.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|---|-----------------|
| 5.5.1 | Identify Board member interest in each area and make committee assignments. | Executive Officer/Assistant Executive Officer | Q3 2014 |
| 5.5.2 | Establish meeting and reporting standards and frequencies. | Executive Officer/Assistant Executive Officer | Q4 2014 |
| 5.5.3 | Educate Board members and affected Board staff on expectations for committee meetings and reporting schedule. | Executive Officer/Assistant Executive Officer | Q4 2014 |

OUTREACH AND EDUCATION

Engage stakeholders through continuous communication about the practice and regulation of the professions.

Outreach and Education Goal 6.1

Implement cost-effective ways to educate applicants and licensees on current requirements.

SUCCESS MEASUREMENT: *The Board has reported a decline in application deficiencies.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|-------------------|-----------------|
| 6.1.1 | Evaluate existing methods to educate applicants on current requirements. | Licensing Manager | Q3 2014 |
| 6.1.2 | Research cost effective ways to educate applicants and licensees on the current requirements. | Licensing Manager | Q4 2014 |
| 6.1.3 | Develop an outreach strategy and guidelines for future opportunities. | Licensing Manager | Q4 2014 |
| 6.1.4 | Implement the outreach strategy and make changes to increase effectiveness. | Licensing Manager | Q1 2015 |

Outreach and Education Goal 6.2

Enhance the Board’s outreach program by redesigning publications and the Board’s website, leveraging new technologies and exploring the use of social media.

SUCCESS MEASUREMENT: *The Board is utilizing new outreach efforts.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|---|-----------------------------|-----------------|
| 6.2.1 | Evaluate current publications and Board website. | Assistant Executive Officer | Q3 2014 |
| 6.2.2 | Survey stakeholders for possible suggestions for format and content. | Assistant Executive Officer | Q4 2014 |
| 6.2.3 | Work with DCA’s Office of Publication, Design, and Editing (PDE) to redesign and update brochures and publications. | Assistant Executive Officer | Q1 2015 |
| 6.2.4 | Work with DCA’s Public Affairs (OPA) Office to identify and utilize technologies. | Assistant Executive Officer | Q1 2015 |
| 6.2.5 | Make necessary changes to website content and format based on suggestions. | Assistant Executive Officer | Q3 2015 |
| 6.2.6 | Develop an outreach update schedule and implement. | Assistant Executive Officer | Q4 2015 |

Outreach and Education Goal 6.3

Partner with the Office of Statewide Planning Health and Development (OSHPD) and other external stakeholder groups to encourage more diversity within the mental health professions.

SUCCESS MEASUREMENT: *The Board has successfully partnered with OSHPD on diversity project.*

| Major Actionable Tasks to Accomplish | | Responsible Party | Completion Date |
|--------------------------------------|--|-------------------|-----------------|
| 6.3.1 | Participate in the OSHPD workforce and education committee. | Executive Officer | Q1 2014 |
| 6.3.2 | Collaborate with OSHPD to implement suggestions from the Mental Health Services Act (MHSA) report. | Executive Officer | Q4 2019 |
| 6.3.3 | Monitor and report on implementation of the MHSA plan. | Executive Officer | Q4 2019 |



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| Licensing | DUE DATE | STATUS |
|--|-----------------|---|
| <i>Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.</i> | | |
| 1.1 Identify and implement improvements to the licensing process to decrease application processing times. | Q1 2015 | Manager worked with lead evaluator to create a more comprehensive training process for new evaluators. Manager created excel spreadsheet tool to automate calculations of experience hours. |
| 1.2 Complete the processing of Licensed Professional Clinical Counselor grandfathered licensing application. | Q1 2014 | Completed October 1, 2013 |
| 1.3 Review the current eligibility process for Licensed Marriage and Family Therapists and Licensed Professional Clinical Counselors to identify and reduce barriers and implement process improvements. | Q4 2018 | Established a Supervision Committee. First Committee meeting was held on April 4, 2014. Next meeting will be held on June 27, 2014. |
| 1.4 Explore development of uniform clinical supervision standards to ensure consistent supervision of registrants and trainees. | Q4 2015 | Established a Supervision Committee. First Committee meeting April 4, 2014. Next meeting will be held on June 27, 2014. |
| 1.5 Investigate the use of technology for record keeping and therapeutic services and its effects on patient safety and confidentiality and establish best practices for licensees. | Q4 2016 | |
| 1.6 Determine feasibility of license portability and pursue legislation if needed. | Q3 2020 | |
| 1.7 Establish ongoing process to evaluate requirements for all license types to promote parity between licensing programs as appropriate. | Q4 2016 | |

1.8 Evaluate the feasibility of online application submission through the Breeze system and implement if possible. Q2 2016

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

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

Legislation and Regulation

Ensure that statutes, regulations, policies, and procedures strengthen and support the Board's mandate and mission.

| | DUE DATE | STATUS |
|--|-----------------|---|
| 4.1 Adopt regulations to incorporate <u>Uniform Standards for Substance Abusing Licensees</u> to align with other healing arts boards. | Q4 2014 | Rulemaking package submitted to Board for approval March 2014. |
| 4.2 Modify regulations to shift oversight of continuing education providers to Approval Agencies. | Q4 2014 | Rulemaking package currently with Agency for approval. Approval or denial expected by end of May. |
| 4.3 Pursue legislation to implement the recommendations of the Out of State Education Review Committee to ensure parity with California educational requirements. | Q3 2015 | AB 2213 introduced February 2014 |
| 4.4 Pursue legislation to resolve the conflict in law that prohibits the Board's access to information necessary for investigations regarding child custody reports. | Q4 2014 | AB 1843 introduced February 2014 Stakeholder meeting was conducted and Board has obtained a legal opinion. A bill with joint authors has been obtained, and staff continues to work with stakeholders to craft language that is acceptable to all parties. |
| 4.5 Review regulatory parameters for exempt settings and modify, if necessary, to ensure adequate public protection. | Q4 2017 | |

| Organizational Effectiveness <i>Build an excellent organization through proper Board governance, effective leadership, and responsible management.</i> | DUE DATE | STATUS |
|--|-----------------|--|
| 5.1 Pursue adequate staffing levels across all functional areas within the Board. | Q3 2015 | Received 8 new positions in FY 14/15 budget. The Board is currently recruiting and in the process of filling new and vacant positions and plans to be fully staffed by the Fall of 2014. |
| 5.2 Evaluate internal procedures to identify areas for improvement to ensure prompt and efficient work processes. | Q1 2016 | Staff has asked the Department’s SOLID Planning Solutions to assist with Process Improvement activities. SOLID will not be available to assist until Fall of 2014. The Board continues to identify and implement processes and procedures that assist in efficient processing. |
| 5.3 Enhance Board employee recognition program to reward exceptional performance and service. | Q4 2014 | |
| 5.4 Implement an internal training and education program for all Board staff to enhance skills and abilities for professional development. | Q3 2015 | |
| 5.5 Establish standing Board committees that align with the Board’s strategic goal areas. | Q4 2014 | |

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

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To: Board Members

Date: May 1, 2014

From: Steve Sodergren
Assistant Executive Officer

Telephone: (916) 574-7847

Subject: Supervision Committee Update

In November 2013, the Supervision Committee was appointed to conduct a holistic review of the current requirements for supervised work experience and requirements for supervisors. The Committee anticipates submitting its recommendations to the Board in 2016. Committee members are Dr. Leah Brew, LPCC and Elizabeth Connolly.

The Committee met for the first time on April 4th, 2014 in Sacramento. Topics of discussion included:

- The purpose of the committee.
- A survey conducted by the Board in 2005 to gain a better understanding of the quality and nature of an intern's or associate's supervision experience.
- The similarities and differences in supervision requirements for each Board license type. The comparison focused on supervised experience hours and categories, supervision requirements, supervisor qualifications, supervisor responsibilities, and employer/work setting requirements.
- Result of staff research concerning the similarity of other states' supervision requirements (Florida, Indiana, New York, Oregon, South Carolina).
- Professional organizations that provide guidance on supervisory-related issues and/or have a program that provides certification for supervisors who meet the association's standards.
- The possibility of conducting a new supervision survey.

Staff was directed to draft a new supervision survey tool that will be discussed at the next committee meeting.

The next Committee meeting is scheduled for June 27, 2014 and will be held at the Phillips Graduate Institute in Chatsworth, California.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1702

VERSION: AMENDED APRIL 23, 2014

AUTHOR: MAIENSCHIN

SPONSOR: AFSCME LOCAL 2620

RECOMMENDED POSITION: OPPOSE

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 some or all of the licensure requirements were completed while the individual 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 on the basis that some or all of the licensure requirements were completed while the individual was incarcerated. (BPC §480.5(a))
- 2) States that this provision does not apply to a petition for reinstatement of a license. (BPC §480.5(b))
- 3) States that this provision does not limit the ability of a board to deny a license if the conviction was for a crime substantially related to the qualifications, functions, or duties of the business or profession (BPC §480.5(b))
- 4) States that this provision does not apply to the licensure of chiropractors. (BPC §480.5(c))

Comment:

- 1) **Background.** According to the author, "The purpose of [this bill] is to remove any obstacles preventing individuals who have obtained specific job training [and education], while incarcerated, from receiving a license for that particular profession. This bill is necessary because many of the licensing boards have provisions in place to delay or prevent a person with a criminal record from receiving a professional license."
- 2) **Applicability to this Board.** This Board does not have any provisions in place to delay or prevent a person with a criminal record from receiving a professional license, solely because some or all of the licensing requirements were completed during incarceration. If the applicant has a criminal conviction, the Board would evaluate the applicant based on the circumstances of the conviction, in order to determine whether the conviction is substantially related to the qualifications, functions, or duties of the profession. This is done in accordance with the law and for the purpose of public protection.
- 3) **Concerns About Delays in Processing Time.** This bill prohibits a board from delaying the processing of an application solely based on the fact that the applicant completed some or all of the licensing requirements while incarcerated.

The Board does not delay application processing solely on the fact that education or experience was obtained during incarceration. However, 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) **Recommended Position.** At its April 3, 2014 meeting, the Policy and Advocacy Committee recommended that the Board take an "oppose" position on this bill.
- 5) **Subsequent Amendments.** This bill has been amended since its consideration by the Policy and Advocacy Committee. The author amended the bill in an attempt to further clarify that the prohibition on delay and denial based is based on the fact that the applicant completed some or all of the licensure requirements while incarcerated. Boards are still permitted to deny a license based on criminal convictions substantially related to the practice of the profession.

6) **Support and Opposition.**

Support:

- American Federation of State, County, and Municipal Employees (AFSCME) Local 2620 (Sponsor)
- California Board of Accountancy
- California Communities United Institute
- California Correctional Peace Officers Association
- Legal Services for Prisoners with Children

- National Employment Law Project
- Riverside Sheriffs' Association
- The Los Angeles Probation Officers' Union, AFSCME Local 685
- The Women's Foundation
- Fifty-two individuals

Opposition:

- None on file.

7) History

2014

04/24/14 Re-referred to Com. on APPR.

04/23/14 Read second time and amended.

04/22/14 From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 14. Noes 0.) (April 22).

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.

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AMENDED IN ASSEMBLY APRIL 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1702

Introduced by Assembly Member Maienschein
(Coauthor: Senator Mitchell)

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 amended, 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.~~ *on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.*

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 *division* while incarcerated, who applies for that license upon
- 6 release from incarceration, and who is otherwise eligible for the
- 7 license shall not be subject to a delay in processing his or her
- 8 application or a denial of the license solely ~~based on the prior~~
- 9 ~~incarceration, except as provided in Section 480.~~ *on the basis that*
- 10 *some or all of the licensure requirements were completed while*
- 11 *the individual was incarcerated.*
- 12 (b) Nothing in this section shall be construed to apply to a
- 13 petition for reinstatement of a license *or to limit the ability of a*
- 14 *board to deny a license pursuant to Section 480.*
- 15 (c) This section shall not apply to the licensure of individuals
- 16 under the initiative act referred to in Chapter 2 (commencing with
- 17 Section 1000) of Division 2.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2058 **VERSION:** AMENDED APRIL 9, 2014

AUTHOR: WILK **SPONSOR:** AUTHOR

RECOMMENDED POSITION: SUPPORT

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 it is a standing committee 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. This 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) **Recommended Position.** At its April 3, 2014 meeting, the Policy and Advocacy Committee recommended that the Board take a "support" position on this bill.
- 6) **Support and Opposition.**
 - Support:*
 - None on file.

Opposition:

- California Board of Accountancy

7) **History**

2014

04/10/14 Re-referred to Com. on APPR.

04/09/14 Read second time and amended.

04/08/14 From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 19. Noes 0.) (April 2).

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.

AMENDED IN ASSEMBLY APRIL 9, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2058

Introduced by Assembly Member Wilk
(Coauthors: Assembly Members Hagman and Harkey)
(Coauthor: Senator DeSaulnier)
(Coauthors: Senators DeSaulnier, Gaines, and Vidak)

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 amended, 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:~~

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

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

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

33 ~~SEC. 2.~~

34 ~~SECTION 1.~~ Section 11121 of the Government Code is
35 amended to read:

36 11121. As used in this article, “state body” means each of the
37 following:

38 (a) Every state board, or commission, or similar multimember
39 body of the state that is created by statute or required by law to

1 conduct official meetings and every commission created by
2 executive order.

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

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

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

23 ~~SEC. 3.~~

24 *SEC. 2.* This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety within
26 the meaning of Article IV of the Constitution and shall go into
27 immediate effect. The facts constituting the necessity are:

28 In order to avoid unnecessary litigation and ensure the people's
29 right to access of the meetings of public bodies pursuant to Section
30 3 of Article 1 of the California Constitution, it is necessary that
31 act take effect immediately.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2165

VERSION: AMENDED APRIL 10, 2014

AUTHOR: PATTERSON

SPONSOR: AUTHOR

RECOMMENDED POSITION: OPPOSE

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. The bill would also permit applicants to take the required licensing examinations immediately upon graduation from an approved or accredited program which meets the education requirements for a license.

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(a))
- 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(a))
- 3) States that for purposes of issuing a license, an applicant has satisfied all requirements for licensure only if all required documents have been submitted to the Board. (BPC §101.8(b))
- 4) Requires a licensing board to offer each required examination a minimum of six times per year, unless the board uses a national examination. (BPC §101.8(c))
- 5) Allows a person who has satisfied the educational requirements for licensure, through graduation from an approved or accredited educational institution, to immediately apply for and take a board's require licensing exams, even if his or her licensing application is still pending. (BPC §101.8(d))

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 is fully trained. Therefore, the Board expects processing times to be significantly reduced within the next six months.

- 3) Flow of Applications.** Any requirement 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.
- 4) Allowing Testing Upon Graduation.** This bill would allow all applicants to test upon graduation from an accredited or approved school program which meets the educational requirements for the license they are seeking. 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.

- 5) Exam Offerings.** This bill requires licensing boards to offer required licensing exams a minimum of six times per year. Any national exams the Board accepts or requires would not be subject to this requirement.

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.

- 6) Term "Satisfied all of the Requirements for Licensure" Unclear.** This bill states that for purposes of issuing a license, an applicant has satisfied all requirements for licensure only if all documents required by the Board for licensure have been submitted, regardless of who is required to submit them (BPC §101.8(b)).

The intent of this language may be to clarify that all documents must be submitted by all parties before a license application is considered complete. Official transcripts, for example, are sometimes sent directly to the Board by the school; the applicant does not always submit them directly.

However, the wording of this language implies that an applicant has satisfied all of the requirements for licensure if all documents have been submitted, regardless of whether those submitted documents, upon review by the Board, actually meet the licensing requirements.

- 7) 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.
- 8) Recommended Position.** At its meeting on April 3, 2014, the Policy and Advocacy Committee recommended that the Board take an "oppose" position on this legislation.
- 9) Subsequent Amendments.** This bill has been amended since its consideration by the Policy and Advocacy Committee on April 3, 2014. The amendment allowing testing immediately upon graduation from an accredited or approved education program that meets the education requirements for a license (Item #4 above) and the amendment defining which applicants "satisfied all of the requirements for licensure" (Item #6 above) were not included in the version of the bill considered by the Committee.

10) Support and Opposition.

Support:

- None on file.

Opposition:

- None on file.

11) History

2014

04/22/2014 Apr. 22 In committee: Set, first hearing. Hearing canceled at the request of author.

04/21/2014 Apr. 21 Re-referred to Com. on B.,P. & C.P.

04/10/2014 Apr. 10 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.

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.

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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~~ *professions and vocations*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2165, as amended, 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, *as defined*, 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~~ *those* 45 days, a license to an applicant who *has* successfully satisfied all licensure requirements, *as specified*. The bill ~~would also require~~ *require* 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, *unless the board uses a national examination*. The bill would also authorize a person who has satisfied the educational requirements of the licensing act of which he or she seeks licensure to immediately apply for and take the professional examination required for licensure regardless of whether his or her

application for licensure is then pending with the board for which he or she seeks licensure.

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) For purposes of paragraph (2) of subdivision (a), an*
 13 *applicant has satisfied all of the requirements for licensure under*
 14 *the applicable licensing act only if all of the documents required*
 15 *by the licensing board for licensure have been submitted to the*
 16 *board, regardless of whether those documents are to be submitted*
 17 *by the applicant with his or her application or separately by any*
 18 *other person or entity, such as for purposes of, among other things,*
 19 *verification of completion of the applicant’s coursework, training,*
 20 *or clinical experience, if required under the applicable licensing*
 21 *act.*

22 ~~(b)~~
 23 (c) Every board that offers an examination that an applicant is
 24 required to complete successfully for licensure, shall offer that
 25 examination a minimum of six times per year, *unless the board*
 26 *uses a national examination.*

27 (d) *Notwithstanding any other law, a person who has satisfied*
 28 *the educational requirements of the licensing act of which he or*
 29 *she seeks licensure, such as graduation from a state-approved or*
 30 *state-accredited school of which graduation is required by the*
 31 *applicable licensing act, may immediately apply for and take the*
 32 *professional examination required for licensure, regardless of*

- 1 *whether his or her application for licensure is then pending with*
- 2 *the board for which he or she seeks licensure.*

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 909 **VERSION:** AMENDED APRIL 10, 2014

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

RECOMMENDED POSITION: SUPPORT

SUBJECT: DEPENDENT CHILDREN: HEALTH SCREENINGS

Overview:

This bill makes it clear in law that a social worker may authorize a noninvasive 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)
- 5) Defines a "mental health provider" as one of the following (Business and Professions Code (BPC) §865(a)):
 - a. A physician and surgeon specializing in psychiatry;
 - b. A psychologist, psychological assistant, intern, or trainee;
 - c. A licensed marriage and family therapist, intern, or trainee;
 - d. A licensed educational psychologist;
 - e. A credentialed school psychologist;
 - f. A licensed clinical social worker or associate clinical social worker;
 - g. A licensed professional clinical counselor, intern, or trainee; or
 - h. Any other person designated as a mental health professional under California law or regulation.

This Bill:

- 1) Allows a social worker to authorize a noninvasive 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) Defines "mental health care" as the provision of mental health services including assessment, treatment, or counseling, on an outpatient basis. (WIC §369)
- 4) Adds a mental health provider to the list of individuals who may do the following (WIC §369):
 - 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.
 - c. Provide care in an emergency situation, without a court order, if authorized by a social worker.
- 5) 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)
- 6) Specifies that the provisions of this bill do not authorize a child to receive psychotropic medication without consent of the child's parent, guardian, or the court. (WIC §369)
- 7) Specifies that the provisions of this bill do not expand or limit laws governing confidentiality of medical records or psychotherapist-patient privilege. (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 during the 72 hours prior to the detention hearing. 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. Because there is no clear authority for these screenings, the various counties have relied on a variety of local rules

and blanket juvenile court orders to provide authority, leading to inconsistency in the screenings statewide.

The author's office cites the following situations that may be detected by an initial health screening:

- 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) Recommended Position. At its April 3, 2014 meeting, the Policy and Advocacy Committee recommended that the Board take a "support" position on this legislation.

3) Subsequent Amendments. This bill has been amended since its consideration by the Policy and Advocacy Committee on April 3, 2014. Amendments made after consideration by the Committee include the following:

- Allows a social worker to authorize a noninvasive initial medical, dental, and mental health screening for a child taken into temporary custody due to an immediate danger.
- Adds a definition of "mental health care."
- Adds specifications that the provisions of this bill do not authorize child to receive psychotropic medication without parental consent, and do not expand or limit laws governing confidentiality of medical records or psychotherapist-patient privilege.

4) Support and Opposition.

Support:

- County of Los Angeles (Sponsor)
- California State PTA
- County Welfare Directors Association of California
- Glendale City Employees Association
- National Center for Youth Law
- Urban Counties Caucus
- Ventura County Board of Supervisors

Oppose:

- American Civil Liberties Union of California (unless amended)
- American Family Rights Association
- The National Center for Youth Law (unless amended)

5) History

2014

04/29/14 Set for hearing May 6.

04/10/14 Read second time and amended. Re-referred to Com. on JUD.

04/09/14 From committee: Do pass as amended and re-refer to Com. on JUD. (Ayes 5. Noes 0. Page 3120.) (April 8).

03/20/14 From committee with author's amendments. Read second time and amended. Re-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.

AMENDED IN SENATE APRIL 10, 2014
AMENDED IN SENATE MARCH 20, 2014

SENATE BILL

No. 909

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~~ *a noninvasive* 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 care, as defined~~, 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)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (i) Nothing in this section shall be construed as limiting the
29 rights of dependent children, pursuant to Chapter 3 (commencing
30 with Section 6920) of Part 4 of Division 11 of the Family Code,
31 to consent to, among other things, the diagnosis and treatment of
32 sexual assault, medical care relating to the prevention or treatment
33 of pregnancy, including contraception, abortion, and prenatal care,
34 treatment of infectious, contagious, or communicable diseases,
35 mental health treatment, and treatment for alcohol and drug abuse.
36 If a dependent child is 12 years of age or older, his or her social
37 worker is authorized to inform the child of his or her right as a
38 minor to consent to and receive those health services, as necessary.
39 Social workers are authorized to provide dependent children access
40 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)
5 of the Health and Safety Code with regard to communicable disease
6 prevention and control.

7 (k) *This section does not authorize a child to receive*
8 *psychotropic medication without the consent of the child's parent*
9 *or guardian, or the court pursuant to Section 369.5.*

10 (l) *Nothing in this section shall be construed to supersede*
11 *Section 319.1, 357, or 369.5, or Article 3 (commencing with Section*
12 *6550) of Chapter 2 of Part 2 of Division 6, with regard to the*
13 *authorization for mental health services.*

14 (m) *Nothing in this section shall be construed to limit or expand*
15 *the laws governing the confidentiality of medical records, the*
16 *physician-patient privilege, or the psychotherapist-patient*
17 *privilege.*

18 ~~(k)~~

19 (n) For purposes of this section, the term “~~mental~~ following
20 terms shall have the following meanings:

21 (1) “Mental health care” means the provision of mental health
22 services, including assessment, treatment, or counseling, on an
23 outpatient basis.

24 (2) “Mental health provider” has the same meaning as that term
25 is defined in subdivision (a) of Section 865 of the Business and
26 Professions Code.

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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: SUPPORT

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) Recommended Position.** At its April 3, 2014 meeting, the Policy and Advocacy Committee recommended that the Board take a "support" position on this bill. The Committee also asked the sponsor to consider including the Board's other license types in the proposal.

7) Support and Opposition.

Support:

- CAMFT (Sponsor)

Opposition:

- None on file.

8) History

2014

04/01/14 Re-referred to Com. on RLS.

04/01/14 Withdrawn from committee.

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

02/21/14 From printer. May be acted upon on or after March 23.

02/20/14 Introduced. Read first time. To Com. on RLS. for assignment. To print.

9) 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

(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.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 809

VERSION: AMENDED JUNE 25, 2013

AUTHOR: LOGUE

SPONSOR: AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: HEALING ARTS: TELEHEALTH

Existing Law:

- 1) Defines “telehealth” as a mode of delivering health care via information and communication technologies. The patient’s location is the originating site, and the health care provider’s location is the distant site. (Business and Professions Code (BPC) §2290.5)
- 2) States that prior to providing health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used. The patient must then provide a verbal consent, which must be documented in the medical record. (BPC §2290.5)
- 3) Defines an “originating site” as the site where the patient is located at the time health care services are provided. (BPC §2290.5)
- 4) Defines “distant site” as the site where the health care provider is located while providing the telehealth services. (BPC §2290.5)
- 5) Makes licensee failure to obtain consent unprofessional conduct. (BPC §§ 2290.5, 4982, 4989.54, 4992.3, and 4999.90)

This Bill:

- 1) Requires the health care provider initiating the use of telehealth at the originating site to do the following (BPC §2290.5(b)):
 - Inform the patient about the use of telehealth;
 - Obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health during a specified course of health care and treatment;
 - Document the consent in the patient’s medical record; and
 - Transmit the documented consent to a distant-site health care provider who will be providing the telehealth services upon initiation of that treatment.
- 2) Requires the distant-site health care provider to either confirm the patient’s telehealth consent from the originating provider, or separately obtain and document telehealth consent from the patient (BPC §2290.5(b))

Comments:

- 1) Background.** AB 415 (Logue, Chapter 547, Statutes of 2011) updated the law by removing the term “telemedicine,” and its corresponding outdated definition. In its place, the term “telehealth” was used, and telehealth was defined to include a broader, more up-to-date range of services.

Prior to AB 415 changing the telehealth law as of January 1, 2012, a practitioner performing telemedicine was required to obtain both a verbal and written informed consent from the patient. This consent was required to contain detailed information, including information about the patient’s ability to withhold or withdraw consent at any time, a description of the risks, consequences, and benefits of telemedicine, and a statement about confidentiality and existing laws regarding access to medical information. AB 415 deleted these provisions, and the law currently just requires a patient’s verbal consent to telehealth, which is documented in the medical record.

- 2) Intent of This Bill.** Since AB 415 became effective, two unintended consequences have arisen:

- a) BPC §2290.5(b) states that “Prior to the delivery of health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use.”

The term “originating site” is defined as the location of the patient. This implies that if the health care provider does not physically go to the site where the patient is located to obtain the patient’s verbal consent, then he or she is guilty of unprofessional conduct and subject to disciplinary action on his or her license or registration. This runs counter to the purpose of telehealth, which is to use electronic means to make health care more accessible, especially for patients in rural areas.

- b) BPC §2290.5(b) is also written to require that a health care provider must obtain verbal consent for telehealth prior to every visit with the patient. Several physicians have complained that this requirement is burdensome to their treatment of patients.

- 3) Current Version of this Bill.** The current version of this bill corrects the problem of requiring consent prior to every instance of telehealth by making an amendment that states that the initial consent applies during a specified course of health care and treatment.

It also may correct the problem of the health care provider needing to be at the originating site (the site of the patient) when consent is obtained. It allows the health care provider initiating the telehealth at the originating site to obtain the verbal or written consent, and then transmit the consent to a distant-site health care provider who will be performing the course of telehealth treatment. It remains unclear what action is needed if there is not initially a health care provider at the originating site (site of the patient).

In a conversation with the author’s office, a staff member noted that they are planning additional amendments to this bill prior to its hearing in the Senate Health Committee in June 2014.

- 4) Urgency Measure.** This bill is an urgency measure, which means it would become effective immediately upon signature by the Governor.
- 5) Previous Board Position.** A previous version of this bill was presented to the Board at its May 23, 2013 meeting. The Board decided not to take a position on the bill at that time.

6) Support and Opposition.

Support:

- Medical Board of California
- Association of California Healthcare Districts
- California Academy of Physician Assistants
- California Association of Physician Groups

Oppose:

- American Federation of State, County and Municipal Employees

7) History

2013

07/01/13 In committee: Set, first hearing. Hearing canceled at the request of author.

06/25/13 From committee chair, with author's amendments: Amend, and re-fer to committee. Read second time, amended, and re-referred to Com. on HEALTH.

06/18/13 From committee: Do pass and re-fer to Com. on HEALTH. (Ayes 10. Noes 0.) (June 17). Re-referred to Com. on HEALTH.

06/10/13 In committee: Set, first hearing. Hearing canceled at the request of author.

05/23/13 Referred to Coms. on B., P. & E.D. and HEALTH.

05/13/13 In Senate. Read first time. To Com. on RLS. for assignment.

05/13/13 Read third time. Urgency clause adopted. Passed. Ordered to the Senate. (Ayes 74. Noes 0. Page 1383.).

05/08/13 Read second time. Ordered to third reading.

05/07/13 From committee: Do pass. (Ayes 12. Noes 0.) (May 7).

04/30/13 Re-referred to Com. on B.,P. & C.P.

04/29/13 Read second time and amended.

04/25/13 From committee: Do pass as amended and re-fer to Com. on B.,P. & C.P. (Ayes 15. Noes 0.) (April 23).

04/09/13 In committee: Set, first hearing. Hearing canceled at the request of author.

04/04/13 Re-referred to Com. on HEALTH.

04/03/13 From committee chair, with author's amendments: Amend, and re-fer to Com. on HEALTH. Read second time and amended.

03/04/13 Referred to Coms. on HEALTH and B.,P. & C.P.

02/22/13 From printer. May be heard in committee March 24.

02/21/13 Read first time. To print.

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AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 809

Introduced by Assembly Member Logue
(Coauthor: Senator Galgiani)

February 21, 2013

An act to amend Section 2290.5 of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 809, as amended, Logue. Healing arts: telehealth.

Existing law requires a health care provider, as defined, prior to the delivery of health care services via telehealth, as defined, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. Existing law also provides that failure to comply with this requirement constitutes unprofessional conduct.

~~This bill would allow the verbal consent for the use of telehealth to apply in the present instance and for any subsequent use of telehealth.~~ *require the health care provider initiating the use of telehealth at the originating site to obtain verbal or written consent from the patient for the use of telehealth, as specified. The bill would require that health care provider to document the consent in the patient's medical record and to transmit that documentation with the initiation of any telehealth to any distant-site health care provider from whom telehealth is requested or obtained. The bill would require a distant-site health care*

provider to either obtain confirmation of the patient’s consent from the originating site provider or separately obtain and document consent from the patient about the use of telehealth, as specified.

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

Vote: 2/3. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

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

1 SECTION 1. Section 2290.5 of the Business and Professions
2 Code is amended to read:

3 2290.5. (a) For purposes of this division, the following
4 definitions shall apply:

5 (1) “Asynchronous store and forward” means the transmission
6 of a patient’s medical information from an originating site to the
7 health care provider at a distant site without the presence of the
8 patient.

9 (2) “Distant site” means a site where a health care provider who
10 provides health care services is located while providing these
11 services via a telecommunications system.

12 (3) “Health care provider” means a person who is licensed under
13 this division.

14 (4) “Originating site” means a site where a patient is located at
15 the time health care services are provided via a telecommunications
16 system or where the asynchronous store and forward service
17 originates.

18 (5) “Synchronous interaction” means a real-time interaction
19 between a patient and a health care provider located at a distant
20 site.

21 (6) “Telehealth” means the mode of delivering health care
22 services and public health via information and communication
23 technologies to facilitate the diagnosis, consultation, treatment,
24 education, care management, and self-management of a patient’s
25 health care while the patient is at the originating site and the health
26 care provider is at a distant site. Telehealth facilitates patient
27 self-management and caregiver support for patients and includes
28 synchronous interactions and asynchronous store and forward
29 transfers.

1 (b) Prior to the delivery of health care via telehealth, the health
2 care provider initiating the use of telehealth at the originating site
3 shall ~~verbally~~ inform the patient about the use of telehealth and
4 ~~request the patient's~~ *obtain verbal or written consent, which may*
5 ~~apply in the present instance and for any subsequent use of~~
6 ~~telehealth.~~ *from the patient for the use of telehealth as an*
7 *acceptable mode of delivering health care services and public*
8 *health during a specified course of health care and treatment. The*
9 ~~verbal~~ consent shall be documented in the patient's medical ~~record.~~
10 *record, and the documentation shall be transmitted with the*
11 *initiation of any telehealth for that specified course of health care*
12 *and treatment to any distant-site health care provider from whom*
13 *telehealth is requested or obtained. A distant-site health care*
14 *provider shall either obtain confirmation of the patient's consent*
15 *from the originating site provider or separately obtain and*
16 *document consent from the patient about the use of telehealth as*
17 *an acceptable mode of delivering health care services and public*
18 *health during a specified course of health care and treatment.*

19 (c) Nothing in this section shall preclude a patient from receiving
20 in-person health care delivery services during a *specified* course
21 of *health care and* treatment after agreeing to receive services via
22 telehealth.

23 (d) The failure of a health care provider to comply with this
24 section shall constitute unprofessional conduct. Section 2314 shall
25 not apply to this section.

26 (e) This section shall not be construed to alter the scope of
27 practice of any health care provider or authorize the delivery of
28 health care services in a setting, or in a manner, not otherwise
29 authorized by law.

30 (f) All laws regarding the confidentiality of health care
31 information and a patient's rights to his or her medical information
32 shall apply to telehealth interactions.

33 (g) This section shall not apply to a patient under the jurisdiction
34 of the Department of Corrections and Rehabilitation or any other
35 correctional facility.

36 (h) (1) Notwithstanding any other provision of law and for
37 purposes of this section, the governing body of the hospital whose
38 patients are receiving the telehealth services may grant privileges
39 to, and verify and approve credentials for, providers of telehealth
40 services based on its medical staff recommendations that rely on

1 information provided by the distant-site hospital or telehealth
2 entity, as described in Sections 482.12, 482.22, and 485.616 of
3 Title 42 of the Code of Federal Regulations.

4 (2) By enacting this subdivision, it is the intent of the Legislature
5 to authorize a hospital to grant privileges to, and verify and approve
6 credentials for, providers of telehealth services as described in
7 paragraph (1).

8 (3) For the purposes of this subdivision, “telehealth” shall
9 include “telemedicine” as the term is referenced in Sections 482.12,
10 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

11 SEC. 2. This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or safety within
13 the meaning of Article IV of the Constitution and shall go into
14 immediate effect. The facts constituting the necessity are:

15 In order to protect the health and safety of the public due to a
16 lack of access to health care providers in rural and urban medically
17 underserved areas of California, the increasing strain on existing
18 providers expected to occur with the implementation of the federal
19 Patient Protection and Affordable Care Act, and the assistance that
20 further implementation of telehealth can provide to help relieve
21 these burdens, it is necessary for this act to take effect immediately.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2198 **VERSION:** AMENDED APRIL 21, 2014

AUTHOR: LEVINE **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: MENTAL HEALTH PROFESSIONALS: SUICIDE PREVENTION TRAINING

Overview: This bill would require Board licensees to complete a six-hour training course in suicide assessment, treatment and management. It would also require new applicants who began graduate study after January 1, 2016 to take a 15-hour course in this subject area.

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) Requires an applicant for licensure as a marriage and family therapist, educational psychologist, or clinical social worker who began graduate study on or after January 1, 2016 to complete a minimum of 15 hours of coursework in suicide assessment, treatment, and management before becoming licensed. (BPC §§4980.393, 4989.21, 4996.27)
- 2) Requires an LMFT, LEP, LCSW, or LPCC who began graduate study before January 1, 2016 to complete a 6 hour continuing education course in best practices for suicide assessment, treatment, and management. This course will count toward the licensee's

fulfillment of the 36 hour CE requirement. The course must be taken in the first license renewal period after January 1, 2016, and evidence of completion must be submitted to the Board. (BPC §§4980.394, 4989.35, 4996.275, 4999.77)

- 3) Requires an applicant for LPCC exam eligibility or registration who began graduate study on or after January 1, 2016 to complete a minimum of 15 hours of coursework in suicide assessment, treatment, and management before becoming licensed. (BPC §4999.37)

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) **Timing of the Coursework.** It is not clear from the current language whether the intent is for coursework to be taken prior to registration as an intern/associate, or prior to licensure. The proposed LMFT and LCSW sections state the requirement is prior to licensure, while the LPCC section states the requirement is prior to exam eligibility or intern registration. The language should be amended to be consistent across all license types.

- 5) **Source of Coursework.** It may be desirable to specify that coursework must be obtained from an accredited school, college or university, or from a CE provider that is accepted by the Board.

- 6) 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 evidence, acceptable to the board, of the person's satisfactory completion of the required coursework."

- 7) References to Qualifying Education.** Two sections of the proposed language need modification, as follows:

- **Section 4980.393(a).** This section states that an applicant for LMFT licensure who began graduate study on or after January 1, 2016, and whose education qualifies him or her under Section 4980.36 or 4980.37, shall complete the 15 hour suicide assessment course.

Staff believes the underlined language is unnecessary. In addition, an applicant who began graduate study on or after January 1, 2016, would not have education qualifying under Section 4980.37.

- **Section 4999.37.** This section states that an applicant for LPCC licensure who began graduate study on or after January 1, 2016, and whose education qualifies him or her under Section 4999.32 or 4999.33, shall complete the 15 hour suicide assessment course.

Staff believes the underlined language is unnecessary in this case as well. In addition, an applicant who began graduate study on or after January 1, 2016, would not have education qualifying under Section 4999.32.

- 8) Recommended Position.** At its April 3, 2014 meeting, the Policy and Advocacy Committee decided not to take a position on this bill, as the author's office had indicated the bill would be amended. However, the Committee directed staff to watch this bill and to provide the author's office with technical support, if needed. Staff has provided technical assistance, and the bill has been amended substantially since April's Committee meeting.

9) Support and Opposition.

Support:

- American Foundation for Suicide Prevention, Greater San Francisco Bay Area Chapter
- California Mental Health Directors Association
- Didi Hirsh Mental Health Services
- El Camino Hospital
- National Alliance on Mental Illness, California
- 13 individuals
- Association of California Healthcare Districts (2/20/2014 version)
- California Catholic Conference, Inc. (2/20/2014 version)
- Community Solutions (2/20/2014 version)
- Seven individuals (2/20/2014 version)

Opposition:

- National Association of Social Workers, California Chapter
- California Psychological Association
- American Association for Marriage and Family Therapy, California Division
- California Association of Marriage and Family Therapists
- California Right to Life Committee, Inc. (2/20/2014 version)

History.

2014

04/30/14 From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 0.) (April 29). Re-referred to Com. on APPR.

04/22/14 In committee: Set, first hearing. Hearing canceled at the request of author.

04/22/14 Re-referred to Com. on B.,P. & C.P.

04/21/14 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.

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.

10) Attachments.

Attachment A: *“Suicide and Life-Threatening Behavior: Preventing Suicide through Improved Training in Suicide Risk Assessment and Care: An American Association of Suicidology Task Force Report Addressing Serious Gaps in U.S. Mental Health Training,”* The American Association of Suicidology, 2012.

Preventing Suicide through Improved Training in Suicide Risk Assessment and Care: An American Association of Suicidology Task Force Report Addressing Serious Gaps in U.S. Mental Health Training

WILLIAM M. SCHMITZ JR., PsyD, MICHAEL H. ALLEN, MD, BARRY N. FELDMAN, PhD, NINA J. GUTIN, PhD, DANIELLE R. JAHN, MA, PHILLIP M. KLEESPIES, PhD, PAUL QUINNETT, PhD, AND SKIP SIMPSON, JD

There are twice as many suicides as homicides in the United States, and the suicide rate is rising. Suicides increased 12% between 1999 and 2009. Mental health professionals often treat suicidal patients, and suicide occurs even among patients who are seeking treatment or are currently in treatment. Despite these facts, training of most mental health professionals in the assessment and management of suicidal patients is surprisingly limited. The extant literature regarding the frequency with which mental health professionals encounter suicidal patients is reviewed, as is the prevalence of training in suicide risk assessment and management. Most importantly, six recommendations are made to address the longstanding insufficient training within the mental health professions regarding the assessment and management of suicidal patients.

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The views expressed in this article are solely those of the task force and do not necessarily represent the views of the Department of Veterans Affairs or the U.S. government.

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BACKGROUND

In 2009, suicide was the tenth leading cause of death overall and the third leading cause of death for youth aged between 15 and 24 (Centers for Disease Control and Prevention [CDC], 2012); the number of suicides in the nation (36,909) was more than double the number of homicides (16,799; CDC, 2012). Approximately one third of people who die by suicide have had contact with mental health services within a year of their death, and 20% have had mental health contact within the last month of their life (Luoma, Martin, & Pearson, 2002).

When a mental health professional sees a patient who is at risk for suicide, he or she is faced with the need to make decisions about patient care that can have serious life-or-death consequences. If a patient dies by suicide, there is a significant emotional

impact on the patient's family, his or her social network, and the clinician or clinician-in-training treating the patient (Calhoun, Selby, & Faulstich, 1980; Cerel, Roberts, & Nilsen, 2005; Chemtob, Hamada, Bauer, Torigoe, & Kinney, 1988b; Kleespies, Penk, & Forsyth, 1993; Veilleux, 2011). When a patient of a mental health professional dies by suicide, clinical, ethical, and legal questions may arise about the adequacy of the clinician's evaluation and about the sufficiency of his or her training to perform such evaluations.

In this article, we establish that mental health professionals regularly encounter patients who are suicidal, that patient suicide occurs with some frequency even among patients who are seeking treatment or are currently in treatment, and that, despite the serious nature of these patient encounters, the typical training of mental health professionals in the assessment and management of suicidal patients has been, and remains, woefully inadequate. We follow this with a review of the current state of training and competence among mental health professionals regarding suicide assessment and interventions. We conclude with recommendations to address the longstanding insufficient response of the mental health disciplines to the issue of appropriate training in the assessment and management of suicidal patients.

THE INCIDENCE OF PATIENT SUICIDAL BEHAVIOR IN CLINICAL PRACTICE

Almost all mental health professionals encounter patients who are suicidal. Psychiatrists and other clinical staff who work on inpatient psychiatry units see patients at risk for suicide daily. Multiple agencies (e.g., the Joint Commission) have made it clear that suicides in inpatient settings should not happen, and yet they occur with some frequency. In fact, suicide has regularly been among the five most frequently reported sentinel events in recent years (i.e., an unexpected event in a

hospital that caused serious injury or death; Joint Commission, 2010b); insufficient or absent patient assessment is reported as the root cause in over 80% of suicide deaths in these reported sentinel events (Joint Commission, 2011).

Mental health professionals in outpatient settings also encounter suicidal patients with great regularity. A survey of psychologists-in-training found that 97% of respondents had provided care to at least one patient (and often several) with some form of suicidal behavior or suicidal ideation during their training (Kleespies et al., 1993). In addition, social workers encounter suicidal patients on a regular basis, with 87% of social workers in a random nationwide sample reporting that they had worked with a suicidal patient within the past year (Feldman & Freedenthal, 2006). Other research has found that 55% of clinical social workers reported that at least one of their patients had attempted suicide during their professional careers (Sanders, Jacobson, & Ting, 2008).

Mental health professionals not only treat suicidal patients, but also sometimes lose patients to suicide, leading some authors to refer to suicide as an "occupational hazard" (Chemtob, Bauer, Hamada, Pelowski, & Muraoka, 1989, p. 294). Ruskin, Sakinofsky, Bagby, Dickens, and Sousa (2004) found that 50% of psychiatrists and psychiatry residents in their sample had experienced at least one patient suicide. This finding was consistent with the 51% rate noted in an earlier national survey, which also indicated that a majority of psychiatrists who reported having a patient die by suicide had more than one patient die by suicide (Chemtob, Hamada, Bauer, Kinney, & Torigoe, 1988). Research has found that psychologists, social workers, and counselors experience somewhat lower rates of patient suicide. Between 22% and 30% of psychologists report experiencing a patient suicide (Chemtob, Hamada, Bauer, Torigoe, & Kinney, 1988; Pope & Tabachnick, 1993), and investigations of patient suicides among social workers and counselors reveal numbers similar to those of psychologists (Jacobson, Ting,

Sanders, & Harrington, 2004; McAdams & Foster, 2000).

CURRENT STATUS OF THE FIELD

There have been numerous calls from national and international public, private, and governmental organizations to improve training in the assessment and management of suicide risk (e.g., Institute of Medicine [IOM], 2002; Joint Commission, 2010a; U.S. Department of Health and Human Services [USDHHS], 2001); World Health Organization 1996). In 1999, Dr. David Satcher, then Surgeon General of the United States, issued *The Surgeon General's Call to Action to Prevent Suicide*. In this document, Satcher provided a vision that would lead to a cohesive and comprehensive national suicide prevention strategy (U.S. Public Health Service [USPHS], 1999). The strategy included having mental health professionals achieve competence in suicide risk assessment and management.

Competence has been defined by various authors in a number of different ways. When discussing competence in suicide risk assessment and management, we refer to Quinnett's (2010) definition, in which *competence* is defined as the capacity to conduct:

[A] one-to-one assessment/intervention interview between a suicidal respondent in a telephonic or face-to-face setting in which the distressed person is thoroughly interviewed regarding current suicidal desire/ideation, capability, intent, reasons for dying, reasons for living, and especially suicide attempt plans, past attempts and protective factors. The interview leads to a risk stratification decision, risk mitigation intervention and a collaborative risk management/safety plan, inclusive of documentation of the assessment and interventions made and/or recommended.

Competence in the assessment of suicidality is an essential clinical skill that has consistently been overlooked and dismissed

by the colleges, universities, clinical training sites, and licensing bodies that prepare mental health professionals.

THE PREVALENCE OF TRAINING IN SUICIDE RISK ASSESSMENT AND MANAGEMENT

The lack of training available in the institutions that prepare mental health professionals has been documented for decades. Multiple studies have found that only approximately half of psychological trainees had received didactic training on suicide during their graduate education, and the training provided was often very limited (Dexter-Mazza & Freeman, 2003; Kleespies et al., 1993). It is critical to note that didactic training is not necessarily synonymous with effectively building the skills needed to conduct adequate suicide risk assessments and treat suicidal patients. Providing information to trainees is necessary but not sufficient as trainees must also be given opportunities to translate this information into competent practice by assessing and treating suicidal patients with proper supervision. Nearly 76% of responding directors of graduate programs in psychology indicated that they wanted to include more suicide-specific training in their programs, but encountered a variety of barriers to doing so (Jahn et al., 2012).

Training has been similarly sporadic among social work training programs. Less than 25% of a national sample of social workers reported receiving any training in suicide prevention, with a majority of the respondents reporting that their training had been inadequate (Feldman & Freedenthal, 2006). Faculty and deans-directors of graduate social work programs reported that most students receive 4 hours or fewer of suicide-related education (Ruth et al., 2009). The lack of training is even more pronounced among professional counseling and marriage and family therapy training programs. Wozny (2005) found that suicide-specific courses were present in 6% of accredited marriage and family therapy programs and in

2% of accredited counselor education programs.

Only the field of psychiatry seems to be attempting to ensure that their trainees are, at a minimum, exposed to the skills required to properly conduct a suicide risk assessment and address suicidality in treatment. Ellis, Dickey, and Jones (1998), in a national survey of directors of training in psychiatry, found that 94% of the responding directors reported some form of training in suicide risk assessment and intervention in their residency programs. However, the majority of directors reported that most of the training occurred in passive formats (e.g., therapy supervision, general seminar), and only 27.5% reported training via skill development workshops.

A more recent national survey of chief psychiatry residents by Melton and Coverdale (2009) found that, despite 91% of the residency programs offering some teaching on the care of suicidal patients, the average number of seminar sessions or lectures was only 3.6 and the specific content that was covered by the different programs was often vague and nondescript. Many of the respondents were of the opinion that the focus on suicide intervention was insufficient (Melton & Coverdale, 2009).

The lack of training requirements stands in stark contrast to the ongoing calls for improvement in this area. The original *National Strategy for Suicide Prevention (NSSP; USDHHS, 2001)* outlined critical objectives that would address the oft-cited, and previously discussed, deficiency in training regarding suicidality. Objective 6.3 of the NSSP specifically stated that the goal was to, “[b]y 2005, increase the proportion of clinical social work, counseling, and psychology graduate programs that include training in the assessment and management of suicide risk, and the identification and promotion of protective factors” (p. 82). There was a similarly stated objective (6.2) directing that the same goals be addressed in medical residency and physician assistant educational programs. Furthermore, objective 6.9 called for an “increase [in the] number of recertification or licensing programs in relevant professions that require

or promote competencies in depression assessment and management and suicide prevention” by 2005 (USDHHS, 2001, p. 86).

In late 2010, two organizations (the Suicide Prevention Resource Center [SPRC] and the Suicide Prevention Action Network [SPAN]) collaborated on the publication of *2010 Progress Review of the National Strategy*. This document provided a detailed analysis of how, and to what degree, the original NSSP (USDHHS, 2001) had been implemented. The *2010 Progress Review of the National Strategy* (SPRC & SPAN, 2010) findings regarding the current standards for clinical training were disheartening. After reviewing the standards for 11 different mental health professional groups, “[o]nly the Council for the Accreditation of Counseling and Related Educational Programs ... had increased attention on suicide in its 2009 standards compared to the previous version” (SPRC & SPAN, 2010, p. 23).

Moreover, state licensing boards for clinical social workers and psychologists, whose mission is to protect the public’s health and safety from untrained and unqualified providers, do not require exam items on the assessment and management of suicidal patients. Again, only psychiatry has made some efforts in this regard. The American College of Psychiatrists Psychiatry Resident-in-Training Examination, which is completed by nearly everyone who will be board eligible during their residence, includes suicide-specific questions within the emergency psychiatry domain (American College of Psychiatrists, 2011). In addition to the lack of items on licensure examinations, not a single state or mental health licensing body requires continuing education addressing suicide, suicide risk, or other behavioral emergencies.¹

¹Our review of state continuing education (CE) requirements found eight states having no CE requirements for psychologists, three states having no requirements for social workers, and six states having no requirements for physicians, including psychiatrists. Among states that maintain CE requirements for licensure, our review indicated that none require any suicide-specific CE credits.

However, continuing education on other topics is mandated in a majority of states for licensure renewal. In fact, 27 states require continuing education in ethics for licensure renewal for psychologists, 27 states require continuing education in ethics for licensure renewal for social workers, and 21 states require continuing education in ethics for licensure renewal for addictions counselors. This mandatory education ensures that mental health professionals are informed about the current issues in ethics, yet there is no similar requirement to ensure that mental health professionals are using current information to assess and treat suicidal patients.

The evidence clearly suggests that there has been negligible progress in improving the competence of mental health professionals in evaluating, managing, and treating suicidal patients. However, it is not a lack of effective training materials that has hampered such progress.

Training is Available and Accessible

There have been concerns raised in the past regarding the effectiveness of continuing education programs in impacting providers' behaviors or changing patient-related outcomes (Davis et al., 1999). Recent research has suggested that interactive continuing medical education training programs, especially those that included supervised skill demonstration and rehearsal, significantly affected health care providers' behavior (Bloom, 2005). However, a recent review has raised questions about the efficacy of training in workshop formats for improving the clinical care of the suicidal patient (Pisani, Cross, & Gould, 2011). Despite this review, studies have shown improvements in knowledge and skills because of continuing education programs.

Sockalingam, Flett, and Bergmans (2010), for example, found that training in suicide intervention for psychiatry residents increased comfort in treating suicidal patients and improved self-reported clinical practice. McNiel et al. (2008) reported that a workshop on evidence-based assessment of

suicide risk significantly improved the ability of psychiatry residents and psychology interns to identify risk factors for suicide and also improved their specificity about the significance of risk and protective factors when developing plans for intervention. Allgaier, Kramer, Mergl, and Hegerl (2009) found that training improved attitudes regarding the treatability of older adult suicide risk and increased knowledge about pharmacotherapy for depression and suicide risk among geriatric nursing staff. Moreover, Slovak and Brewer (2010) found that licensed social workers had more positive attitudes toward using firearm assessment and safety counseling when they had received training on the use of firearm counseling for suicide prevention. While Pisani et al. (2011) had some reservations about the efficacy of continuing education programs in changing clinical practices, they noted that there is strong support for the effectiveness of evidence-based training workshops in transferring knowledge and shifting attitudes.

The scientific literature is beginning to demonstrate that empirically based skills taught in a brief continuing education format can change clinic policy, confidence in risk assessment, and confidence in management of suicidal patients, with changes sustained at a 6-month follow-up (McNiel et al., 2008; Oordt, Jobes, Fonseca, & Schmidt, 2009). Findings such as these, in conjunction with the known elements that facilitate the translation of continuing education training into clinical practice (Bloom, 2005), suggest that suicide-specific continuing education can "meaningfully impact professional practices, clinic policy, clinician confidence, and beliefs" (Oordt et al., 2009, p. 21).

At the present time, there are several training programs that have been recognized for disseminating content that is consistent with the core competencies that have been referenced earlier and have been demonstrated to be effective in increasing suicide-specific knowledge and skills. The depth and breadth of these evidence-based training programs vary in length from 6 hours (i.e., *Assessing and Managing Suicide Risk: Core*

Competencies for Mental Health Professionals; SPRC, 2011) to 16 hours (i.e., Recognizing and Responding to Suicide Risk; AAS, 2011). Outcome data regarding behavior change in response to these trainings is emerging, with changes documented up to 4 months after training (Jacobson & Berman, 2010).

Systems-Level Problems Affecting Training

Despite the numerous “calls to action” and sternly worded “recommendations” to increase training and ensure the competence of practitioners in the area of suicide assessment and intervention noted earlier (e.g., USDHHS, 2001; USPHS, 1999), virtually nothing has been done by licensing boards, training programs, and professional organizations. In fact, certain professional organizations have lobbied against efforts to include suicide assessment and intervention training as a mandatory continuing education requirement (J. Linder-Crow, President of the California Psychological Association, personal communication, December 6, 2010).

While the mental health field has remained stagnant regarding the dissemination of improvements in training regarding suicide assessment and treatment, there has been growing pressure from community and grassroots organizations to ensure that suicide prevention education is provided in specific settings. For example, schools, where the issue of youth suicide has prompted action, have begun requiring mandated training in suicide prevention in many states (SPAN, 2011). Virtually all of these gatekeeper trainings that are required for school employees recommend referral to mental health professionals for potentially at-risk youth. Ironically, there is no such mandatory training for the mental health professionals. It is incomprehensible that, in many states, a teacher is now required to have more training on suicide warning signs and risk factors than the mental health professionals to whom he or she is directing potentially sui-

cidal students. In addition, there is an inherent danger in referring suicidal people to mental health professionals who are not adequately trained; if these suicidal people do not feel that treatment has been effective (which is likely the case with mental health professionals who have not received proper training in treating suicidal patients), they may drop out of treatment, become discouraged about treatment with mental health professionals, and never return to treatment, leaving them at even higher risk for suicide.

The lack of training required of mental health professionals regarding suicide has been an egregious, enduring oversight by the mental health disciplines. On an individual level, one could argue that mental health professionals have an ethical obligation to provide only those services that fall within their area of competence. Few, however, have attained specific competence in the assessment, management, and treatment of individuals who are suicidal. In fact, over the years, numerous authors have specifically called into question the ethics of mental health professionals who, without adequate training, provide service to suicidal patients (e.g., Bongar & Harmatz, 1991; Feldman & Fredenthal, 2006; Jacobson et al., 2004; Rudd, Cukrowicz, & Bryan, 2008). Each of the mental health disciplines has ethical codes which stipulate, in slightly different verbiage, that mental health professionals should not provide services that are beyond their area of competence (American Psychiatric Association, 2010; American Psychological Association, 2002; National Association of Social Workers, 2008). Yet, a majority of mental health professionals will provide services to potentially suicidal patients for whom they are ill-equipped, and, most importantly, potentially incompetent to treat.

This issue, however, goes beyond the individual level and is perhaps more appropriately addressed as an issue in systemic ethics. The system of training mental health professionals has, generally, not prepared them to function in the best interests of their patients in regard to the crucial

issue of assessing and managing patient suicidality. Thus, the glaring deficiency in the mental health educational and training system creates an ethical values conflict for practitioners that needs to be addressed.

SUMMARY

Now is the time to make changes to policy and practice to improve the competence of mental health professionals and the quality of care provided to suicidal patients. This task force of the American Association of Suicidology strongly endorses the following recommendations to ensure that mental health professionals are properly trained and competent in evaluating and managing suicidal patients, the most common behavioral emergency situation encountered in clinical practice. This task force makes these recommendations based on the empirical literature and based on the task force members' collective administrative, clinical, and forensic experience. It is this task force's belief that the implementation of the following general and specific recommendations will be a first step toward ensuring that mental health professionals are competent to recognize, assess, manage, and treat suicidal patients.

Recommendations to Improve Training

General Recommendation: A summit comprised of the national leaders in mental health should be convened to formulate plans for implementing the following recommendations.

The mental health disciplines have, to date, failed to meet the *National Strategy for Suicide Prevention* (USDHHS, 2001) goals of increasing the availability of suicide-specific training. However, collaborative work by the various mental health professions (i.e., the American Psychiatric Association, American Psychological Association, and National Association of Social Workers) can facilitate efforts to address this failure. Given the

longstanding reluctance of these groups to implement meaningful change, the additional presence of vested parties and patient safety organizations, such as the National Action Alliance for Suicide Prevention, the National Alliance on Mental Illness, the Leapfrog Group for Patient Safety, and suicide survivors, would also be encouraged to actively participate in this dialog. The American Association of Suicidology is a willing and capable host to such a summit that will aid in ensuring that the longstanding gap in the training of mental health professionals is finally closed.

This proposed summit is the ideal platform for the leaders from each of the mental health disciplines to initiate the change process that is necessary to address issues such as how to implement certification or programmatic recognition for those mental health professionals who have completed requisite training in the core competencies of suicide assessment and management. We recognize that this summit is a starting point for a change process that will continue to evolve.

Recommendation #1: Accrediting organizations must include suicide-specific education and skill acquisition as part of their requirements for postbaccalaureate degree program accreditation.

Organizations such as the American Psychological Association, the Council on Social Work Education, and the Liaison Committee on Medical Education, among others, have stringent accreditation requirements to ensure the competence and professional readiness of trainees that graduate from their programs. These accrediting bodies for each mental health discipline have similar explicit goals to "protect the interests of students, benefit the public, and improve the quality of teaching, research, and professional practice" (American Psychological Association, 2007, p. 2) by "establishing thresholds for professional competence" (Council on Social Work Education, 2008,

p. 1). To meet these goals, accredited programs that aspire to train the mental health professionals of tomorrow must ensure that specific training in the detection, assessment, treatment, and management of suicidal patients is included in the formal education of these future mental health professionals.

Specifically, these programs should incorporate the core competencies that have been identified in the scientific literature and are considered essential for assessing and managing suicide risk (SPRC, 2006). To aid in the process, Rudd et al. (2008) have provided detailed guidelines for facilitating the adequate education of mental health trainees regarding these competencies. These guidelines offer information for supervisors and instructors to ensure that trainees master the content and acquire the skills related to each domain.

The core competencies have been determined and operationalized. It is now necessary to require training programs to utilize these core competencies in their training of future mental health professionals. Ideally, these abilities would be demonstrated through supervised training with a competent supervisor and suicidal patients, but at a minimum, would require some measure of skills-based demonstration (e.g., supervised role plays).

Recommendation #2: State licensing boards must require suicide-specific continuing education as a requirement for the renewal of every mental health professional's license.

Mental health professionals currently providing care have generally not received the necessary training in suicide assessment and treatment. Practicing mental health professionals must improve and maintain their knowledge of suicide risk and develop their skills in assessment and treating suicidal patients. Continuing education is essential to ensure that providers remain current in their understanding of emerging issues while also maintaining, developing, and increasing their overall competencies, thereby improving ser-

vices to the public (American Psychological Association, 2009). As noted above, however, no states currently require suicide-specific continuing education for any mental health professionals. Yet, a majority of states require ethics training, which mental health professionals are compliant and from which they presumably benefit. Thus, it has been demonstrated that a required continuing education area is feasible to implement without being overly burdensome to mental health professionals.

Recommendation #3: State and federal legislation should be enacted requiring health care systems and facilities receiving state or federal funds to show evidence that mental health professionals in their systems have had explicit training in suicide risk detection, assessment, management, treatment, and prevention.

Because of the noted failure of the mental health field to implement changes that have been recommended and necessary for over 10 years in response to the *NSSP* (USDHHS, 2001), the assistance of the state and federal government is now needed to protect the American public and save the lives of suicidal patients. It is incumbent on health care facilities that receive state and federal funds to ensure that they have appropriately trained mental health professionals who can conduct thorough suicide risk assessments and provide appropriate, competent care to those in suicidal crises. Medical centers, hospitals, and health care institutions that receive federal or state funding should be required to hire only mental health professionals who have evidence of training specifically addressing suicide risk assessment and suicidal patient care. Documentation of such training can be met through a variety of paths: through a mental health professional's graduate training, through continuing education programs, or through a standardized certification program.

The development of a national certification program for mental health professionals,

possibly discipline specific, that is skills-based and empirically driven would greatly increase the overall competence of mental health professionals in the assessment and care of suicidal patients. This is not a novel recommendation, as Knesper et al. (2010) have proposed such a program. A mandate for such certification was drafted in a bill submitted by then U.S. Representative Patrick Kennedy (D-RI; H.R. 5040, 2010). While the bill was not enacted prior to the conclusion of the legislative session, had it passed, agencies that provide health care would have been required to show evidence that their staff members had been properly trained in suicide prevention strategies in a manner consistent with the Institute of Medicine (2002) report and the *NSSP* (USDHHS, 2001).

Recommendation #4: Accreditation and certification bodies for hospital and emergency department settings must verify that staff members have the requisite training in assessment and management of suicidal patients.

Hospitals and emergency departments cannot be considered safe havens from suicide. The Joint Commission (2010a) has noted the presence of systemic shortcomings that contribute to suicide in the hospital and emergency department setting, specifically noting problem areas of “inadequate screening and assessment, care planning and observation; insufficient staff orientation and training; poor staff communication; inadequate staffing; and lack of information about suicide prevention and referral resources” (p. 2).

To protect the health and safety of suicidal patients who are in hospital, medical center, and emergency department settings, health care facilities must be responsible for ensuring that their clinical staff members have been specifically trained in the assessment and intervention skills necessary to work effectively with suicidal patients. Rules or standards implemented by any or all of the institutional accreditation organizations

(e.g., the Centers for Medicare and Medicaid Services, the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities) and state regulatory bodies will motivate facilities to address this problem area. Thus, requiring accredited facilities to have documented evidence that their staff has been adequately trained can address the longstanding patient safety issue of improper assessment and management of suicidal patients. Such documentation could easily be reviewed as part of regularly conducted accreditation inspections.

Recommendation #5: Individuals without appropriate graduate or professional training and supervised experience should not be entrusted with the assessment and management of suicidal patients.

This task force is aware of instances in which organizations regularly place individuals with only bachelor-level preparation or less in situations where they are expected to conduct suicide risk assessments without appropriate supervision and to make management recommendations without prior supervisory review or, in some instances, no supervisory review. Given their lack of professional-level education and training, we find this practice irresponsible and egregious. As this document has clearly demonstrated, even the most educated of mental health professionals have generally been exposed to minimal formal training in this critical, specialized skill. Thus, anyone without formal training who has not been taught the requisite skills embodied in the core competencies as recognized and embodied in those programs designated best practices by SPRC referred to above and has not demonstrated these competencies in practice settings under proper supervision should not be responsible for potentially suicidal patients. The task force stresses the goal of enabling and facilitating quality training to current providers and providers-in-training which should, ultimately, save lives. By recommending competence-based training, we

do not intend to deter professionals from engagement with the topic of suicidality, far from it. As previously noted, such training is easily accessible, not excessively time-consuming, and is available from a variety of excellent sources.

Graduate and residency programs that adequately train their graduates consistent with Recommendation #2 are the logical and most qualified venues to ensure that mental health professionals obtain these skills.

CONCLUDING REMARKS

Improving the training and competence of mental health professionals is one of the most logical ways to prevent suicide and save lives. The current state of training within the mental health field indicates that accrediting bodies, licensing organizations, and training programs have not taken the numerous recommendations and calls to action seriously. The recommendations given earlier, if implemented, would address the deficits in training documented in this report. The positions presented here are consistent with those of other organizations (e.g., IOM, 2002; USDHHS, 2001), but fur-

ther elucidates the crisis in training that has continued to be overlooked and dismissed. The American Association of Suicidology considers this a critical problem, and this task force strongly supports the implementation of the recommendations in this report and those included in the *NSSP* (USDHHS, 2001).

The recommendations that have been articulated will require national leaders from the various mental health disciplines, legislative powers, and accrediting and certifying organizations to come forward promptly and move swiftly to address this longstanding deficit. Unfortunately, the research over the past 30 years has clearly demonstrated that those within the mental health disciplines have been reluctant to address the oft-cited insufficient training in the assessment and management of suicidal patients. This task force concurs with and reinforces Jobs (2011) assertion that “a huge challenge to clinical suicide prevention is the actual competency of clinical practitioners” (p. 389). Now is the time to act. Those responsible for ensuring the competence of mental health professionals have overlooked the topic of suicide for far too long.

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Manuscript Received: February 7, 2012

Revision Accepted: February 21, 2012

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AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 Sections 2915.3, 2915.4, 4980.393, 4980.394, 4989.21, 4989.35, 4996.27, 4996.275, 4999.37, and 4999.77~~ to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2198, as amended, 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, *professional clinical counselors*, 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.~~

This bill would require a psychologist, marriage and family therapist, educational psychologist, professional clinical counselor, and clinical social worker who began graduate study on or after January 1, 2016, to complete a minimum of 15 contact hours of coursework in suicide assessment, treatment, and management before he or she may be issued a license. The bill would also require, commencing January 1, 2016, a person licensed in these professions who began graduate study prior to January 1, 2016, to take a six-hour continuing education course in suicide assessment, treatment, and management in order to renew his or her license.

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 2915.3 is added to the Business and*
2 *Professions Code, to read:*

3 *2915.3. (a) Any applicant for licensure as a psychologist who*
4 *began graduate study on or after January 1, 2016, shall complete,*
5 *as a condition of licensure, a minimum of 15 contact hours of*
6 *coursework in suicide assessment, treatment, and management.*

7 *(b) The board shall not issue a license to the applicant until the*
8 *applicant has met the requirements of this section.*

9 *SEC. 2. Section 2915.4 is added to the Business and Professions*
10 *Code, to read:*

11 *2915.4. (a) A licensee who began graduate study prior to*
12 *January 1, 2016, shall complete a six-hour continuing education*
13 *course in best practices for suicide assessment, treatment, and*
14 *management during his or her first renewal period after the*
15 *operative date of this section, and shall submit to the board*
16 *evidence acceptable to the board of the person's satisfactory*
17 *completion of that course.*

18 *(b) The board shall not issue a license to the applicant until the*
19 *applicant has met the requirements of this section.*

1 (c) Continuing education courses taken pursuant to this section
2 shall be applied to the 36 hours of approved continuing education
3 required by Section 2915.

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

5 SEC. 3. Section 4980.393 is added to the Business and
6 Professions Code, immediately following Section 4980.39, to read:

7 4980.393. (a) An applicant for licensure who began graduate
8 study on or after January 1, 2016, and whose education qualifies
9 him or her under Section 4980.36 or 4980.37 shall complete, as
10 a condition of licensure, a minimum of 15 contact hours of
11 coursework in suicide assessment, treatment, and management.

12 SEC. 4. Section 4980.394 is added to the Business and
13 Professions Code, to read:

14 4980.394. (a) A licensee who began graduate study before
15 January 1, 2016, shall complete a six-hour continuing education
16 course in best practices for suicide assessment, treatment, and
17 management, during his or her first renewal period after the
18 operative date of this section and shall submit to the board
19 evidence, acceptable to the board, of the person's satisfactory
20 completion of the course.

21 (b) Continuing education courses taken pursuant to this section
22 shall be applied to the 36 hours of approved continuing education
23 required by Section 4980.54.

24 (c) This section shall become operative on January 1, 2016.

25 SEC. 5. Section 4989.21 is added to the Business and
26 Professions Code, to read:

27 4989.21. (a) Any applicant for licensure as an educational
28 psychologist who began graduate study on or after January 1,
29 2016, shall complete, as a condition of licensure, a minimum of
30 15 contact hours of coursework in suicide assessment, treatment,
31 and management.

32 (b) The board shall not issue a license to the applicant until the
33 applicant has met the requirements of this section.

34 SEC. 6. Section 4989.35 is added to the Business and
35 Professions Code, to read:

36 4989.35. (a) A licensee who began graduate study before
37 January 1, 2016, shall complete a six-hour continuing education
38 course in best practices for suicide assessment, treatment, and
39 management, during his or her first renewal period after the
40 operative date of this section and shall submit to the board

1 *evidence, acceptable to the board, of the person’s satisfactory*
2 *completion of the course.*

3 *(b) Continuing education courses taken pursuant to this section*
4 *shall be applied to the 36 hours of approved continuing education*
5 *required by Section 4989.34.*

6 *(c) This section shall become operative on January 1, 2016.*

7 *SEC. 7. Section 4996.27 is added to the Business and*
8 *Professions Code, immediately following Section 4996.26, to read:*

9 *4996.27. (a) Any applicant for licensure as a licensed clinical*
10 *social worker who began graduate study on or after January 1,*
11 *2016, shall complete, as a condition of licensure, a minimum of*
12 *15 contact hours of coursework in suicide assessment, treatment,*
13 *and management.*

14 *(b) The board shall not issue a license to the applicant until the*
15 *applicant has met the requirements of this section.*

16 *SEC. 8. Section 4996.275 is added to the Business and*
17 *Professions Code, immediately following Section 4996.27, to read:*

18 *4996.275. (a) A licensee who began graduate study prior to*
19 *January 1, 2016, shall complete a six-hour continuing education*
20 *course in best practices for suicide assessment, treatment, and*
21 *management, during his or her first renewal period after the*
22 *operative date of this section, and shall submit to the board*
23 *evidence, acceptable to the board, of the person’s satisfactory*
24 *completion of the course.*

25 *(b) Continuing education courses taken pursuant to this section*
26 *shall be applied to the 36 hours of approved continuing education*
27 *required in Section 4996.22.*

28 *(c) This section shall become operative on January 1, 2016.*

29 *SEC. 9. Section 4999.37 is added to the Business and*
30 *Professions Code, to read:*

31 *4999.37. An applicant for examination eligibility or registration*
32 *who began graduate study on or after January 1, 2016, and whose*
33 *education qualifies him or her under Section 4999.32 or 4999.33*
34 *shall complete, as a condition of licensure, a minimum of 15*
35 *contact hours of coursework in suicide assessment, treatment, and*
36 *management.*

37 *SEC. 10. Section 4999.77 is added to the Business and*
38 *Professions Code, to read:*

39 *4999.77. (a) A licensee who began graduate study prior to*
40 *January 1, 2016, shall complete a six-hour continuing education*

1 *course in best practices for suicide assessment, treatment, and*
2 *management, during his or her first renewal period after the*
3 *operative date of this section, and shall submit to the board*
4 *evidence, acceptable to the board, of the person's satisfactory*
5 *completion of the course.*

6 *(b) Continuing education courses taken pursuant to this section*
7 *shall be applied to the 36 hours of approved continuing education*
8 *required in Section 4999.76.*

9 *(c) This section shall become operative on January 1, 2016.*

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

13
14 CHAPTER 17. MENTAL HEALTH PROFESSIONAL SUICIDE
15 PREVENTION TRAINING
16

17 ~~4999.150. The Legislature finds and declares all of the~~
18 ~~following:~~

19 ~~(a) According to the federal Centers for Disease Control and~~
20 ~~Prevention:~~

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

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

26 ~~(b) According to a national study, veterans face an elevated risk~~
27 ~~of suicide as compared to the general population, more than twice~~
28 ~~the risk among male veterans. Another study has indicated a~~
29 ~~positive correlation between posttraumatic stress disorder and~~
30 ~~suicide.~~

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

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

39 ~~(e) Suicide has an enormous impact on the family and friends~~
40 ~~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: AB 2396 **VERSION:** AMENDED APRIL 21, 2014

AUTHOR: BONTA **SPONSOR:** ALAMEDA COUNTY

RECOMMENDED POSITION: NONE

SUBJECT: EXPUNGEMENT: LICENSES

Overview: This bill would prohibit the Board from denying a license solely based on the applicant having certain types of convictions that have been expunged.

Existing Law:

Law Related to Denying a License:

- 1) Allows a board under the Department of Consumer Affairs (DCA) to deny a license on grounds the applicant has one of the following (Business and Professions Code (BPC) §480(a)):
 - a. A criminal conviction. A conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 - b. Committed a dishonest, fraudulent, or deceitful act with intent to substantially benefit his/herself, or with the intent to substantially injure someone else.
 - c. Committed an act that, if committed by a licensee, would be grounds to suspend or revoke the license.
- 2) Only allows a board to deny a license if the crime is substantially related to the qualifications, functions, or duties of the profession. (BPC §480(a))
- 3) Allows the Board of Behavioral Sciences to deny a license or registration for the professions under its jurisdiction if the applicant has been convicted of a crime substantially related to the qualifications, functions, or duties of a licensee. They Board may deny a license or registration regardless of whether the conviction has been expunged pursuant to Section 1203.4 of the Penal Code. (BPC §§4982(a), 4989.54(a), 4992.3(a), 4999.90(a))
- 4) Prohibits a board from denying an applicant a license solely because he or she was convicted of a felony, if the applicant has obtained a certificate of rehabilitation. (BPC §480(b))
- 5) Prohibits a board from denying an applicant a license solely because he or she was convicted of a misdemeanor, if the applicant has met all of the applicable criteria of rehabilitation requirements developed by the Board. (BPC §480(b))

- 6) Requires the Board to develop criteria to evaluate a person's rehabilitation when considering the denial, suspension, or revocation of a license. (BPC §482)
- 7) Requires the Board of Behavioral Sciences to consider the following when evaluating the rehabilitation of an applicant and his or her present eligibility for a license or registration (16 CCR §1813):
 - a. The nature and severity of the act or crimes;
 - b. Evidence of committing any subsequent acts;
 - c. The time elapsed since the acts;
 - d. The applicant's compliance with his or her terms of probation, parole, restitution, or other sanctions; and
 - e. Any evidence of rehabilitation by the applicant.
- 8) Upon denial of an application for a license, requires the Board to do the following (BPC §485):
 - a. File and serve a statement of issues; and
 - b. Notify the applicant that the application was denied, give the reason for denial, and notify them of their right to a hearing if requested within 60 days.
- 9) Requires the Board to notify an applicant who was denied of the earliest date that he or she may reapply, and to notify the applicant that upon reapplying, evidence of rehabilitation will be considered. The Board must also provide a copy of its criteria relating to rehabilitation. (BPC §486)
- 10) If the applicant requests a hearing, allows the Board to take any of the following actions (BPC §488):
 - a. Grant the license upon completion of the licensing requirements;
 - b. Grant the license upon completion of the licensing requirements, immediately revoke the license, stay the revocation, and impose probationary conditions, in the licensee, including suspension.
 - c. Deny the license.
 - d. Take other action regarding granting or denying the license, as the Board deems appropriate.

Law Related to Expungement:

- 1) Allows a court to permit a defendant to withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant has fulfilled the conditions of probation, been discharged from probation, or otherwise been granted relief. The court must then dismiss the accusations and release the defendant from all penalties and disabilities. The defendant is still required to disclose the conviction in an

application for state licensure. This provision of law does not apply to certain sex offenses. (Penal Code (PC) §1203.4)

- 2) Allows a court to permit a defendant who was convicted of a misdemeanor or infraction and not granted probation to, after one year, withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant has fully complied with and completed the court's sentence, is not serving a sentence for another offense, and is obeying all laws. The court must then dismiss the accusations and release the defendant from all penalties and disabilities. (PC §1203.4a)
- 3) Allows a court to permit defendants who were convicted of a certain felonies punishable by imprisonment in county jail, to, after a specified period of time of time after completion of the sentence, withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant is not under supervision or serving or charged for another offense. The court must then release the defendant from all penalties and disabilities. The defendant is still required to disclose the conviction in an application for state licensure. (PC §§1203.41, 1170)

This Bill:

- 1) Prohibits a Board from denying a license solely on the basis of a conviction that was dismissed pursuant to Penal Code Sections 1203.4, 1203.4a, or 1203.41.

Comment:

- 1) **Background.** Penal Code Sections 1203.4, 1203.4a, and 1203.41 allow for the expungement of certain convictions after a specified length of time and fulfillment of the court's punishment. Expungement is not available for certain sex offenses, and for those who were sentenced to prison.
- 2) **Author's Intent.** According to the author's office, the purpose of this bill is to reward rehabilitation and reduce employment barriers for those with criminal records who have been rehabilitated.
- 3) **Convictions of Applicants.** Examples of convictions that Board applicants sometimes have, that may be eligible for expungement, include convictions for petty theft, grand theft, drug or alcohol use, or fraud.

These convictions may be substantially related to the practice of the profession, and may be especially relevant if there are multiple convictions showing a pattern of use, even if those convictions are expunged.

As an example, the Board staff has seen cases of applicants with multiple DUI, theft, and assault charges which occurred over the past 5-10 years, all of which have been expunged. These convictions may remain relevant to the safe practice of the profession for a timeframe that is longer than the required waiting period for an expungement.

- 4) **Current Board Process.** Under the current process prescribed by law, if the Board saw an applicant with a conviction that it determined was substantially related to the practice of the profession, the first step would be to deny the license. Then, under law, the applicant would have 60 days to request a hearing. At the hearing, the Board would ask the applicant to show evidence of rehabilitation. The Board would evaluate the applicant based on the criteria in Section 1813 of the Board's regulations (**Attachment C**). If the Board believes

person has shown appropriate evidence of rehabilitation, the Board may grant the license but subject the licensee to certain terms and conditions of probation to ensure safe practice.

- 5) Effect of This Bill.** If this bill were to pass, the Board would no longer be able to deny a license under Section 480 based on the fact that the applicant had a conviction, if that conviction had been expunged.

In such a case, if the Board would need to “prove up” the case in order to take disciplinary action if it had public protection concerns. This means that the Board would need to conduct its own investigation to substantiate the cause of the violation of law. If the Board was able to substantiate the violation, it may then present this information at a hearing.

This type of Board investigation might involve interviewing parties involved in the incident, such as the arresting officer.

Requiring the Board to attempt to prove up these cases would lead to increased enforcement processing times, and decreased public protection.

- 6) Fiscal Effect.** If the Board were required to prove up every case it would have normally denied due to a substantially related conviction, this would cause a significant fiscal impact to the Board’s Enforcement Unit. The Board would face increased staff costs, as staff would need to conduct these additional investigations. The investigations would also increase the Board’s Attorney General costs and costs to the Office of Administrative Hearings as well, because significant additional time would be required from these agencies.
- 7) Conflict With the Board’s Unprofessional Conduct Sections.** Currently, licensing law for each of the Board’s four license types contain a provision in the unprofessional conduct section allowing the Board to deny a license or registration if the applicant has been convicted of a crime substantially related to the qualifications, functions, or duties of a licensee. These sections state the Board may deny the license or registration regardless of whether the conviction has been expunged pursuant to Section 1203.4 of the Penal Code.

The proposed language in this bill contains language stating it is “notwithstanding any other provision of this code...” This means that the language in this bill would override these current Board provisions.

8) Support and Opposition.

Support:

- Alameda County Board of Supervisors (sponsor) Lawyers' Committee for Civil Rights of the San Francisco Bay Area
- Legal Services for Prisoners with Children
- National Employment law Project
- The Women's Foundation of California

Opposition:

- None on file.

9) History.

2014

04/30/14 From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 2.) (April 29). Re-referred to Com. on APPR.

04/22/14 In committee: Set, first hearing. Hearing canceled at the request of author.

04/22/14 Re-referred to Com. on B.,P. & C.P.

04/21/14 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.

04/01/14 Re-referred to Com. on B.,P. & C.P.

03/28/14 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.

03/28/14 Referred to Com. on B.,P. & C.P.

02/24/14 Read first time.

02/23/14 From printer. May be heard in committee March 25.

02/21/14 Introduced. To print.

4) Attachments.

Attachment A: Penal Code Sections 1203.4, 1203.4a, 1203.41, and 1170

Attachment B: Business and Professions Code Section 480

Attachment C: Board of Behavioral Sciences Regulation Section 1813: Criteria for Rehabilitation – Denial of Licensure

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Attachment A
Penal Code Sections 1203.4, 1203.4a, 1203.41, and 1170

Penal Code (PC) §1203.4.

(a) (1) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

(2) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(3) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(4) This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of Section 42002.1 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, subdivision (j) of Section 289, Section 311.1, 311.2, 311.3, or 311.11, or any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interests of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(g) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

PC §1203.4a.

(a) Every defendant convicted of a misdemeanor and not granted probation, and every defendant convicted of an infraction shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime, and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty; or if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusatory pleading against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 13555 of the Vehicle Code.

(b) If a defendant does not satisfy all the requirements of subdivision (a), after a lapse of one year from the date of pronouncement of judgment, a court, in its discretion and in the interests of justice, may grant the relief available pursuant to subdivision (a) to a defendant convicted of an infraction, or of a misdemeanor and not granted probation, or both, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense, and is not under charge of commission of any crime.

(c) (1) The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he or she is sentenced. The defendant may make an application and change of plea in person or by attorney, or by the probation officer authorized in writing, provided that, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

(2) Dismissal of an accusatory pleading pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(3) Dismissal of an accusatory pleading underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(d) This section applies to any conviction specified in subdivision (a) or (b) that occurred before, as well as those occurring after, the effective date of this section, except that this section does not apply to the following:

(1) A misdemeanor violation of subdivision (c) of Section 288.

(2) Any misdemeanor falling within the provisions of Section 42002.1 of the Vehicle Code.

(3) Any infraction falling within the provisions of Section 42001 of the Vehicle Code.

(e) A person who petitions for a dismissal of a charge under this section may be required to reimburse the county and the court for the cost of services rendered at a rate to be determined by the county board of supervisors for the county and by the court for the court, not to exceed sixty dollars (\$60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars (\$60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(f) A petition for dismissal of an infraction pursuant to this section shall be by written declaration, except upon a showing of compelling need. Dismissal of an infraction shall not be granted under this section unless the prosecuting attorney has been given at least 15 days' notice of the petition for dismissal. It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(g) Any determination of amount made by a court under this section shall be valid only if either (1) made under procedures adopted by the Judicial Council or (2) approved by the Judicial Council.

PC §1203.41.

(a) If a defendant is sentenced pursuant to paragraph (5) of subdivision (h) of Section 1170, the court, in its discretion and in the interests of justice, may order the following relief, subject to the conditions of subdivision (b):

(1) The court may permit the defendant to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code.

(2) The relief available under this section may be granted only after the lapse of one year following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, or after the lapse of two years following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170.

(3) The relief available under this section may be granted only if the defendant is not under supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, and is not serving a sentence for, on probation for, or charged with the commission of any offense.

(4) The defendant shall be informed, either orally or in writing, of the provisions of this section and of his or her right, if any, to petition for a certificate of rehabilitation and pardon at the time he or she is sentenced.

(5) The defendant may make the application and change of plea in person or by attorney, or by a probation officer authorized in writing.

(b) Relief granted pursuant to subdivision (a) is subject to the following conditions:

(1) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed.

(2) The order shall state, and the defendant shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

(3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(4) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(c) This section applies to any conviction specified in subdivision (a) that occurred before, on, or after January 1, 2014.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to

exceed one hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

PC §1170.

(a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) Notwithstanding paragraph (1), the Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational programs, that are designed to prepare nonviolent felony offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to give priority enrollment in programs to promote successful return to the community to an inmate with a short remaining term of commitment and a release date that would allow him or her adequate time to complete the program.

(3) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life, except as provided in paragraph (2) of subdivision (d). In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or

exceeds any sentence imposed pursuant to this chapter, the entire sentence shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the secretary. The court shall advise the defendant that he or she shall serve a period of parole and order the defendant to report to the parole office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole. The sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation. In determining the appropriate term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall select the term which, in the court's discretion, best serves the interests of justice. The court shall set forth on the record the reasons for imposing the term selected and the court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) (1) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the secretary, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The court resentencing under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(2) (A) (i) When a defendant who was under 18 years of age at the time of the commission of the offense for which the defendant was sentenced to imprisonment for life without the possibility of parole has served at least 15 years of that sentence, the defendant may submit to the sentencing court a petition for recall and resentencing.

(ii) Notwithstanding clause (i), this paragraph shall not apply to defendants sentenced to life without parole for an offense where the defendant tortured, as described in Section 206, his or her victim or the victim was a public safety official, including any law enforcement personnel mentioned in Chapter 4.5 (commencing with Section 830) of Title 3, or any firefighter as described in Section 245.1, as well as any other officer in any segment of law enforcement who is employed by the federal government, the state, or any of its political subdivisions.

(B) The defendant shall file the original petition with the sentencing court. A copy of the petition shall be served on the agency that prosecuted the case. The petition shall include the defendant's statement that he or she was under 18 years of age at the time of the crime and was sentenced to life in prison without the possibility of parole, the defendant's statement

describing his or her remorse and work towards rehabilitation, and the defendant's statement that one of the following is true:

(i) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.

(ii) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the sentence is being considered for recall.

(iii) The defendant committed the offense with at least one adult codefendant.

(iv) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.

(C) If any of the information required in subparagraph (B) is missing from the petition, or if proof of service on the prosecuting agency is not provided, the court shall return the petition to the defendant and advise the defendant that the matter cannot be considered without the missing information.

(D) A reply to the petition, if any, shall be filed with the court within 60 days of the date on which the prosecuting agency was served with the petition, unless a continuance is granted for good cause.

(E) If the court finds by a preponderance of the evidence that the statements in the petition are true, the court shall hold a hearing to consider whether to recall the sentence and commitment previously ordered and to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. Victims, or victim family members if the victim is deceased, shall retain the rights to participate in the hearing.

(F) The factors that the court may consider when determining whether to recall and resentence include, but are not limited to, the following:

(i) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.

(ii) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the sentence is being considered for recall.

(iii) The defendant committed the offense with at least one adult codefendant.

(iv) Prior to the offense for which the sentence is being considered for recall, the defendant had insufficient adult support or supervision and had suffered from psychological or physical trauma, or significant stress.

(v) The defendant suffers from cognitive limitations due to mental illness, developmental disabilities, or other factors that did not constitute a defense, but influenced the defendant's involvement in the offense.

(vi) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.

(vii) The defendant has maintained family ties or connections with others through letter writing, calls, or visits, or has eliminated contact with individuals outside of prison who are currently involved with crime.

(viii) The defendant has had no disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor.

(G) The court shall have the discretion to recall the sentence and commitment previously ordered and to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. The discretion of the court shall be exercised in consideration of the criteria in subparagraph (B). Victims, or victim family members if the victim is deceased, shall be notified of the resentencing hearing and shall retain their rights to participate in the hearing.

(H) If the sentence is not recalled, the defendant may submit another petition for recall and resentencing to the sentencing court when the defendant has been committed to the custody of the department for at least 20 years. If recall and resentencing is not granted under that petition, the defendant may file another petition after having served 24 years. The final petition may be submitted, and the response to that petition shall be determined, during the 25th year of the defendant's sentence.

(I) In addition to the criteria in subparagraph (F), the court may consider any other criteria that the court deems relevant to its decision, so long as the court identifies them on the record, provides a statement of reasons for adopting them, and states why the defendant does or does not satisfy the criteria.

(J) This subdivision shall have retroactive application.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative

state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentencing or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) Any physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

(5) The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

(6) Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(7) Any recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(8) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(9) If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession: a discharge medical summary, full medical records, state identification, parole medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

(10) The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.

(f) Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) (1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant (A) has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7 or a prior or current conviction for a violent felony described in subdivision (c) of Section 667.5, (B) has a prior felony conviction in another jurisdiction for an offense that has all the elements of a serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5, (C) is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) The court, when imposing a sentence pursuant to paragraph (1) or (2) of this subdivision, may commit the defendant to county jail as follows:

(A) For a full term in custody as determined in accordance with the applicable sentencing law.

(B) (i) For a term as determined in accordance with the applicable sentencing law, but suspend execution of a concluding portion of the term selected in the court's discretion, during which time the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. Any proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section 1203.2 or Section 1203.3. During the period when the defendant is under such supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. Any time period which is suspended because a person has absconded shall not be credited toward the period of supervision.

(ii) The portion of a defendant's sentenced term during which time he or she is supervised by the county probation officer pursuant to this subparagraph shall be known as mandatory supervision.

(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

(i) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

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Attachment B
Business and Professions Code Section 480

Business and Professions Code (BPC) §480

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

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Attachment C
California Code of Regulation Title 16, Division 18, Section 1813

California Code of Regulation (CCR) Title 16:

§1813. CRITERIA FOR REHABILITATION-DENIAL OF LICENSURE

When considering the denial of a license or registration under Section 480 of the Code, the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration shall consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in Section 480 of the Code.
- (d) The extent to which the applicant has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the applicant.
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 482 and 4982, Business and Professions Code.

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AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2396

Introduced by Assembly Member Bonta
(Coauthor: Assembly Member Skinner)

February 21, 2014

An act to amend Section 480 of the Business and Professions Code, relating to expungement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2396, as amended, Bonta. Convictions: expungement: licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license on various grounds, including, but not limited to, conviction of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law prohibits a board from denying a license on the ground that the applicant has committed a crime if the applicant shows that he or she obtained a certificate of rehabilitation in the case of a felony, or that he or she has met all applicable requirements of the criteria of rehabilitation developed by the board, as specified, in the case of a misdemeanor.

Existing law permits a defendant to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty in any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of

the period of probation, or has been convicted of a misdemeanor and not granted probation and has fully complied with and performed the sentence of the court, or has been sentenced to a county jail for a felony, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted this or other specified relief and requires the defendant to be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

This bill would prohibit a board from denying a license based solely on a conviction that has been dismissed pursuant to the above provisions.

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 of the Business and Professions Code
 2 is amended to read:
 3 480. (a) A board may deny a license regulated by this code
 4 on the grounds that the applicant has one of the following:
 5 (1) Been convicted of a crime. A conviction within the meaning
 6 of this section means a plea or verdict of guilty or a conviction
 7 following a plea of nolo contendere. Any action that a board is
 8 permitted to take following the establishment of a conviction may
 9 be taken when the time for appeal has elapsed, or the judgment of
 10 conviction has been affirmed on appeal, or when an order granting
 11 probation is made suspending the imposition of sentence,
 12 irrespective of a subsequent order under the provisions of Section
 13 1203.4, 1203.4a, or 1203.41 of the Penal Code.
 14 (2) Done any act involving dishonesty, fraud, or deceit with the
 15 intent to substantially benefit himself or herself or another, or
 16 substantially injure another.
 17 (3) (A) Done any act that if done by a licentiate of the business
 18 or profession in question, would be grounds for suspension or
 19 revocation of license.
 20 (B) The board may deny a license pursuant to this subdivision
 21 only if the crime or act is substantially related to the qualifications,
 22 functions, or duties of the business or profession for which
 23 application is made.
 24 (b) Notwithstanding any other provision of this code, a person
 25 shall not be denied a license solely on the basis that he or she has

1 been convicted of a felony if he or she has obtained a certificate
2 of rehabilitation under Chapter 3.5 (commencing with Section
3 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she
4 has been convicted of a misdemeanor if he or she has met all
5 applicable requirements of the criteria of rehabilitation developed
6 by the board to evaluate the rehabilitation of a person when
7 considering the denial of a license under subdivision (a) of Section
8 482.

9 (c) Notwithstanding any other provisions of this code, a person
10 shall not be denied a license solely on the basis of a conviction
11 that has been dismissed pursuant to Section 1203.4, 1203.4a, or
12 1203.41.

13 (d) A board may deny a license regulated by this code on the
14 ground that the applicant knowingly made a false statement of fact
15 *that is* required to be revealed in the application for the license.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1775

VERSION: AMENDED MARCH 21, 2014

AUTHOR: MELENDEZ

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

RECOMMENDED POSITION: NONE

SUBJECT: CHILD ABUSE AND NEGLECT REPORTING ACT: SEXUAL ABUSE

Overview: This bill makes downloading material in which a child is engaged in an obscene sexual act a mandated report under the Child Abuse and Neglect Reporting Act (CANRA)

Existing Law:

- 1) Establishes the CANRA which requires a mandated reporter to make a report in instances in which he or she knows or reasonably suspects that a child has been the victim of child abuse or neglect. (Penal Code (PC) 11164 et seq)
- 2) Defines “sexual abuse” as sexual assault or exploitation, as defined. (PC §11165.1)
- 3) Defines “sexual assault” as consisting of any of the following: rape, statutory rape, rape in concert, incest, sodomy, lewd or lascivious acts upon a child, oral copulation, sexual penetration, or child molestation. (PC §11165.1(a))
- 4) Defines “sexual exploitation” as any of the following (PC §11165.1(c)):
 - a. Conduct involving matter depicting a minor engaged in obscene acts.
 - b. A person knowingly promoting, permitting, or encouraging a child to engage in a live performance involving obscene sexual conduct; and
 - c. A person depicting a child in, or who knowingly develops, duplicates, prints, or exchanges a film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct.

This Bill:

- 1) This bill adds “downloading” of a film, photograph, videotape or recording, negative or slide of a child engaged in an obscene sexual act to the definition of sexual exploitation for purposes of mandated reporting under CANRA. (PC §11165.1(c)(3))

Comment:

- 1) **Author’s Intent.** According to the author’s office, CANRA was written before “downloading” of material was a common occurrence, and therefore is not specifically mentioned. Therefore, CANRA does not specifically require a mandated report for downloading pornography via the internet.

- 2) **Effect on Psychotherapists.** CAMFT reports that it receives a number of calls from its members, who are mandated reporters under CANRA, asking if they are required to make a mandated report when they learn someone is downloading child pornography.

While the law mandates a mandated report for printing or copying of these materials, the law does not specifically mention “downloading,” and therefore CAMFT is unable to answer this question.

- 3) **Support and Opposition.**

Support:

- CAMFT (Sponsor)
- California District Attorneys Association
- California State Sheriffs' Association

Opposition:

- Taxpayers for Improving Public Safety

- 4) **History**

2014

04/24/14 In Senate. Read first time. To Com. on RLS. for assignment.

04/24/14 Read third time. Passed. Ordered to the Senate.

04/10/14 Read second time. Ordered to consent calendar.

04/09/14 From committee: Do pass. To consent calendar. (Ayes 17. Noes 0.) (April 9).

03/26/14 From committee: Do pass and re-refer to Com. on APPR. with recommendation: to consent calendar. (Ayes 7. Noes 0.) (March 25). Re-referred to Com. on APPR.

03/20/14 Re-referred to Com. on PUB. S.

03/20/14 Measure version as amended on March 19 corrected.

03/19/14 From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.

02/27/14 Referred to Com. on PUB. S.

02/19/14 From printer. May be heard in committee March 21.

02/18/14 Read first time. To print.

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1775

Introduced by Assembly Member Melendez

February 18, 2014

An act to amend Section 11165.1 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1775, as amended, Melendez. Child Abuse and Neglect Reporting Act: sexual abuse.

Existing law, the Child Abuse and Neglect Reporting Act, defines sexual abuse as sexual assault or sexual exploitation for purposes of mandating certain persons to report suspected cases of child abuse or neglect. Under the act, sexual exploitation refers to, among other things, a person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, a film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except as specified. Failure to report known or suspected instances of child abuse, including sexual abuse, under the act is a misdemeanor.

This bill would provide that sexual exploitation also includes a person who knowingly downloads a film, photograph, videotape, *video recording*, negative, or slide in which a child is engaged in an act of obscene sexual conduct. Because the bill would expand the scope of a crime and impose additional duties on local officials, the bill would impose a state-mandated local program.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 11165.1 of the Penal Code is amended
2 to read:
3 11165.1. As used in this article, “sexual abuse” means sexual
4 assault or sexual exploitation as defined by the following:
5 (a) “Sexual assault” means conduct in violation of one or more
6 of the following sections: Section 261 (rape), subdivision (d) of
7 Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest),
8 286 (sodomy), subdivision (a) or (b), or paragraph (1) of
9 subdivision (c) of Section 288 (lewd or lascivious acts upon a
10 child), 288a (oral copulation), 289 (sexual penetration), or 647.6
11 (child molestation).
12 (b) Conduct described as “sexual assault” includes, but is not
13 limited to, all of the following:
14 (1) Penetration, however slight, of the vagina or anal opening
15 of one person by the penis of another person, whether or not there
16 is the emission of semen.
17 (2) Sexual contact between the genitals or anal opening of one
18 person and the mouth or tongue of another person.
19 (3) Intrusion by one person into the genitals or anal opening of
20 another person, including the use of an object for this purpose,
21 except that, it does not include acts performed for a valid medical
22 purpose.
23 (4) The intentional touching of the genitals or intimate ~~parts,~~
24 *parts*, including the breasts, genital area, groin, inner thighs, and
25 buttocks, or the clothing covering them, of a child, or of the
26 perpetrator by a child, for purposes of sexual arousal or
27 gratification, except that it does not include acts which may
28 reasonably be construed to be normal caretaker responsibilities;

1 interactions with, or demonstrations of affection for, the child; or
2 acts performed for a valid medical purpose.

3 (5) The intentional masturbation of the perpetrator’s genitals in
4 the presence of a child.

5 (c) “Sexual exploitation” refers to any of the following:

6 (1) Conduct involving matter depicting a minor engaged in
7 obscene acts in violation of Section 311.2 (preparing, selling, or
8 distributing obscene matter) or subdivision (a) of Section 311.4
9 (employment of minor to perform obscene acts).

10 (2) A person who knowingly promotes, aids, or assists, employs,
11 uses, persuades, induces, or coerces a child, or a person responsible
12 for a child’s welfare, who knowingly permits or encourages a child
13 to engage in, or assist others to engage in, prostitution or a live
14 performance involving obscene sexual conduct, or to either pose
15 or model alone or with others for purposes of preparing a film,
16 photograph, negative, slide, drawing, painting, or other pictorial
17 depiction, involving obscene sexual conduct. For the purpose of
18 this section, “person responsible for a child’s welfare” means a
19 parent, guardian, foster parent, or a licensed administrator or
20 employee of a public or private residential home, residential school,
21 or other residential institution.

22 (3) A person who depicts a child in, or who knowingly develops,
23 duplicates, prints, downloads, or exchanges, a film, photograph,
24 videotape, *video recording*, negative, or slide in which a child is
25 engaged in an act of obscene sexual conduct, except for those
26 activities by law enforcement and prosecution agencies and other
27 persons described in subdivisions (c) and (e) of Section 311.3.

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution for certain
30 costs that may be incurred by a local agency or school district
31 because, in that regard, this act creates a new crime or infraction,
32 eliminates a crime or infraction, or changes the penalty for a crime
33 or infraction, within the meaning of Section 17556 of the
34 Government Code, or changes the definition of a crime within the
35 meaning of Section 6 of Article XIII B of the California
36 Constitution.

37 However, if the Commission on State Mandates determines that
38 this act contains other costs mandated by the state, reimbursement
39 to local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.

3

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5 **CORRECTIONS:**

6 **Text—Page 2.**

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1012

VERSION: AMENDED APRIL 21, 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 increase the 5 hour supervision limitation to 6 hours.

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 revise the amount of supervision may be credited by an intern toward the required experience hours in any one week from 5 hours to 6 hours.

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 intern’s 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) **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.
- 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) Implementation.** If this bill were to pass, it would not apply retroactively. This means that supervision hours that were earned prior to January 1, 2015 would continue to count at a maximum of five hours per week.

Having two different standards for counting supervision hours depending on when they were earned could make the evaluation process more time-consuming. Evaluators must already apply two different standards for supervision hours that were earned before and after January 1, 2010 (as described in item #6 above), and this would add another level of review to supervised hours.

- 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 was April 4, 2014, and the next meeting is June 27, 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) Recommended Position.** At its April 3, 2014 meeting, the Policy and Advocacy Committee opted not to take a position on this bill at this time. The Committee directed staff to continue to watch the bill, and to provide CAMFT with technical support as needed.

11) Support and Opposition.

Support:

- California Association of Marriage & Family Therapists (Sponsor)
- California Council of Community Mental Health Agencies

Opposition:

- None on file.

12) History

2014

04/23/14 Read second time. Ordered to third reading.

04/22/14 From committee: Do pass. (Ayes 9. Noes 0.) (April 21).

04/21/14 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.

04/02/14 Set for hearing April 21.

02/27/14 Referred to Com. on B., P. & E.D.

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

02/13/14 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Introduced by Senator Wyland

February 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 amended, 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~~ *instead allow* an individual with a qualifying degree ~~from being~~ *to be* credited with no more than ~~5~~ 6 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 six 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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To: Board Members

Date: April 28, 2014

From: Christy Berger
Regulatory Analyst

Telephone: (916) 574-7817

Subject: LPCCs – Requirements to Treat Couples or Families

Introduction

At its meeting in March 2014, the Board approved a regulatory proposal pertaining to Licensed Professional Clinical Counselors (LPCCs) and treatment of couples and families. Under current law, LPCCs may not treat couples or families unless they complete all of the following training and education¹:

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

Discussion

The regulatory proposal contains a requirement that LPCCs obtain Board approval to treat couples and families, and that the LPCC must provide evidence of this approval to couple or family clients prior to treatment, or to a supervisee prior to supervision, beginning July 1, 2015.

The proposal was approved by the Board in March 2014, and staff began working on the regulation package for submission to the Office of Administrative Law. As part of the fiscal analysis required for that package, staffing needs for the approval process were determined, as well as changes needed to the Breeze database system.

Staff concluded that the July 1, 2015 effective date for the requirement that LPCCs provide a copy of the Board approval to clients and supervisees may not be feasible. Staffing for this new review process, as well as changes to the Breeze database system, must be in place early enough for the Board to issue approvals prior to the deadline.

¹ As required by Business and Professions Code (BPC) section 4999.20(a)(3)

As a result, staff recommends that the regulatory proposal be amended to delay the implementation date by one year, to July 1, 2016. This change would not impact the Board's ability to accept applications or to issue approvals prior to that date. The date change only applies to the requirement that the LPCC notify clients and supervisees of Board approval.

Recommendation

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

Attachments

Attachment A: Proposed Language

Attachment B: BPC §§ 4999.12(h) and 4999.20 (Related statute)

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

Attachment D: Weekly Summary of Experience Hours Form (Proposed revisions)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Effective July 1, 2015*, 2016*, a licensed professional clinical counselor shall obtain written confirmation from the board that he or she meets the requirements specified in 4999.20(a)(3) to treat couples and families, and shall provide a copy of this written confirmation to the clients prior to commencement of couple or family treatment.

(b) Effective July 1, 2015*, 2016*, a licensed professional clinical counselor shall obtain written confirmation from the board that he or she meets the requirements specified in 4999.20(a)(3) to treat couples and families, and shall provide a copy of this written confirmation to the supervisees listed below prior to commencement of supervision:

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

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

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

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

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

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

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

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

AMEND § 1822 - SUPERVISORY PLAN

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

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

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

AMEND § 1820 - EXPERIENCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTACHMENT B
LPCC TREATMENT OF COUPLES OR FAMILIES
Relevant Business and Professions Code (BPC) Sections

§4999.12 (h). APPROVED SUPERVISORS

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

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

§4999.20. SCOPE OF PRACTICE; TREATMENT OF COUPLES OR FAMILIES

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

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

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

(A) One of the following:

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

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

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

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

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

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

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

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

ATTACHMENT C
16 CCR §1820.5

§1820.5 EXPERIENCE WORKING DIRECTLY WITH COUPLES, FAMILIES, OR CHILDREN

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

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

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

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

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

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

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

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

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

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

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ATTACHMENT E

Board of Behavioral Sciences

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

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

(Please type or print clearly in ink)

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

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

| YEAR: | WEEK OF: | | | | | | | | | | | | | Total Hours |
|--|----------|--|--|--|--|--|--|--|--|--|--|--|--|-------------|
| 1. Individual Psychotherapy (performed by you) Direct Counseling of individuals (including children), groups, couples, or families* (min. 1,750 hours) | | | | | | | | | | | | | | |
| a. Of the types of clients in category #1, how many hours were gained treating couples, families, or children?*** | | | | | | | | | | | | | | |
| b. Of the hours in category #1, how many were Group Therapy or Counseling? (max. 500) | | | | | | | | | | | | | | |
| c. Of the hours in category #1, how many were Telephone Telehealth Counseling? (max. 250/375) | | | | | | | | | | | | | | |
| 2. Administering & evaluating psych. tests, writing clinical reports, writing progress or process notes (max. 250)*** | | | | | | | | | | | | | | |
| 3. Workshops, seminars, training sessions, or conferences directly related to professional clinical counseling (max. 250)*** | | | | | | | | | | | | | | |
| 4. Client Centered Advocacy (CCA)*** | | | | | | | | | | | | | | |
| 5. Supervision, Individual Face-to-Face*** | | | | | | | | | | | | | | |
| 6. Supervision, Group*** | | | | | | | | | | | | | | |
| Total Per Week: | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | |
|---|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| <p>*If seeing couples or families, your supervisor must meet qualifications listed in 16 CCR section 1820.5(c)</p> <p>**This line is for the purpose of tracking experience toward meeting the scope of practice requirements of Business and Professions Code (BPC) section 4999.20(a)(3)(B)</p> <p>***When combined, these categories shall not exceed 1,250 hours of experience (BPC section 4999.46 (b)(6))</p> | Signature of Supervisor | | | | | | | | | | | | | |
| | Signature of Supervisor |

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To: Board Members

Date: April 30, 2014

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Additional Omnibus Bill Amendment - Exam Restructure

Background

Board staff is in the process of implementing the examination restructure, which will change the examination process for applicants who are seeking licensure as a marriage and family therapist (LMFT), clinical social worker (LCSW), or professional clinical counselor (LPCC). The exam restructure becomes effective on January 1, 2016.

Once the exam restructure becomes effective, registrants must take the California law and ethics examination prior to registration renewal. In addition, any registrants needing a subsequent registration number will be required to pass the California law and ethics exam before receiving their subsequent number.

Due to concerns that a registrant renewing a registration in the months just after January 1, 2016 will not have had much time to attempt the California law and ethics exam, and that those needing a new registration number in the months after the exam restructure becomes effective will not have sufficient time to pass the California law and ethics exam, the Board approved the following exceptions to be included as amendments in this year's omnibus bill (SB 1466):

1. An exception to allow an applicant who holds a registration, who applies for renewal of that registration between January 1, 2016 and June 30, 2016 to, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination.
2. An exception to allow an applicant who holds or has held a registration, who applies for a subsequent registration number between January 1, 2016 and January 1, 2017, to if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination.

Additional Clarification Needed

The intent of the above amendment is that if someone's registration expired during the grace period, he or she would be able to renew or obtain a new number without the hardship of unexpectedly having to take the California law and ethics exam.

However, a concern has been raised that the language, as written, could allow any registrant, not just one expiring during the grace period, to apply for the renewal during the grace period in order to exempt themselves from later having to take the California law and ethics exam that year, even if they are not expiring during the grace period. This was not the intent of the grace period.

Therefore, staff is recommending an additional amendment, which would specify that in order to receive the exemption, the registration must be expire no later than the end of the grace period. All newly proposed clarifying language is shown in red and underline in **Attachment A**.

Recommendation

Conduct an open discussion regarding the proposed amendments. Direct staff to make any discussed changes, and any non-substantive changes to the proposed language, and submit to the Legislature as an amendment to the omnibus bill.

Attachments

Attachment A: Proposed Amendments

Attachment A
Proposed Amendments
SB 1466 – Omnibus Bill

Amend §4980.399.

(a) Except as provided in subdivision (a) of Section 4980.398, each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

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

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

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

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

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

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

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

Amend §4992.09.

(a) Except as provided in subdivision (a) of Section 4992.07, an applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

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

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

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

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

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

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

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

Amend §4999.55.

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

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

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

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

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

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

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

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

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To: Board Members

Date: April 30, 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.

Status: This bill has passed the Assembly Business, Professions, and Consumer Protection Committee and has been referred to the Assembly Appropriations Committee.

2. **SB 1466: Omnibus Legislation (Senate Business, Professions, and Economic Development Committee)**

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.

Status: This bill has been referred to the Senate Appropriations Committee.

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:

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 sought 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.

Attorney General's Office Response

The Attorney General (AG's) office prepared an informal legal opinion evaluating the situation for the Board. The opinion stated the following:

- The law is uncertain regarding whether a child custody evaluation may lawfully be obtained by a DOI investigator. The AG's office writes that while there is uncertainty as to whether the Legislature intended to include DOI investigators as state law enforcement officers in FC §3025.5, it appears that it intended to limit the definition to those law enforcement officers who are actively participating in the custody or visitation proceeding (i.e. closely involved in the proceedings).
- The AG's office recommends that "In light of the uncertainty in the law regarding whether DOI investigators are considered law enforcement officers under this code section (3025.5), and in the interest of saving the Board the time, expense, and uncertainty of petitioning the court for court orders permitting the disclosure of 730 reports in each and every case...." FC §3025.5 should be amended to specifically identify licensing boards and their agents/investigators as parties the report may be disclosed to. They also recommended that the law should specify certain safeguards, including that the report may only be used to pursue disciplinary action against licensees, as well as confidentiality provisions.

Regarding the second question posed at the stakeholder's meeting, the AG's office advised that this opinion applies to the Board of Behavioral Sciences. While it may be possible that the same

applies to the Psychology Board, that board would need to make the same request of the AG's office.

A summary of the Attorney General's informal opinion can be found in **Attachment A**.

Currently, staff is working with the authors' offices to determine how to proceed next. In the meantime, AB 1843 currently contains 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.

Attachment B shows the current language proposed in AB 1843.

Status: This bill recently passed the Assembly Judiciary Committee.

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M e m o r a n d u m

To : Kim Madsen
Executive Officer
Board of Behavioral Sciences

Date: May 8, 2014
Telephone: (510) 622-2221
FACSIMILE: (510) 622-2270
E-mail: susana.gonzales@doj.ca.gov

From : SUSANA A. GONZALES
Deputy Attorney General
Licensing Section
**Office of the Attorney General – 1515 CLAY STREET, 20TH FLOOR
P.O. BOX 70550
Oakland, CA 94612-0550**

Subject : Disclosure of Evidence Code section 730 Reports to Division of Investigation
Investigators

The Board of Behavioral Sciences (“Board”) has asked for an informal opinion regarding whether a Division of Investigation (“DOI”) investigator is considered a “state law enforcement officer” under Family Code section 3025.5, subdivision (b), and therefore a party to whom an Evidence Code section 730 report may be lawfully disclosed. After extensive research, our office has found that the law is unclear regarding whether a DOI investigator is considered a “state law enforcement officer” under Family Code section 3025.5, subdivision (b). It is therefore unclear whether a 730 report may be lawfully disclosed to a DOI investigator without a court order as provided under Family Code section 3025.5, subdivision (d).

In light of the above uncertainty, and in the interest of saving the Board the time, expense, and unpredictability of petitioning for a court order permitting the disclosure of the 730 report in each case where the 730 report is necessary, this office recommends that Family Code section 3025.5 be amended to specifically identify professional and vocational licensing boards and their agents and investigators as some of the enumerated parties to whom a 730 report may be disclosed. The amendment should specify that the report may only be used by the boards for the purpose of investigating and pursuing disciplinary action against licensees who conduct evaluations and draft 730 reports. Additional protections may also be included to ensure the confidentiality of the parties, and especially the children involved.

cc: Alfredo Terrazas, Senior Assistant Attorney General
Diann Sokoloff, Supervising Deputy Attorney General

Summary Opinion re DOI.docx

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AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1843

Introduced by Assembly Members Jones and Gordon

February 18, 2014

An act to amend ~~Section~~ *Sections 3025.5 and 3111* of the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

AB 1843, as amended, Jones. Child custody evaluations: confidentiality.

~~Under existing law, reports containing psychological evaluations of a child or recommendations regarding custody of, or visitation with, a child, that are submitted to the court in a proceeding involving child custody or visitation, are required to be kept in the confidential portion of court files, and may be made available only to specified persons.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Existing law authorizes a court, in any contested child custody or visitation rights proceeding, to appoint a child custody evaluator to conduct a child custody evaluation, as specified, if the court determines it is in the best interests of the child. Existing law requires the child custody evaluator, if directed by the court, to file a written confidential report on his or her evaluation at least 10 days before any hearing regarding the custody of the child with the clerk of the court, as specified. Existing law requires this report to be served on the parties or their attorneys, and any other counsel appointed for the child. Existing law otherwise prohibits the disclosure of the report, except in certain probate guardianship proceedings, as specified.

Existing law requires the information from a report containing psychological evaluations of a child or recommendations regarding custody or visitation submitted to the court in any proceeding involving child custody or visitation rights to be contained in a document that is to be placed in the confidential portion of the court file. Existing law applies this requirement to, among other things, the written confidential report described above, child custody or visitation recommendations made to the court pursuant to mediation proceedings, and a written statement of issues and contentions put forth by a child’s appointed counsel. Existing law prohibits these reports and recommendations from being disclosed, except to specified persons, including, among others, a party to the proceeding or his or her attorney, a federal or state law enforcement officer, a court employee acting within the scope of his or her duties, a child’s appointed counsel, or any other person upon order of the court for good cause.

The bill would make a clarifying change to authorize the child custody evaluator’s written confidential report to be disclosed pursuant to the provisions described above. The bill would delete an obsolete provision relating to the written statement of issues and contentions put forth by a child’s appointed counsel.

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 3025.5 of the Family Code is amended
- 2 to read:
- 3 3025.5. In a proceeding involving child custody or visitation
- 4 rights, if a report containing psychological evaluations of a child
- 5 or recommendations regarding custody of, or visitation with, a
- 6 child is submitted to the court, including, but not limited to, a
- 7 report created pursuant to Chapter 6 (commencing with Section
- 8 3110) of this ~~part, part~~ and a recommendation made to the court
- 9 pursuant to Section 3183, ~~and a written statement of issues and~~
- 10 ~~contentions pursuant to subdivision (b) of Section 3151,~~ that
- 11 information shall be contained in a document that shall be placed
- 12 in the confidential portion of the court file of the proceeding, and
- 13 may not be disclosed, except to the following persons:
- 14 (a) A party to the proceeding and his or her attorney.

1 (b) A federal or state law enforcement officer, judicial officer,
2 court employee, or family court facilitator of the superior court of
3 the county in which the action was filed, or an employee or agent
4 of that facilitator, acting within the scope of his or her duties.

5 (c) Counsel appointed for the child pursuant to Section 3150.

6 (d) Any other person upon order of the court for good cause.

7 *SEC. 2. Section 3111 of the Family Code is amended to read:*

8 3111. (a) In any contested proceeding involving child custody
9 or visitation rights, the court may appoint a child custody evaluator
10 to conduct a child custody evaluation in cases where the court
11 determines it is in the best interests of the child. The child custody
12 evaluation shall be conducted in accordance with the standards
13 adopted by the Judicial Council pursuant to Section 3117, and all
14 other standards adopted by the Judicial Council regarding child
15 custody evaluations. If directed by the court, the court-appointed
16 child custody evaluator shall file a written confidential report on
17 his or her evaluation. At least 10 days before any hearing regarding
18 custody of the child, the report shall be filed with the clerk of the
19 court in which the custody hearing will be conducted and served
20 on the parties or their attorneys, and any other counsel appointed
21 for the child pursuant to Section 3150. The report may be
22 considered by the court.

23 (b) The report shall not be made available other than as provided
24 in subdivision (a) or *Section 3025.5*, or as described in Section
25 204 of the Welfare and Institutions Code or Section 1514.5 of the
26 Probate Code. Any information obtained from access to a juvenile
27 court case file, as defined in subdivision (e) of Section 827 of the
28 Welfare and Institutions Code, is confidential and shall only be
29 disseminated as provided by paragraph (4) of subdivision (a) of
30 Section 827 of the Welfare and Institutions Code.

31 (c) The report may be received in evidence on stipulation of all
32 interested parties and is competent evidence as to all matters
33 contained in the report.

34 (d) If the court determines that an unwarranted disclosure of a
35 written confidential report has been made, the court may impose
36 a monetary sanction against the disclosing party. The sanction
37 shall be in an amount sufficient to deter repetition of the conduct,
38 and may include reasonable attorney's fees, costs incurred, or both,
39 unless the court finds that the disclosing party acted with substantial
40 justification or that other circumstances make the imposition of

1 the sanction unjust. The court shall not impose a sanction pursuant
2 to this subdivision that imposes an unreasonable financial burden
3 on the party against whom the sanction is imposed. This
4 subdivision shall become operative on January 1, 2010.

5 (e) The Judicial Council shall, by January 1, 2010, do the
6 following:

7 (1) Adopt a form to be served with every child custody
8 evaluation report that informs the report recipient of the
9 confidentiality of the report and the potential consequences for the
10 unwarranted disclosure of the report.

11 (2) Adopt a rule of court to require that, when a court-ordered
12 child custody evaluation report is served on the parties, the form
13 specified in paragraph (1) shall be included with the report.

14 (f) For purposes of this section, a disclosure is unwarranted if
15 it is done either recklessly or maliciously, and is not in the best
16 interests of the child.

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To: Board Members

Date: April 28, 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 California Department of Finance and the Office of Administrative Law.

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 initially approved by the Board at its meeting in November 2012. A revised proposal was approved by the Board at its meeting in March 2014. Staff is working on submitting the proposal to OAL for publication in the California Regulatory Notice Register, which will begin the 45-day public comment period.

Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families: Amend Title 16, CCR Sections 1820.5 and 1822; Add Sections 1820.6 and 1820.7

This proposal clarifies requirements for LPCCs to treat couples and families, and outlines a process by which LPCCs and PCC Interns would receive Board confirmation that they have met the requirements to treat couples and families.

The proposal was approved by the Board at its meeting in March 2014, and a minor language change is up for consideration by the Board at the May 2014 meeting. If approved, staff will submit the proposal to OAL for publication, which will begin the 45-day public comment period.

Implementation of SB 704 (Examination Restructure): Amend Title 16, CCR Sections 1805, 1806, 1816, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1829, 1877; Add Sections 1805.01, 1822.5, 1822.6, 1830, 1878

This proposal would revise Board regulations for clarity and consistency with statutory changes made by SB 704 (Chapter 387, Statutes of 2011), which restructures the examination process for LMFT, LCSW, and LPCC applicants effective January 1, 2016.

This proposal was originally approved by the Board at its meeting in February 2013, and published in its California Regulatory Notice Register on March 15, 2013. However, the proposal was withdrawn in May 2013, as staff learned of implementation conflicts with the new BreEze database system. For this reason, the effective date of the restructure was delayed until 2016, per SB 821 (Chapter 473, Statutes of 2013).

A revised proposal was approved by the Policy and Advocacy Committee at its meeting in February 2014. Staff plans to bring this proposal for consideration by the Board at its meeting in August 2014 once additional details have been worked through.

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To: Board Members **Date:** May 1, 2014
From: Kim Madsen **Telephone:** (916) 574-7841
 Executive Officer
Subject: Election of Officers

Section 4990 of the Business and Professions Code requires the Board to elect a Chair and Vice-Chair prior to June 1 of each year. Currently, Dr. Christine Wietlisbach serves as the Board Chair, and Christina Wong is the Vice-Chair.

In order to comply with existing law, the Board members should elect both a chair and a vice-chair at this meeting for 2014-2015.

Below is a list of board members and the date on which their term will expire:

| Board Member | Type | Authority | Date Appointed | Reappointed | Term Expires | Grace Expires |
|---------------------------|--------|-----------|----------------|-------------|--------------|---------------|
| Dr. Harry Douglas | Public | Assembly | 5/14/2009 | 7/11/2011 | 6/1/2015 | 6/1/2016 |
| Dr. Christine Wietlisbach | Public | Senate | 2/4/2010 | 5/2011 | 6/1/2015 | 6/1/2016 |
| Samara Ashley | Public | Governor | 1/21/2010 | 7/12/2013 | 6/1/2017 | 8/1/2017 |
| Betty Connolly | LEP | Governor | 8/22/2012 | | 6/1/2016 | 8/1/2016 |
| Sarita Kohli* | LMFT | Governor | 6/7/2011 | | 6/1/2014 | 8/1/2014 |
| Patricia Lock-Dawson | Public | Governor | 1/13/2010 | 7/12/2013 | 6/1/2017 | 8/1/2017 |
| Renee Lonner* | LCSW | Governor | 1/17/2007 | | 6/1/2014 | 8/1/2014 |
| Karen Pines | LMFT | Governor | 4/5/2011 | 7/2/2013 | 6/1/2017 | 8/1/2017 |
| Christina Wong | LCSW | Governor | 5/18/2011 | 7/2/2013 | 6/1/2017 | 8/1/2017 |
| Dr. Leah Brew | LPCC | Governor | 8/28/2012 | | 6/1/2016 | 8/1/2016 |
| Deborah Brown | Public | Governor | 8/23/2012 | 7/2/2013 | 6/1/2017 | 8/1/2017 |
| Eileen Colapinto | Public | Governor | 8/23/2012 | | 6/1/2013 | 8/1/2013 |
| Dr. Peter Chiu | Public | Governor | 10/30/13 | | 6/1/2015 | 8/1/2015 |

*Seeking reappointment

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To: Board Members

Date: May 8, 2014

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: **Executive Officer Compensation**

Background

The current compensation for the Board's Executive Officer position was established in 2000 following a 1999 salary review of 26 Executive Officer positions within Department of Consumer Affairs (DCA). In 1999, the Board had regulatory oversight for three mental health professions.

In July 2011, DCA contracted with CPS HR Consulting to conduct an executive officer salary assessment study to determine any meaningful changes that may be supportive of a request for a salary increase. The study was limited due to budgetary constraints at that time. The review did not find major changes that have not already been addressed in salary increase requests.

The Board's Executive Officer position was included in the 2011 study. However, it should be noted that at the time the study was conducted, California was experiencing shortfalls in its budget resulting in furloughs, vacancies, and hiring freezes across state government. The direction of the administration at that time was to reduce program expenditures and increases in staffing levels were not permitted.

Historically, a merger of boards or programs merits a salary increase. Additionally, salary increases have been granted for the increase in complexity caused by having to interpret and apply two separate sets of laws and rules; deal with two sets of constituents; and additional legislative and public interest and concern.

Business and Professions Code section 4990.04(d) specifies that with the approval of the Director (DCA), the Board shall fix the salary of the Executive Officer.

Discussion of Program Changes

Between 1999 and 2013 significant program changes impacting Board operations occurred.

- 2005 passage of Proposition 63 – Mental Health Services Act. The Board became an active stakeholder in the area of mental health access and its workforce by participating in the Office of Statewide Health Planning and Development (OSHPD) Workforce, Education, and Training (WET) Committee. The Board continues to partner with OSHPD WET Committee to create the five year plan to develop and maintain a diverse and sufficient workforce to deliver mental health services to Californians.

- 2006 - Added two field investigators to the Board to investigate consumer complaints which did not require the expertise of a peace officer (DOI investigator).
- 2007 – Delegated the authority to the Executive Officer to sign orders to compel a psychiatric evaluation of a Board licensee or registrant.
- 2008 passage of Senate Bill 1441 – Establishes standard for Substance Abusing Licensees. The bill establishes specific requirements and timelines to effectively and consistently monitor licensees on probation related to substance or alcohol issues. The Board's probation program increases its effectiveness monitoring probationers and results in increased consumer protection.
- 2009 passage of Senate Bill 33 (Correa) – Revises the educational requirements for Licensed Marriage and Family Therapists to include the Mental Health Services Act competencies. The Board continues to engage in outreach to educators and students and legislative and rulemaking activities to implement this law.
- 2009 passage of Senate Bill 788 (Wyland) – Adds a fourth mental health profession to the Board's regulatory responsibilities resulting in four different laws and rules to interpret and apply and four different populations of constituents to work with. Despite initial approval for twelve additional staff positions to implement this new licensing program, the Board only received five as a result of California's fiscal crisis.
- 2010 President Obama signs the Affordable Care Act to become effective 2014. This act increases access to mental health services and contributes to the increased need for licensed mental health professionals.
- 2011 passage of Senate Bill 704 (Negrete-Mcleod) - Restructures the sequence of the Board examinations and establishes the use of a national examination for two of the four mental health professions. The Board initiates the rulemaking process to implement this significant change to its examination structure. Additionally, the Board engages in discussions with national professional associations to utilize the national examinations.
- 2013 initiated the rulemaking process to revise the Board's Continuing Education Program.
- 2013 the Board has delegated authority to the Executive Officer to approve settlement agreements for revocation, surrender, and interim suspension of a license or registration.

These major program changes have increased the Board's legislative and regulation activity since 1999. Annually, the Board sponsors several legislative proposals and initiates several rulemaking packages. Each proposal requires extensive work with the four professional associations, licensees, stakeholders, the public, appropriate agencies, and the legislature.

Board Growth

The chart below reflects Board growth since 1999. Of note is the increase in the Board's licensing population and budget since 1999. In fifteen years, the Board's staffing has increased by 39%, adding two additional managers and two field investigators, and the budget has increased by 96%. Moreover, the Board anticipates that as of July 1, 2104, the licensing population will grow to an estimated 90,000 reflecting a 68% increase since 1999.

| | | | | | % change 1999-2010 | % change 2010-2013 | % change 2013-2015 | % change 1999-2015 |
|---|-------------|-------------|-------------|-------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Total Staff | 35.9 | 40.1 | 42.5 | 50 | 12% | 6% | 18% | 39% |
| Total Budget | \$4,664,000 | \$7,779,000 | \$8,077,669 | \$9,139,000 | 67% | 4% | 13% | 96% |
| Lic Pop | 53,469 | 74,482 | 86,047 | 90,000 est. | 39% | 16% | | 68% |
| Apps Received* | 5,214 | 51,248 | 59,160 | na | 883% | 15% | | |
| Enf. Budget + | \$1,024,000 | \$1,528,279 | \$1,138,240 | na | 49% | -26% | | |
| Total Investigations | 47 | 1129 | 2065 | na | 2302% | 83% | | |
| Complaints Received** | 460 | 1922 | 2062 | na | 318% | 7% | | |
| + Reduction in 2012 enf. budget a result of using board field investigator in lieu of DOI investigators | | | | | | | | |
| Apps Received* 2009-10 and 2012-13 totals include all applications (renewals, exam, registration) | | | | | | | | |
| Complaints Received** 2009-10 and 2012-13 totals include sub arrests and consumer complaints | | | | | | | | |

Recommendation

The Board Members should discuss the program changes since 1999 to determine if these changes demonstrate sufficient reasons to request an increase in the Executive Officer's compensation. If so, the Board members should vote to submit a letter to the Director of Consumer Affairs requesting that DCA submit the Board's request to increase the Executive Officer's compensation to CalHR.